

HB

293

HFIN

FILE

**State Legislative Status of Streamlined Sales and Use Tax Agreement
(As of May 14, 2003)**

In early 2000, representatives of state government and the business community formed the Streamlined Sales Tax Project (SSTP) to develop measures to design, test and implement a sales and use tax system that radically simplifies sales and use taxes. On November 12, 2002, 34 states and the District of Columbia involved in the Streamlined Sales Tax Implementing States (SSTIS) process approved the Streamlined Sales and Use Tax Agreement based upon recommendations put forth by the SSTP. In early 2003, state legislatures began the process of introducing legislation aimed at conforming their state sales and use tax statutes to the Agreement. The Agreement goes into effect when 10 states comprising at least 20 percent of the population of states imposing a sales tax have come into compliance. However, collection by sellers of sales and use taxes on remote sales remains voluntary under the Agreement until either Congress or the Supreme Court acts to make this collection mandatory.

State in compliance with SSTIS State participated in the negotiations of the SSTIS State is a Participating State in the SSTP State does not impose sales tax
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State	Bill Number(s) and Sponsors	Legislative Status	Intent of Legislation	Effective Date
Alabama	HB694 introduced by Rep. Graham.		Legislation brings state into compliance with the SSTIS Agreement.	
Alaska	HB 293 introduced in the House.		Legislation establishes a state sales tax and brings the state into compliance with the SSTIS Agreement.	
Arizona				
Arkansas	SB483 introduced by members of the Senate Finance and Taxation Committee on 02/28/03.	SB483 signed into law by Gov. Huckabee on 04/11/03.	Legislation would conform the state's sales and use tax statutes to the SSTIS Agreement.	
California	SB 157 introduced by Sen. Bowen on 02/11/03	SB 157 reported from Revenue and Taxation Committee; currently pending before Senate Appropriations Committee.	Legislation would make California a participating state in the SSTIS.	
Colorado				

Connecticut	SB 328, introduced by Sen. Crisco on 01/21/03	Legislation referred to Joint Committee on Finance and Revenue.	Legislation endorses the SSTIS Agreement.	
Delaware	NO SALES TAX			
District of Columbia		The District of Columbia City Council passed a resolution in 2002 to bring the majority of the city's sales tax statutes into compliance with the terms of the SSTIS Agreement.		
Florida	S 1776 introduced by Senate Finance & Taxation Committee	S. 1776 reported from Senate Finance Committee on 03-27-03; legislature adjourned prior to House taking action on the legislation.	Legislation brings the state into compliance with the Agreement.	
Georgia				
Hawaii	HB 1226 (introduced by Rep. Say on 01/23/03) and SB 1397 (introduced by Sen. Bunda on 01/22/03).	Legislation has been approved by both Houses and sent to Gov. Lingle for signature.	Legislation allows Hawaii to become a member of the SSTIS.	July 1, 2003
Idaho	S1193 was introduced in the Idaho Senate on 04/24/03.	S1193 referred to Senate Local Government and Taxation Committee but failed to win approval by the Committee on 05/02/03.	Legislation authorizes the Tax Commission to enter into the SSTIS Agreement and make the proposed statutory changes to the state's laws.	
Illinois	SB631 introduced by Sens. Welch and Rauschenberger; HB 848, 849, 850, 851 introduced by Reps. Madigan and Currie	SB 631 approved by Senate on 03/25/03; House measures approved on 04/03/03.	Legislation will bring state into compliance with the SSTIS Agreement.	
Indiana	SB465 (introduced by Sens. Borst and Crisco on 01/21/03); HB 1815 introduced by Rep. Crawford.	Legislation signed into law by Governor on 05/08/03.	Legislation amends current Indiana statutes to conform the state's laws to the SSTIS Agreement.	January 1, 2004

Iowa	SB 1200 introduced by Sen. McKibben.	SSTIS conforming language included in HF683 and approved by the House; legislation is pending in the Senate during special session.	Legislation would bring state into compliance with the SSTIS Agreement.	
Kansas	SB 192 introduced by Sen. Corbin; HB 2264 introduced by the Committee on Taxation	Compliance language included in HB 2005 approved by both Houses on 05/07/03; legislation sent to the Governor for signature.	Legislation would bring the state into compliance with the SSTIS Agreement.	
Kentucky	HB 293 introduced by Reps. Moberly and Belcher introduced on 01-07-03;	HR 293 signed by Gov. Patton on 03/18/03.	Conforms Kentucky statutes to the SSTIS Agreement. Legislation also provides for a sales tax holiday in August 2003.	July 1, 2004
Louisiana	SB 551, SB 674, SB 708, SB719 introduced by Sen. Jones	Legislation approved by Senate on 05/01/03; legislation now pending in the House.	Legislation would bring some uniformity to the tax laws of local jurisdictions; some state conformity measures included to bring state into compliance with the SSTIS Agreement.	
Maine	HB 552 introduced by Rep. Lemoine on 02/14/03.	HB 552 referred to Committee on Taxation on 02/14/03.	Legislation would bring state into compliance with the SSTIS Agreement.	
Maryland	HB 559 introduced by Del. Hixson, et al.	Passed by the House on 03/21/03; approved by the Senate on 04/03/03.	Legislation seeks a report on the statutory changes and costs to the state to come into compliance with the Agreement.	
Massachusetts	SB 1949 introduced to make the state an Implementing State.	SB 1949 approved by the legislature on 03/05/03.	Legislation would make state a member of the SSTIS.	

Michigan				
Minnesota	SF1007, SF 1008, HR 1463, HF 1597 and SF1505	HF 1597 approved by the House on 05/06/03; SF 1505 approved by the Senate on 05/02/03.	Legislation introduced to make final amendments to state's sales and use tax statutes and bring state into compliance with Agreement. Minnesota enacted legislation in 2002 to adopt most of the provisions of the SSTIS Agreement.	
Mississippi	SB 2089 introduced on 01/24/03	Passed by both the House and Senate on 03/08/03.	Legislation would make Mississippi a member of the SSTIS.	
Missouri	SB631 introduced by Sens. Bray, Vogel, and Goode.	Legislation brings state into compliance with the Agreement.		
Montana	NO SALES TAX SB470 introduced by Sen. Mangan.	SB470 referred to the Committee on Taxation and is scheduled for a hearing on 03/06/03.	SB 224 would enact a 4 percent sales and use tax, permit certain sales and use tax exemptions, and recommends that state enter into the SSTIS Agreement.	
Nebraska	LB 282 introduced by Sen. Landis on 01/13/03	LB 282 signed by Gov. Johanns on 05/06/03.	Legislation would bring state's laws into compliance with the SSTIS Agreement.	January 1, 2004
Nevada	AB514 introduced by Committee on Taxation	AB 514 approved by the Assemb' / on 04/22/03; sent to the Senate for consideration.	Legislation brings state's laws into compliance with the SSTIS Agreement.	
New Hampshire	NO SALES TAX			
New Jersey				
New Mexico	HB 891 introduced by Rep. Taylor		Legislation conforms local sales taxes to SSTIS Agreement.	
New York	S. 2850 introduced by Sens. Saland, Bruno and Spano	SB 2850 approved by Senate on 03/11/03; the language of SB 2850 included in 2004 budget bill and approved by the House on 05/02/03; sent to Gov. Pataki for consideration.	Legislation would make the state a member of the SSTIS.	

North Carolina	SB 99 introduced by Sen. Kerr; HB 44 introduced by Rep. Luebke.		Legislation would make changes to state's statutes to bring state into full compliance with the SSTIS Agreement. North Carolina enacted legislation in 2002 to adopt most of the provisions of the SSTIS Agreement.	
North Dakota	SB 2095 and SB 2096 introduced on 01/07/03 by Sen. Cook.	SB 2095 and SB 2096 signed by Gov. Hoeven on 04/08/03.	Legislation would bring state's laws into compliance with the SSTIS Agreement.	December 31, 2005
Ohio				
Oklahoma	HB1712 introduced on 02/04/03 by Rep. Pope; SB 708 introduced by Sen. Monson on 02/04/03.	HB1712 approved by the House on 03/13/03; SB 708 approved by the House on 04/01/2003; legislation pending before a Conference Committee.	Legislation permits the state's tax commission to enter into the SSTIS Agreement and to promulgate the required changes in state statutes in order to bring the state into compliance with the SSTIS Agreement.	July 1, 2003
Oregon	NO SALES TAX HB 3500 and HB 3608 introduced by Rep. Hansen and Revenue Committee.	Hearing held on HB 3500 on 04/11/03.	Legislation would establish a sales tax system and bring the state into compliance with the SSTIS Agreement.	
Pennsylvania				
Rhode Island				
South Carolina				
South Dakota	SB 76 introduced on 01/24/03 by the Committee on State Affairs	SB 76 signed into law by Gov. Rounds on 03/06/03.	Legislation brings the state into compliance with the terms of the SSTIS Agreement.	January 1, 2004
Tennessee	SB899 introduced by Sen. Clabough; HB 823 introduced by Rep. Head		Legislation brings state into compliance with SSTIS Agreement.	

Texas	SB 823 introduced by Sens. Fraser and VandePutte; HB 3143 introduced by Rep. Wilson	SB 823 reported from Committee; placed on Senate calendar	Legislation would bring state into compliance with SSTIS Agreement.	
Utah	SB 147 introduced on 02/03/03 by Sen. Hillyard.	Gov. Leavitt signed SB 147 into law on 03/24/03.	Legislation would bring state into compliance with the SSTIS Agreement.	January 1, 2004
Vermont	HB 480 introduced and referred to Appropriations Committee.	HB 480 approved by the House on 05/02/03 as a part of the education finance bill.	Legislation would bring state into compliance with the SSTIS Agreement.	
Virginia	SJR 347 introduced on 01/08/03 by Sen. Hanger and HJR 657 introduced on 01/08/03 by Rep. Watts.	SJR 347 referred to Senate Rules Committee; HJR 657 approved by the House Rules Committee on 01/28/03.	SJR 347 and HJR 657 would create a joint study committee to review the impact of the SSTIS Agreement to the State and make recommendations regarding whether the state should conform its laws to the Agreement.	
Washington	SB 5783 introduced by Sen. Finkbeiner on 02/12/03; HB 1863 introduced by Rep. Gombosky on 02/12/03.	Legislation signed into law by Gov. Locke on 05/12/03.	Legislation bring majority of state's statutes into compliance with the Agreement.	
West Virginia	HB 3014	HB 3014 signed into law by Gov. Wise on 03/14/03.	Legislation authorizes the Revenue Commissioner to enter the state into the Agreement and make any changes to the state's statutes to conform to the Agreement.	January 1, 2004
Wisconsin				
Wyoming		Wyoming enacted legislation in 2002 to bring the state into compliance with the SSTIS.		

ALASKA TRAVEL INDUSTRY ASSOCIATION

ADD A NEW SECTION TO PROPOSED
AS 43.44 (CS FOR HOUSE BILL NO. 293, STATE SALES TAX):

Sec. 43.44.____. Disposition of sales tax proceeds from sales of tourism related goods and services. (a) The Department of Revenue shall, in consultation with the Commissioner of Community and Economic Development, annually estimate the total amount of sales tax revenues generated during the prior fiscal year under AS 43.44.010 from the sale of tourism related goods and services. On October 30 of each year, the Department of Revenue shall report the tourism sales tax revenues to the Dept. of Community & Economic Development and the qualified trade association and transfer the amount estimated under (b) and (c) of this section to the Department of Community & Economic Development.

(b) In estimating the total amount of sales tax revenues generated from the sale of tourism related goods and services for the types of tourism related goods and services described in (c)(1) through (5) of this section, the department shall use the most current United States Bureau of Census economic information listed for Alaska using the North American Industrial Classification System codes applicable to those types of businesses, adjusted annually to reflect changes in the Consumer Price Index for Anchorage. In estimating the total amount of sales tax revenues generated from the sale of goods and services described in (c)(6) and (7) of this section, the department shall use the most current visitor statistics, including secondary arrival statistics, resulting from research conducted by the division of tourism under AS 44.33.120 and research provided to the Office of Tourism by a qualified trade association as part of a contract entered into under AS 44.33.125.

(c) In this section, "tourism related goods and services" includes (1) scenic and sightseeing transportation services, whether provided on land or water or in the air, (2) passenger and recreational vehicle rentals, (3) hotel, motel and bed and breakfast services, (4) recreational and vacation camps and campgrounds rental, including recreational vehicle parks, (5) Alaska Marine Highway System transportation services, (6) Alaska Railroad passenger transportation and automobile transportation and towing services, (7) Alaska Native arts and crafts, (8) restaurant services provided by salmon bakes, and (9) goods sold by a retail shop that receives more than 75 percent of its gross receipts between May 1 and September 30.

(d) The legislature may annually appropriate to the Department of Commerce & Economic Development the total amount of sales tax revenues established in (b) and (c) of this section for the purpose of entering into a contract with a qualified trade association for tourism marketing under AS 44.33.125.

Scenario Six - Summary Table - Tourism Activity Tax: Revenue Projections

<u>Taxable Activity</u>	<u>Estimated Expenditures</u>	<u>1% Tax</u>	<u>1.5% Tax</u>	<u>2% Tax</u>
Scenic & Sightseeing Transportation - Land, Water, Other	\$217,107,760	\$2,171,078	\$3,256,616	\$4,342,155
Passenger Car & RV Rental	\$11,179,776	\$111,798	\$167,697	\$223,596
Hotels and Motels	\$373,485,250	\$3,734,853	\$5,602,279	\$7,469,705
Bed & Breakfast Inns	\$6,341,826	\$63,418	\$95,124	\$126,833
Recreational and Vacation Camps(except campgrounds)	\$32,737,713	\$327,377	\$491,066	\$654,754
Recreational Vehicle Parks and Campgrounds	\$5,725,858	\$57,259	\$85,888	\$114,517
Alaska Marine Highway Passenger Fares	\$38,700,000	\$387,000	\$580,500	\$774,000
Alaska Railroad Passenger Fares & Passenger Car Towing	\$14,000,000	\$140,000	\$210,000	\$280,000
Alaska Native Arts & Crafts	\$105,115,830	\$1,051,158	\$1,576,737	\$2,102,317
"Seasonal" Retail Shops (exclusive of Native Arts & Crafts)	\$117,400,000	\$1,174,000	\$1,761,000	\$2,348,000
<u>Salmon Bakes</u>	<u>\$2,500,000</u>	<u>\$25,000</u>	<u>\$37,500</u>	<u>\$50,000</u>
Total	\$924,293,813	\$9,242,938	\$13,864,407	\$18,485,876

3%

\$27 million

Visitor Expenditures by Cruise Ship, Cruisetour & Tour Visitors

<u>Land, Water & Other Scenic & Sightseeing Transportation</u>	<u>Estimated Expenditures</u>		<u>Total Cruise & Cruisetour Group (1) pax</u>	<u>Cruise & Cruisetour Group as a Percent of Total Tour</u>	<u>Total Tour Group 169,444 pax</u>
	<u>Sampled Cruise & Cruisetour Group</u>	<u>Sampled Group as a Percent*</u>			
<u>Cruise Ship Passengers</u>					
Shore Excursion Expenditures (cruise pax)	\$107,900,000	84%	\$128,452,381	100%	\$128,452,381
<u>Land Tour Passengers</u>					
Land Tours	\$11,600,000	84%	\$13,809,524	85%	\$16,246,499
Motorcoach transportation	\$25,100,000	84%	\$29,880,952	85%	\$35,154,062
Railroad transportation	\$22,200,000	84%	\$26,428,571	85%	\$31,092,437
<u>Attractions (2 major)</u>	<u>\$4,400,000</u>	<u>84%</u>	<u>\$5,238,095</u>	<u>85%</u>	<u>\$6,162,465</u>
Total of Land, Water & Other Scenic & Sightseeing Transportation			\$203,809,524	85%	\$217,107,843
Hotel Revenues	\$60,700,000	100%	\$60,700,000	85%	\$71,411,765
Retail Shop Expenditures (by tour pax)	\$9,800,000	84%	\$11,666,667	85%	\$13,725,490
Retail Shop Expenditures (by cruise pax)	\$86,900,000	84%	\$103,452,381	100%	\$103,452,381
Total Cruise-related land-side Visitor Expenditures			\$379,628,572		
Total Taxable Expenditures			\$924,293,813		
Cruise-related taxable expenditures as a percent of total taxable expenditures			41.1%		

* The sampled cruise group was calculated as 84% of all projected lower berths per port of call in Alaska 2003. Ports are the occasion where taxed expenditures may be made.

Sampled Cruiselines (84% of Total berths/ports)

Holland America
Princess
Royal Caribbenn
Radisson Seven Seas
Carnival
Celebrity
Crystal

Unsampled Cruiselines (16% of berths/ports)

American West Steamboat
Clipper Cruise Line
CruiseWest
Crystal Cruise
Hapag Lloyd
Hapag Lloyd
Japan Cruise Line
Lindblad Expeditions
Mitsui O.S.K.
Norwegian
Residensea
Society Expeditions
World Explorer

Sampled Tour Companies
(85% of tour org)

Holland America
Princess
Royal Celebrity Tours
Ship-n-shore
Grayline of Alaska
Alaska Sightseeing
Collette
Carnival (HAL)
Vantage
Holiday Travel Service

Unsampled Tour

Premier Alaska Tours
Alaska Travel & Tour
Alaska Wildland Tours
Knighly Tours
"All Other"

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Scenic & Sightseeing Transportation - Land, Water & Other	\$104,806,000	\$217,107,760	Consists of Cruise pax shore excursions, land tours, motor coach transportation, railroad transportation, and attractions. Included in this category are some revenues from air transportation which cannot be taxed. To this extent, the total amount of this category will be reduced.
487110	Land			
	This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation on land, such as sightseeing buses and trolleys, steam train excursions, and horse-drawn sightseeing rides. The services provided are usually local and involve same-day return to place of origin.			
	Buses, scenic and sightseeing operation			
	Cable car, land, scenic and sightseeing operation			
	Carriage, horse-drawn, operation			
	Cog railway, scenic and sightseeing, operation			
	Horse-drawn carriage operation			
	Monorail, scenic and sightseeing, operation			
	Railroad transportation, scenic and sightseeing			
	Railroad, scenic and sightseeing, operation			
	Railway transportation, scenic and sightseeing			
	Scenic and sightseeing excursions, land			
	Sightseeing bus operation			
	Sightseeing operation, human-drawn vehicle			
	Steam train excursions			
	Tour bus, scenic and sightseeing, operation			
	Tracked vehicle sightseeing operation			
	Trolley, scenic and sightseeing, operation			
487210	Water			
	This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation on water. The services provided are usually local and involve same-day return to place of origin.			

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Airboat (i.e., swamp buggy) operation			
	Boat, fishing charter, operation			
	Charter fishing boat operation			
	Dinner cruises			
	Excursion boat operation			
	Fishing boat charter operation			
	Harbor sightseeing tours			
	Hovercraft sightseeing operation			
	Scenic and sightseeing excursions, water			
	Sightseeing boat operation			
	Swamp buggy operation			
	Whale watching excursions			
487990	Other			
	This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation (except on land and water). The services provided are usually local and involve same-day return to place of departure.			
	Aerial cable car, scenic and sightseeing, operation			
	Aerial tramway, scenic and sightseeing, operation			
	Glider excursions			
	Helicopter ride, scenic and sightseeing, operation			
	Hot air balloon ride, scenic and sightseeing, operation			
	Scenic and sightseeing excursions, aerial			
	Tramway, aerial, scenic and sightseeing operation			
532111	Passenger Car and RV Rental		\$11,179,776	
	This industry comprises establishments primarily engaged in renting passenger cars without drivers, generally for short periods of time.			2002 estimated expenditures calculated as follows: 176 State registered rental car establishments. 72 Anchorage -based rental car establishments - \$5,589,888 in estimated expenditures based on 8% tax revenues of \$447,191 in 2002. Assume Anchorage has 50% of state rental sales.
	Automobile rental			
	Car rental			
	Car rental agencies			

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Limousine rental without driver			
	Luxury automobile rental			
	Passenger car rental			
	Passenger van rental			
	Passenger van rental agencies			
	Sport utility vehicle rental			
	Van (passenger) rental			
	Recreational Vehicles			
	Hotels and Motels		\$373,485,250	Expenditures include room rents only. Food & Beverage and other service charges not included.
721110	This industry comprises establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms and convention services, laundry services, parking, and other services			Estimated 17,875 rooms (hotels, motels, resorts, lodges) Annual 2002 occupancy = 62%. Effective room rate = \$92.33
	Alpine skiing facilities with accommodations (i.e., ski resort)			
	Auto courts, lodging			
	Automobile courts, lodging			
	Health spas (i.e., physical fitness facilities) with accommodations			
	Hotels			
	Hotels with golf courses, tennis courts, and/or other health facilities			
	Hotels, resort			
	Hotels, seasonal			
	Motels			
	Motor courts			
	Motor hotels			
	Motor inns			
	Motor lodges			
	Resort hotels			
	Seasonal hotels			
	Ski lodges and resorts with accommodations			

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Summer resort hotels Tourist Lodges			
721191	Bed & Breakfast Inns This U.S. industry comprises establishments primarily engaged in providing short-term lodging in facilities known as bed-and-breakfast inns. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. Bed-and-breakfast inns are characterized by a highly personalized service and inclusion of a full breakfast in a room rate. Bed and breakfast inns. Inns, bed and breakfast	\$4,930,000	\$6,341,626	$4,930,000 \times 1.107 \times 1.162 = \$6,341,626$ The Alaska Bed & Breakfast Association has 200 members. They have no data on the number of B&Bs in the State, and the Licensing Category of the State includes many other types of establishments. The President of the Association has heard that there are as many as 2,000 in the State. This number seems excessive. Average room rate for Association members is \$95 per room per night. If this was the average rate for all B&Bs, then \$6.3 million equals 66,757 room nights. If there were actually 1,000 active B&Bs during the 120 day summer season, this would represent about one rented room every other day for each B&B.
721214	Recreational and Vacation Camps(except campgrounds) 130 listed establishments. This U.S. industry comprises establishments primarily engaged in operating overnight recreational camps, such as children's camps, family vacation camps, hunting and fishing camps, and outdoor adventure retreats that offer trail riding, white-water rafting, hiking, and similar activities. These establishments provide accommodation facilities, such as cabins and fixed campsites, and other amenities, such as food services, recreational facilities and equipment, and organized recreational activities. Boys' camps (except day, instructional) Camps (except day, instructional) Children's camps (except day, instructional) Dude ranches Fishing camps with accommodation facilities Girls' camps (except day, instructional) Guest ranches with accommodation facilities Hunting camps with accommodation facilities	\$31,813,000	\$32,737,713	The following are exempt from the tax: Boy's Camps, Camps, Children's Camps, Girl's Camps. Assume 20% of revenues are from exempt camps. $25,450,400 \times 1.107 \times 1.162 = \$32,737,713$

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Nudist camps with accommodation facilities Outdoor adventure retreats with accommodation facilities Recreational camps with accommodation facilities (except campgrounds) Summer camps (except day, instructional) Trail riding camps with accommodation facilities Vacation camps (except campgrounds, day instructional) Wilderness camps			
721211	Recreational Vehicle Parks and Campgrounds 28 listed establishments. This U.S. industry comprises establishments primarily engaged in operating sites to accommodate campers and their equipment, including tents, tent trailers, travel trailers, and RVs (recreational vehicles). These establishments may provide access to facilities, such as washrooms, laundry rooms, recreation halls and playgrounds, stores, and snack bars. Campgrounds (would compete with State/Federal campgrounds) Recreational vehicle parks RV (recreational vehicle) parks Travel trailer campsites	\$6,359,000	\$5,725,858	Campgrounds for tents only would be exempt. State and Federal campgrounds may be exempt from this tax. Assumes tent-only campgrounds account for 30%. $4,451,300 \times 1.107 \times 1.162 = \$5,725,858$
	Alaska Marine Highway Passenger Fares		\$38,700,000	Passenger Revenue information from AMHS. FY02 July '01-Sept. '01: \$11.6 mil. Oct '01-Dec '01: \$6.5. Jan '02-Mar '02: \$7.7 mil. Apr '02-Jun '02: \$12.3 mil. Summer Months May-Sept: \$21.2 mil. (54.7% of Annual) Winter Months Oct-Apr: \$17.5 mil. Annual Revenue:
	Alaska Railroad Passenger Fares & Passenger Tour Car Towing		\$14,000,000	Based on information from the Alaska Railroad

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Alaska Native Arts & Crafts		\$105,115,830	In order to calculate Alaska Native Arts & Crafts expenditures, we went back to the original diary entries and examined them for accuracy. Descriptions were brief, but a number of products were obviously not "Silver Hand" Alaska Native Arts & Crafts. These were removed, as well as one dramatically large expenditure in FWS which skewed the results. The results are as follows: Summer Expenditures = \$95,909,564 (down from \$110.5 million in AVSP IV) FWS Expenditures = \$9,206,274 (down from \$69 million in AVSP IV)
	Salmon Bakes		\$2,500,000	1993 Summer AVSP Salmon Bake Numbers = 88,800. Increase in Summer visitors to 2001 = 39.6%. Consumer Price Index from 1993 (Anchorage) = 116.2. 2001 equivalent Salmon Bake Numbers = 123,964. Average Price estimated at \$25. 2001 Value = \$3,099,120. (a review of salmonbake establishments suggests that these numbers may be about 25% high) Using 100,000 as an estimate, the expenditures would be \$2.5 million
	Seasonal Retail Shops (Seasonal means retail shop receives more than 75% of its business between May 1 and Sept. 30)		\$117,400,000	This category is in addition to and exclusive of visitor expenditures on Alaska Native Arts and Crafts. Annual Retail expenditures are estimated at \$234.8 million. Assuming 50% of expenditures are in "seasonal" shops, the taxable amount is \$117,400,000.
	Total of all activities		\$924,293,813	

Sales Tax Poll Results

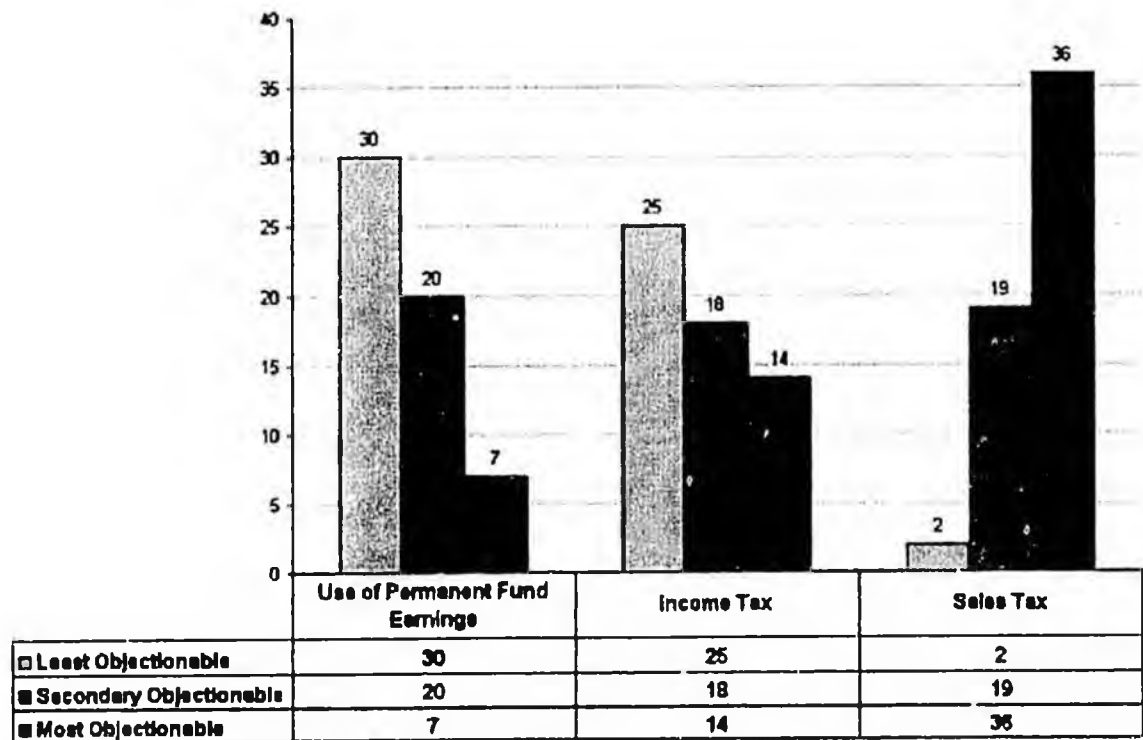
Poll Results - Updated 2:30 pm May 14th

Southeast Conference asked our members to weigh in on the recently proposed sales tax measure. We are still open to responses.

1. Are you in favor of or opposed to the proposed sales tax?

In Favor **8 members** Opposed **48 members**

2. Please rank the following fiscal solutions from the least objectionable (#1) to the most objectionable (#3). If you had to accept some form of tax, which would you prefer?



Replaced

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB293(W&M)
() Publish Date: _____

Revision Date/Time (Note if correction): _____
Title State Sales Tax and Use Tax
Sponsor House Ways and Means Committee
Requester House Finance Committee

Dept. Affected: Revenue
BRU Revenue Operations
Component Tax Division
Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY2008	FY 2009
Personal Services	2,496.4	3,881.5	3,881.5	3,881.5	3,881.5	3,881.5
Travel	85.0	75.0	75.0	75.0	75.0	75.0
Contractual	889.5	995.0	995.0	995.0	995.0	995.0
Supplies	76.3	92.0	92.0	92.0	92.0	92.0
Equipment	525.0	67.5	15.0	15.0	15.0	15.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,072.2	5,111.0	5,058.5	5,058.5	5,058.5	5,058.5

CAPITAL EXPENDITURES	1,900.0	400.0				
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CHANGE IN REVENUES ()	190,000.0	410,000.0	410,000.0	410,000.0	410,000.0	410,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5

Estimate of any current year (FY2003) cost: 150.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	67	74	74	74	74	74
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would put into effect a 3% state sales and use tax effective Jan. 1, 2004.

This legislation also includes an increase in the state excise tax on highway motor fuel, from 8 cents a gallon to 20 ¢s a gallon, effective July 1, 2003.

The estimated revenue for the House Ways and Means Committee Substitute is significantly higher than for the original bill because of 1) further analysis of the limited number of exemptions under the bill, 2) inclusion of the highway motor fuel tax increase in the bill, and 3) clarification that tangible personal property purchased for oil and gas and mining exploration, development and production activities would be subject to the sales and use tax.

See Page 2 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried
Division Tax Division
Approved by: Larry Persly, Deputy Commissioner
Agency Department of Revenue

Phone 465-5469
Date/Time 5/12/03 9:58 PM
Date 5/12/2003

This legislation would:

- Increase the state's highway motor fuel tax rate from 8 cents a gallon to 20 cents a gallon, and eliminate the special rate for gasohol (motor fuel blended with alcohol), thereby taxing gasohol at the same 20 cents as all other highway motor fuel. The rate increase would take effect July 1, 2003. This legislation would not affect marine fuel, aviation gas or jet fuel taxes, and would not change the tax on off-road motor fuel (which would remain at 2 cents per gallon).
- Direct that the Legislature may appropriate 6 cents a gallon of the 12-cents-a-gallon highway motor fuel tax increase to municipalities, through the revenue-sharing formula at AS29.60.110.
- Impose a statewide sales and use tax of 3% on the sale and rents of tangible personal property and services. The tax would take effect Jan. 1, 2004.
- Set a cap on the combined state and municipal sales and use tax rate at 8%, but would allow municipalities — with a vote of the local electorate — to raise only the municipal sales and use tax rate to exceed the combined state/municipal cap.
- Provide that municipalities with a local sales and use tax in effect or approved as of April 1, 2003, may continue to receive the full amount due under the tax until Jan. 1, 2008, with the state to receive the amount remaining between the municipal rate and the 8% cap.
- The municipal share within the 8% cap would be limited to no more than 6% effective Jan. 1, 2008. Then, effective Jan. 1, 2010, municipalities would be limited to 5% within the 8% cap.
- Allow municipalities to collect and administer their own sales and use taxes for the first two years of the new state tax. Then, on Jan. 1, 2006, municipalities would need to start collecting their local sales and use tax under state rules. Then, on Jan. 1, 2008, the state would take over collection and administration of all municipal sales and use taxes.
- Require out-of-state vendors to collect the sales and use tax if the vendor is subject to the jurisdiction of the state under the U.S. Constitution.
- Limit the tax to \$5,000 of the purchase price of a motor vehicle, boat, plane or mobile home.
- Provide a mechanism for enforcement of the sales and use tax on the purchase of motor vehicles, including those purchased out of state and brought to Alaska: AS 28.10.021 would require that sales or use tax must have been paid to register a vehicle.
- Nothing in this measure would prevent municipalities from continuing existing or imposing new excise taxes on specific goods and services, such as a hotel bed tax or car rental tax.
- The state sales and use tax would sunset on Jan. 12, 2012.

This legislation would provide certain exemptions from the state sales and use tax:

- Sale for resale and sale or lease for subsequent lease.
- Ingredients or components used in manufacturing.
- Sales to federal, state and local government agencies.
- Sales to or by IRS-approved 501(c)(3) nonprofit organizations.
- Sales/services by licensed health-care providers, prescription drugs, child-care services.
- Purchases with food stamps.
- Wages, insurance premiums, dividends and interest.
- Isolated or occasional sales.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB293(FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title State Sales Tax and Use Tax BRU Revenue Operations
 Component Tax Division
 Sponsor House Ways and Means Committee
 Requester House Finance Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY2008	FY 2009
Personal Services	2,496.4	3,881.5	3,881.5	3,881.5	3,881.5	3,881.5
Travel	85.0	75.0	75.0	75.0	75.0	75.0
Contractual	889.5	995.0	995.0	995.0	995.0	995.0
Supplies	76.3	92.0	92.0	92.0	92.0	92.0
Equipment	525.0	67.5	15.0	15.0	15.0	15.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,072.2	5,111.0	5,058.5	5,058.5	5,058.5	5,058.5

CAPITAL EXPENDITURES	1,900.0	400.0				
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CHANGE IN REVENUES ()	180,000.0	380,000.0	380,000.0	380,000.0	380,000.0	380,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5

Estimate of any current year (FY2003) cost: 150.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	67	74	74	74	74	74
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This legislation would put into effect a 3% state sales and use tax effective Jan. 1, 2004.
 This legislation also includes an increase in the state excise tax on highway motor fuel, from 8 cents a gallon to 20 cents a gallon, effective July 1, 2003, with a provision that the legislature may share with municipalities half of the increase (using the revenue sharing formula in statute).

 See Page 2 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried Phone 465-5469
 Division Tax Division Date/Time 5/15/03 3:14 PM
 Approved by: Larry Persily, Deputy Commissioner Date 5/15/2003
 Agency Department of Revenue

This legislation would:

- Increase the state's highway motor fuel tax rate from 8 cents a gallon to 20 cents a gallon. The rate increase would take effect July 1, 2003. This legislation would not affect marine fuel, aviation gas or jet fuel taxes, and would not change the tax on off-road motor fuel (which would remain at 2 cents per gallon).
- Direct that the Legislature may appropriate 6 cents a gallon of the 12-cents-a-gallon highway motor fuel tax increase to municipalities, through the revenue-sharing formula at AS29.60.110.
- Impose a statewide sales and use tax of 3% on the sale and rents of tangible personal property and services. The tax would take effect Jan. 1, 2004.
- Set a cap on the combined state and municipal sales and use tax rate at 8%, but would allow municipalities — as per their charter or ordinance — to raise the municipal sales and use tax rate to exceed the combined state/municipal cap.
- Provide that municipalities with a local sales and use tax in effect or approved as of April 1, 2003, may continue to receive the full amount due under the tax until Jan. 1, 2008, with the state to receive the amount remaining between the municipal rate and the 8% cap.
- The municipal share within the 8% cap would be limited to no more than 6% effective Jan. 1, 2008. Then, effective Jan. 1, 2010, municipalities would be limited to 5% within the 8% cap.
- Allow municipalities to collect and administer their own sales and use taxes for the first two years of the new state tax. Then, on Jan. 1, 2006, municipalities would need to start collecting their local sales and use tax under state rules. Then, on Jan. 1, 2008, the state would take over collection and administration of all municipal sales and use taxes.
- Require out-of-state vendors to collect the sales and use tax if the vendor is subject to the jurisdiction of the state under the U.S. Constitution.
- Limit the tax to \$5,000 of the purchase price of a motor vehicle, boat, plane or mobile home.
- Provide a mechanism for enforcement of the sales and use tax on the purchase of motor vehicles, including those purchased out of state and brought to Alaska: AS 28.10.021 would require that sales or use tax must have been paid to register a vehicle.
- Nothing in this measure would prevent municipalities from continuing existing or imposing new excise taxes on specific goods and services, such as a hotel bed tax or car rental tax.

This legislation would provide exemptions from the state sales and use tax, including:

- Sale for resale and sale or lease for subsequent lease.
- Goods and services, ingredients, components and transportation used in operations and maintenance in natural resource industries. Capital assets would be taxable.
- Sales to federal, state and local government agencies.
- Sales to or by IRS-approved 501(c)(3) nonprofit organizations.
- Sales/services by licensed health-care providers, prescription drugs, and health care services.
- Purchases with food stamps.
- Wages, insurance premiums, dividends and interest.
- Pull-tab, bingo and raffle sales.
- Isolated or occasional sales.

23-LS1064V
Kurtz
5/14/03

CS FOR HOUSE BILL NO. 293(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

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; relating to the motor fuel tax; relating to the**
4 **definition of 'taxpayer'; 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 29.10.200(51) is amended to read:

9 (51) AS 29.45.650 [AS 29.45.650(c), (d), (e), AND (f)] (sales and use
10 tax);

11 * Sec. 3. AS 29.10.200(52) is amended to read:

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

13 * Sec. 4. AS 29.10.200 is amended by adding a new paragraph to read:

14 (64) AS 29.45.655 (specific taxes on property and services).

15 * Sec. 5. AS 29.35.110(a) is amended to read:

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

22 * Sec. 6. 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,
25 other than general sales and use taxes, that are levied in its boundaries, subject to
26 AS 29.45.

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

30 * Sec. 7. AS 29.35.170 is amended by adding a new subsection to read:

31 (c) Notwithstanding (a) and (b) of this section, a municipality that levies a

1 general sales and use tax may collect the municipality's general sales and use tax
2 through December 31, 2007. The state shall assume responsibility for administering a
3 municipal general sales and use tax on January 1, 2008, unless requested to do so
4 earlier by a municipality that has conformed its tax base, including exemptions,
5 definitions, and sourcing rules, to AS 43.44.

6 * **Sec. 8.** AS 29.45.650 is repealed and reenacted to read:

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

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

14 (c) A tax authorized under this section shall be administered and collected by
15 the under AS 43.44 and subject to AS 43.44.015. The exemptions to, definitions
16 for, and sourcing rules for a tax authorized under this section shall be identical to those
17 provided in AS 43.44.

18 (d) After December 31, 2007, 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 six
20 percent.

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

24 * **Sec. 9.** AS 29.45 is amended by adding a new section to read:

25 **Sec. 29.45.655. Specific taxes on property and services.** Except as
26 specifically prohibited or limited, a municipality may levy and collect specific sales or
27 excise taxes on single categories of tangible or intangible property or services, such as
28 bed taxes, car rental taxes, liquor taxes, cigarette taxes, and fish taxes.

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

30 (a) If the borough levies [AND COLLECTS] only a general sales tax and use
31 tax, the assembly shall provide a notice substantially in the form set out in

1 AS 29.45.020. In providing notice under this subsection, the assembly shall substitute
2 for the millage equivalency its estimate of the equivalent sales tax rate for each of the
3 categories of financial assistance set out in AS 29.45.020. Notice shall be provided

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

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

12 * **Sec. 11.** AS 29.45.700 is repealed and reenacted to read:

13 **Sec. 29.45.700. Power of levy.** A city may levy a sales and use tax in the
14 manner provided for boroughs under AS 29.45.650 - 29.45.680 and subject to the
15 same limitations.

16 * **Sec. 12.** AS 29.45.810(a) is amended to read:

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

24 * **Sec. 13.** AS 43.05.499(11) is amended to read:

25 (11) "taxpayer" means a person required to pay, collect, or account
26 for a tax, including a person required to pay a seafood marketing assessment under
27 AS 16 51.

28 * **Sec. 14.** AS 43.40.010(a) is amended to read:

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

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

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

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

5 (4) through June 30, 2009 [THE TAX RATE ON MOTOR FUEL
6 THAT IS BLENDED WITH ALCOHOL IS THE SAME TAX RATE A GALLON
7 AS OTHER MOTOR FUEL; HOWEVER,

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

16 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
17 THROUGH JUNE 30, 2004], the tax on motor fuel sold or otherwise
18 transferred within the state is eight cents a gallon less than the tax on other
19 motor fuel not described in (1) - (3) and (5) of this subsection if the motor fuel

20 (A) [(i)] is at least 10 percent alcohol by volume, has been
21 produced from the processing of lignocellulose derived from wood, and was
22 produced in a facility that processes lignocellulose from wood, but this
23 reduction in the rate of tax applies to motor fuel sold or transferred that
24 contains alcohol that was produced only during the first five years of the
25 facility's processing of lignocellulose from wood; or

26 (B) [(ii)] is at least 10 percent alcohol by volume, has been
27 produced from the processing of waste seafood, and was produced in a facility
28 that processes alcohol from waste seafood, but this reduction in the rate of tax
29 applies to motor fuel sold or transferred that contains alcohol that was
30 produced only during the first five years of the facility's processing of alcohol
31 from waste seafood; and

1 (5) the tax on motor fuel used for heating purposes or generating
2 electricity is two cents a gallon.

3 * Sec. 15. AS 43.40.010(b) is amended to read:

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

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

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

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

12 (4) through June 30, 2009 [THE TAX RATE ON MOTOR FUEL
13 THAT IS BLENDED WITH ALCOHOL IS THE SAME TAX RATE A GALLON
14 AS OTHER MOTOR FUEL; HOWEVER,

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

23 (B) NOTWITHSTANDING (A) OF THIS PARAGRAPH,
24 THROUGH JUNE 30, 2004], the tax on motor fuel consumed by a user within
25 the state is eight cents a gallon less than the tax on other motor fuel not
26 described in (1) - (3) and (5) of this subsection if the motor fuel

27 (A) [(i)] is at least 10 percent alcohol by volume, has been
28 produced from the processing of lignocellulose derived from wood, and was
29 produced in a facility that processes lignocellulose from wood, but this
30 reduction in the rate of tax applies to motor fuel consumed by a user that
31 contains alcohol that was produced only during the first five years of the

1 facility's processing of lignocellulose from wood; or

2 (B) [(ii)] is at least 10 percent alcohol by volume, has been
3 produced from the processing of waste seafood, and was produced in a facility
4 that processes alcohol from waste seafood, but this reduction in the rate of tax
5 applies to motor fuel consumed by a user that contains alcohol that was
6 produced only during the first five years of the facility's processing of alcohol
7 from waste seafood; and

8 (5) the tax on motor fuel used for heating purposes or generating
9 electricity is two cents a gallon.

10 * Sec. 16. AS 43.40.010(g) is amended to read:

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

30 * Sec. 17. AS 43.40.010 is amended by adding a new subsection to read:

31 (m) An amount equal to the revenue obtained from six cents of the tax

1 collected under (a) and (b) of this section, excluding the amounts collected under
2 (a)(1) - (4) and (b)(1) - (4) of this section, shall be separately accounted for in the
3 special highway fuel tax account under AS 43.40.010(g). The annual estimated
4 balance of the amount separately accounted for may be appropriated by the legislature
5 to the Department of Community and Economic Development for distribution to
6 municipalities according to AS 29.60.110.

7 * Sec. 18. AS 43.40.015(d) is amended to read:

8 (d) A certificate of use is not required

9 [(1)] for fuel exempted under AS 43.40.100(2)(C) or (H) [(J); AND

10 (2) FOR FUEL EXEMPTED UNDER AS 43.40.100(2)(I) OTHER
11 THAN FUEL SOLD OR TRANSFERRED UNDER THIS EXEMPTION TO A
12 PERSON WHO IS ENGAGED IN CONSTRUCTION OR MINING ACTIVITY].

13 * Sec. 19. AS 43.40.030(a) is amended to read:

14 (a) Except as specified in AS 43.40.010(j), a person who uses motor fuel to
15 operate an internal combustion engine is entitled to a refund of all but two [SIX] cents
16 a gallon if

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

18 (2) the motor fuel is not aviation fuel, [OR] motor fuel used in or on
19 watercraft, or fuel used for heating purposes; and

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

22 * Sec. 20. AS 43.40.100(2) is amended to read:

23 (2) "motor fuel" means fuel used in an engine for the propulsion of a
24 motor vehicle or aircraft, [AND] fuel used in and on watercraft for any purpose, or in
25 a stationary engine, machine, or mechanical contrivance that is run by an internal
26 combustion motor, and fuel used for heating purposes or to generate electricity
27 that is petroleum-based or designed to replace or substitute for a petroleum-
28 based fuel; "motor fuel" does not include

29 (A) fuel consigned to foreign countries;

30 (B) fuel sold for use in jet propulsion aircraft operating in

31 flights

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(i) to foreign countries; or

(ii) that continue from foreign countries, unless exemption of the motor fuel from taxation is disallowed because of the refiner's failure to comply with the provisions of a voluntary agreement under AS 43.40.092 in conjunction with expansion of refinery capacity;

(C) fuel used in stationary power plants operating as public utility plants and generating electrical energy for sale to the general public;

(D) fuel used by nonprofit power associations or corporations for generating electric energy for resale;

(E) fuel used by charitable institutions;

(F) fuel sold or transferred between qualified dealers;

(G) fuel sold to federal, state, and local government agencies for official use;

(H) [FUEL USED IN STATIONARY POWER PLANTS THAT GENERATE ELECTRICAL ENERGY FOR PRIVATE RESIDENTIAL CONSUMPTION;

(I) FUEL USED TO HEAT PRIVATE OR COMMERCIAL BUILDINGS OR FACILITIES;

(J)] fuel used for other nontaxable purposes as prescribed by regulations adopted by the department;

(I) [(K) FUEL USED IN STATIONARY POWER PLANTS OF 100 KILOWATTS OR LESS THAT GENERATE ELECTRICAL POWER FOR COMMERCIAL ENTERPRISES NOT FOR RESALE; OR

(L)] residual fuel oil used in and on watercraft if the residual fuel oil is sold or transferred in the state or consumed by a user; for purposes of this subparagraph, "residual fuel oil" means the heavy refined hydrocarbon known as number 6 fuel oil that is the residue from crude oil after refined petroleum products have been extracted by the refining process and that may be consumed or used only when sufficient heat is provided to the oil to reduce its viscosity rated by kinetic unit and to give it fluid properties sufficient for pumping and combustion;

1 * **Sec. 21.** AS 43 is amended by adding a new chapter to read:

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

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

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

6 (b) For the privilege of using tangible personal property in this state, there is
7 levied a use tax on the person using tangible personal property acquired on or after
8 January 1, 2004, that was

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

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

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

14 (d) The rate of levy of the sales tax levied under (a) of this section and of the
15 use taxes levied under (b) and (c) of this section is three percent of the sales price or
16 purchase price of the tangible personal property or service.

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

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

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

30 (1) subject to both a city sales and use tax and a borough sales and use
31 tax, if the total combined municipal sales and use tax rates exceed eight percent, the

1 borough shall be entitled to levy the borough sales and use tax at its full rate, not to
2 exceed eight percent, the city shall reduce the rate of its sales and use tax accordingly,
3 and the rate of the state sales and use tax within that municipality shall be zero;

4 (2) subject to both a city sales and use tax and a borough sales and use
5 tax, where the total combined municipal sales and use tax rates do not exceed eight
6 percent, the borough shall be entitled to levy the borough sales and use tax at its full
7 rate, the city shall be entitled to levy the city sales and use tax at its full rate, and the
8 state shall reduce the rate of the state sales and use tax within that municipality
9 accordingly;

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

15 (d) A municipality may levy a general sales and use tax or increase the rate of
16 an existing sales and use tax so that the combined state and municipal sales tax rate
17 exceeds eight percent if it is approved by the voters in a referendum election under
18 AS 29.45.670. The proposed total combined rate as well as the proposed municipal
19 rate must be clearly stated to the voters in the referendum question. In a municipality
20 that imposes a general sales and use tax at a rate that, combined with a three percent
21 state sales and use tax rate, exceeds eight percent, the rate of the state sales and use tax
22 imposed under this chapter shall be three percent, notwithstanding any other provision
23 of this chapter or AS 29.

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

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

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

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

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

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

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

8 (b) In a sale in which the amount of money paid does not represent the value
9 of the property or service purchased, the use tax must be imposed on the value of the
10 property or service purchased.

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

14 **Sec. 43.44.040. Separate statement of tax; no advertising to absorb or
15 refund tax.** (a) If any person collects a tax in excess of the tax imposed by
16 AS 43.44.010(a), both the tax and the excess tax must be remitted to the department.

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

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

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

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

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

30 **Article 2. Exemptions.**

31 **Sec. 43.44.090. Exemption: government agencies.** (a) Sales by, sales to, or

1 uses by the United States are exempt from the sales tax and use tax.

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

5 **Sec. 43.44.095. Exemption for corporations exempt from taxation under**
6 **26 U.S.C. 501(c)(3).** Sales by, sales to, or uses by a corporation that is exempt from
7 taxation under 26 U.S.C. 501(c)(3) (Internal Revenue Code) are exempt from the sales
8 tax and use tax.

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

15 **Sec. 43.44.110. Exemption for intangibles.** The following are exempt from
16 the sales tax and use tax, even if they are construed to be tangible personal property or
17 a service:

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

21 (2) interest on money loaned or deposited;

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

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

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

27 **Sec. 43.44.130. Games of chance and contests of skill.** Sales and uses under
28 a license or permit issued under AS 05.15 are exempt from the sales tax and use tax.

29 **Sec. 43.44.140. Exemption for isolated or occasional sale or lease of**
30 **property or services.** The isolated or occasional sale or lease of property or the
31 performance of a service by a person who is not regularly engaged in or who does not

1 intend to engage in the business of selling or leasing the same or a similar property or
2 service is exempt from the sales tax and use tax. Occasional sales include sales that
3 are occasional but not continuous and that are made for the purpose of fundraising by
4 nonprofit organizations, including youth clubs, service clubs, and fraternal
5 organizations.

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

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

15 **Sec. 43.44.160. Sales for resale.** (a) A sale for resale is exempt from the
16 sales tax and use tax if the subsequent sale is made

17 (1) in the ordinary course of business and subject to tax under
18 AS 43.44.010(a); or

19 (2) to a purchaser who delivers to the reseller an exemption certificate
20 for that sale.

21 (b) A transaction among affiliated persons that report their income under 26
22 U.S.C. on a single consolidated return is exempt from the sales tax and use tax.

23 (c) The operation of a joint interest or partnership by one of the partners or
24 interests on behalf of the joint interest or partnership is exempt from the sales tax and
25 use tax.

26 **Sec. 43.44.170. Exemption for the conveyance and improvement of real**
27 **property.** The sale, lease, and rental of real property are exempt from the sales tax
28 and use tax.

29 **Sec. 43.44.180. Manufacturing and natural resource extraction.** (a)
30 Property and services used for operation and maintenance by a person engaged in
31 manufacturing or natural resource extraction are exempt from the sales tax and use

1 tax.

2 (b) For purposes of this section,

3 (1) "natural resource extraction" includes extraction of minerals, oil
4 and gas, fish and seafood, and timber and other forest products;

5 (2) "property and services used for operation and maintenance"

6 (A) includes supplies, components and ingredients that are
7 incorporated into a manufactured product or extracted resource, and
8 transportation of supplies, components, and ingredients that are incorporated
9 into a manufactured product or extracted resource;

10 (B) but does not include capital assets.

11 **Sec. 43.44.190. Exemption for property held for lease.** The sale, use, lease,
12 or rental of property held for lease is exempt from the sales tax and use tax if the
13 person holding the property for lease, or purchasing, leasing, or renting the property
14 for the purpose of holding the property for lease

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

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

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

22 (4) the subsequent lease or rental is subject to the tax imposed by
23 AS 43.44.010(a).

24 **Sec. 43.44.200. Exemption for transactions subject to other taxes.** (a)
25 Insurance premiums subject to tax under AS 21.09.210 are exempt from the sales tax
26 and use tax.

27 (b) Motor fuel transactions subject to tax under AS 43.40 are exempt from the
28 sales tax and use tax.

29 (c) Transactions subject to tax under AS 43.52 are exempt from the sales tax
30 and use tax.

31 **Sec. 43.44.210. Exemption for certain intrastate transportation and**

1 **services in interstate commerce.** (a) The transport of individuals or property from
2 one point within this state to another point within this state is exempt from the sales
3 tax and use tax if the individuals or property, including any reasonably necessary
4 services, are being transported in interstate or foreign commerce.

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

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

9 (2) the services are performed by a local agent for a carrier or by a
10 carrier.

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

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

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

20 **Sec. 43.44.230. Exemption for child care services.** Child care services are
21 exempt from the sales tax and use tax.

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

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

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

30 **Sec. 43.44.250. Exempt sales.** All exempt sales under AS 43.44.090 -
31 43.44.230 must be documented in an invoice. The department shall prescribe by

1 regulation the requirements for an invoice.

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

5 (b) The certificate must include

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

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

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

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

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

16 (b) An exemption certificate must contain the information and be in a format
17 prescribed by the department.

18 (c) If the seller or lessor accepts an exemption certificate and believes in good
19 faith that the purchaser or lessee will employ the property or service transferred in an
20 exempt manner, the properly executed exemption certificate is considered conclusive
21 evidence, as to the seller or lessor, that the sale is exempt.

22 **Sec. 43.44.255. Direct pay permit.** A direct pay permit authorizes its holder
23 to purchase tangible personal property and services without paying tax to the seller
24 and authorizes the seller to not collect any tax on a sale to the permit holder. A person
25 who purchases tangible personal property or services under a direct pay permit issued
26 under this section is liable for any sales and use tax due. The tax due must be paid by
27 the permit holder on a quarterly basis on a schedule established by the department. To
28 obtain a direct pay permit, a person must apply to the department and satisfy criteria
29 for direct pay permit holders established by the department by regulation.

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

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

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

7 (a) A person wishing to engage in business in this state shall file with the department
8 an application for a seller's permit. If the person has more than one location in which
9 the person maintains an office or other place of business, an application may include
10 multiple locations. A vending machine operator who has more than one vending
11 machine location is considered to have only one place of business for purposes of this
12 section. An applicant who does not maintain an office or other place of business and
13 who moves from place to place is considered to have only one place of business and
14 shall attach the permit to the applicant's cart, stand, truck, or other merchandising
15 device.

16 (b) Each application for a permit must be on a form or in a format prescribed
17 by the department and must set out the name under which the applicant intends to
18 transact business, the location of the applicant's place or places of business, and other
19 information that the department may require. The application must be filed by the
20 owner if the owner is a natural person, by a member or partner if the owner is an
21 association or partnership, or by a person authorized to sign the application if the
22 owner is a corporation.

23 **Sec. 43.44.280. Revocation or suspension of permit: hearing; notice;**
24 **appeal.** (a) Subject to the provisions of (b) of this section, the department may
25 revoke or suspend a permit held by a person who fails to comply with the provisions
26 of this chapter.

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

30 (c) If a permit is revoked, the department may not issue a new permit except
31 upon application accompanied by reasonable evidence of the intention of the applicant

1 to comply with the provisions of this chapter. The department may, as a condition for
2 the issuance of a new permit to the applicant, require security in addition to that
3 authorized by AS 43.44.370 in an amount reasonably necessary to ensure compliance
4 with this chapter.

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

7 **Sec. 43.44.290. Improper use of subject of purchase obtained with**
8 **exemption certificate; penalty.** (a) If a purchaser who uses an exemption certificate
9 uses the subject of the purchase for a purpose other than one allowed as exempt under
10 this chapter, the sale is considered a taxable sale as of the time of first use by the
11 purchaser, and the sales price is the price that the purchaser paid. If the sole
12 nonexempt use is rental while holding for sale, the purchaser shall include in the sales
13 price the amount of the rental charged. Upon subsequent sale of the property, the
14 seller shall include the entire amount of the sales price, without deduction of amounts
15 previously received as rentals.

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

20 **Sec. 43.44.300. Commingling exemption certificate goods.** If a purchaser
21 uses an exemption certificate with respect to the purchase of fungible goods and
22 commingles these goods with fungible goods that were not purchased with an
23 exemption certificate but that are so similar that the identity of the goods in the
24 commingled mass cannot be determined, sales from the mass of commingled goods
25 are considered to be sales of the goods purchased with the certificate until the quantity
26 of commingled goods sold equals the quantity of goods originally purchased under the
27 certificate.

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

31 (b) A retailer who does not maintain an office or other place of business in this

1 state is liable for the sales tax or use tax on all property sold or leased and services
2 provided in this state in accordance with this chapter and may be required to furnish
3 adequate security as provided in AS 43.44.370 to ensure collection and payment of the
4 taxes. When authorized and except as otherwise provided in this chapter, the retailer
5 is liable for the taxes on all property sold and services provided in this state in the
6 same manner as a retailer who maintains an office or other place of business in this
7 state. The seller's permit provided for in AS 43.44.260 may be canceled at any time if
8 the department considers the security inadequate.

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

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

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

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

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

26 (2) a person who

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

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

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

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

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

5 **Sec. 43.44.350. Deduction for bad debts.** (a) A person filing a return under
6 AS 43.44.340 may deduct the amount of tax due on a sale found to be worthless. The
7 bad debt may be deducted when it

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

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

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

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

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

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

22 **Sec. 43.44.360. Timely filing allowance.** (a) A person filing a return under
23 AS 43.44.340 may claim an allowance in the amount of two percent of the tax
24 determined to be payable to the state or \$75 a month, whichever is less, if the return is
25 timely filed and the tax is timely paid.

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

28 **Sec. 43.44.370. Security: limitations; sale of security deposit at auction;
29 bond.** (a) The department may require a retailer to deposit with the department
30 security in a form and amount that the department determines is appropriate. The
31 deposit may not be more than twice the estimated average liability for the period for

1 which the return is required to be filed or \$10,000, whichever is less. The amount of
2 security may be increased or decreased by the department, subject to the limitations
3 provided in this section.

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

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

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

17 **Sec. 43.44.380. Taxpayer quitting business; liability of successor.** (a) All
18 taxes payable under this chapter are due and payable immediately whenever a
19 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or
20 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due
21 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise
22 disposes of the business or disposes of the stock of goods.

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

29 (c) If a tax is due but has not been paid as provided in (a) of this section, the
30 successor is liable for the payment of the full amount of tax. The payment of the tax
31 by the successor is considered to be a payment on the sales price and, if the payment is

1 greater in amount than the sales price, the amount of the difference becomes a debt
2 due to the successor from the taxpayer owing the tax under (a) of this section.

3 (d) A successor is not liable for any tax due from the person from whom the
4 successor acquired a business or stock of goods if (1) the successor gives written
5 notice to the department of the acquisition; and (2) an assessment is not issued by the
6 department against the former operator of the business within six months after receipt
7 of the notice from the successor. If an assessment is issued by the department and a
8 copy of the assessment is not mailed to the successor, the successor is not liable for the
9 tax due.

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

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

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

24 **Sec. 43.44.400. Refunds and credits.** The department may credit or refund
25 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties
26 collected without authority, and taxes that are found unjustly assessed or excessive in
27 amount, or otherwise wrongfully collected. The department shall set limitations,
28 specify the manner in which claims for credits or refunds are made, and give notice of
29 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid
30 out of the general fund on a warrant issued under a voucher approved by the
31 department.

Article 4. General Provisions.**Sec. 43.44.490. Authority to enter streamlined sales tax agreement. (a)**

The department is authorized and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the Streamlined Sales and Use Tax Agreement, the department is authorized to act jointly with other states that are members of the Streamlined Sales and Use Tax Agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

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

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

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

Sec. 43.44.492. Electronic registration, filing, and forms. (a) The department may participate in any electronic sales and use tax registration system made available in cooperation with other states through the Streamlined Sales and Use Tax Agreement.

(b) The department may use and accept a standard electronic exemption form made available in cooperation with other states through the Streamlined Sales and Use Tax Agreement.

(c) The department may prescribe and provide for use of forms, certificates, permits, and other documents required under this chapter in electronic format, including the use of electronic signatures and authentications, and for electronic filing.

Sec. 43.44.494. Field offices. The Department of Revenue may contract with a municipality that, on the effective date of this section, levies a sales and use tax to

1 provide a field office for that municipality's geographical area of the state.

2 **Sec. 43.44.496. Report to legislature.** (a) Before January 20 of each year,
3 the department shall provide a written report to the legislature and the office of
4 management and budget describing:

5 (1) regulations adopted by the department to implement the sales tax
6 and use tax;

7 (2) issues that need to be addressed through legislation in order for the
8 sales tax and use tax to be effective; and

9 (3) an estimate of the amount of revenue attributable to the sales tax
10 and use tax.

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

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

14 (2) "electronic signature" has the meaning given in AS 09.25.520(a);

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

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

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

25 (B) does not include

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

29 (ii) a transfer of possession or control of property under
30 an agreement that requires the transfer of title upon completion of
31 required payments if payment of an option price does not exceed the

1 greater of one hundred dollars or one percent of the total required
2 payments; or

3 (iii) providing tangible personal property along with an
4 operator for a fixed or indeterminate period of time; a condition of this
5 exclusion is that the operator is necessary for the equipment to perform
6 as designed; for the purpose of this sub-subparagraph, an operator must
7 do more than maintain, inspect, or set up the tangible personal property;

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

12 (5) "maintaining an office or other place of business" means

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

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

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

24 (7) "permit" or "seller's permit" means a seller's permit as described in
25 AS 43.44.260;

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

30 (9) "purchase price" means "sales price" and applies to the measure
31 subject to use tax;

1 (10) "sale," "selling," or "purchasing" means the transfer of property
2 for consideration or the performance of a service for consideration;

3 (11) "sales price"

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

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

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

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

14 (iv) delivery charges;

15 (v) installation charges;

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

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

21 (B) does not include

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

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

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

1 (12) "sales tax" or "use tax" means the applicable tax imposed by
2 AS 43.44.010;

3 (13) "service" means an activity that is engaged in for another person
4 for consideration and that is distinguished from the sale or lease of property; in
5 determining what a service is, the intended use, principal objective, or ultimate
6 objective of the contracting parties is irrelevant; "service" includes

7 (A) activities performed by a person for its members or
8 shareholders;

9 (B) construction activities and all tangible personal property
10 that will become an ingredient or component part of a construction project; and

11 (C) labor; professional services; transportation; telephone or
12 other communications service; entertainment, including cable, subscription, or
13 pay television or other telecommunications service; the supplying of food,
14 lodging, or other accommodations in hotels, restaurants, or elsewhere;
15 admission to exhibitions; the use of a computer, computer time, a computer
16 system, a computer program, a computer any part of a computer
17 system or network; and the supplying of electricity for use;

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

22 (15) "tax" means the tax levied by AS 43.44.010;

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

25 * Sec. 22. Section 4, ch. 100, SLA 2002, is repealed and reenacted to read:

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

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

30 * Sec. 23. AS 29.35.170(c) is repealed January 1, 2008.

31 * Sec. 24. The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITIONAL PROVISIONS. (a) The Department of Revenue may proceed to
3 adopt regulations necessary to implement this Act. The regulations take effect under
4 AS 44.62 (Administrative Procedure Act), but not before the effective date of the provision
5 being implemented.

6 (b) Notwithstanding AS 29.45.650(c), as amended by sec. 8 of this Act, a
7 municipality that imposes a general sales and use tax is not required to conform its tax base,
8 including exemptions, definitions, and sourcing rules, to AS 43.44 until January 1, 2006.

9 * Sec. 25. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 CONDITIONAL EFFECT. The exemption in AS 43.44.200(c), enacted by sec. 21 of
12 this Act, takes effect only if a bill passed by the Twenty-Third Alaska State Legislature
13 providing for the levy and collection of a tax on motor vehicle rentals is enacted into law.

14 * Sec. 26. If the exemption in AS 43.44.200(c), enacted by sec. 21 of this Act, takes effect,
15 it takes effect on the day the tax referred to in sec. 25 of this Act takes effect.

16 * Sec. 27. Section 24 of this Act takes effect immediately under AS 01.10.070(c).

17 * Sec. 28. Sections 14 - 20 of this Act take effect July 1, 2003.

18 * Sec. 29. Except as provided in secs. 26 - 28 of this Act, this Act takes effect January 1,
19 2004.

adopted NW/OBJ 5/16/03

7

AMENDMENT

OFFERED IN HOUSE FINANCE COMMITTEE
BY REPRESENTATIVE
TO: CS HB 293 (FIN) version "W"

~~Kenneth~~
Meyer

Page 15, lines 4-5:

Delete all text.

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11-
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COPIES

To: Rep. Bill Williams, Chairman
Members of House Finance Committee

From: Dixie Hood
8350 View Drive
Juneau 99801

Dixie Hood

Subject: HB 283 (Sales Tax) My written testimony - Enter into Committee record

I strongly oppose a statewide sales tax as a way to deal with Alaska's budget deficit. As proposed in HB 283, it would be a regressive tax imposed on low and middle income families who spend a larger portion of their income on goods and services. These are the very same people who will also be most strongly impacted by cuts to health and social services programs. It is not a just solution.

In fall, 2001, I participated in a community meeting here in Juneau, designed to explore tax alternatives to close the fiscal gap. It was led by Representatives Bill Hudson and Beth Kertula and Senator Kim Elton. Bill Corbus and some staff from State Revenue also participated as we compared cost variances between different forms of taxes and sought to work out a solution that would do the job and be the most fair to the most Alaskans. There was 100% opposition to a State sales tax! The recommended tax package that emerged included an income tax based on a percentage of our Federal income tax, as in the past, plus gas, alcohol and cigarette taxes and a cruise ship passenger head tax. No one likes taxes, but everyone believed a progressive income tax was far preferable to a sales tax as the cornerstone of our comprehensive proposal.

For those of us in Juneau and other towns with an existing local sales tax, the restrictions and burden of a statewide sales tax would be a hardship. It would create problems for funding community needs dependent on sales taxes. It would also make citizens of Alaska carry a heavier financial load, not shared with persons who may earn but not spend in our state. An income tax would have those outsiders contribute.

For fiscal responsibility and the public trust, please put together an entire package of taxes that support our government services. This could also include earnings from the Permanent Fund. I voted against using this in the past only because it was NOT part of a comprehensive package. Hacking away at important services and such things as the Longevity Program, and doing a piecemeal patchwork on fire taxes and such is not an acceptable solution. Please, have the political courage to do the right and responsible thing for us. Income tax, not sales tax.

SALES 214

AMENDMENT 1

To: CSHB293(FIN) Version X

Offered In House Finance
By: Representative Hawker

Pg. 16, line 709
insert after "the sale", add "and transportation"

- Passes -
BK 700
(K) screwed
up bcl
I just walked
in)

P 16, L 27

delete and after rental insert
"and construction"

EB
it's a "syntax"

AMENDMENT 2

OFFERED IN HOUSE FINANCE COMMITTEE
BY REPRESENTATIVE KERTTULA
TO: CS HB 293 (FIN) version "W"

Page 15, lines 19:

Delete: "motor vehicles, watercraft, aircraft, and"

Page 15, line 21, after "of a":

Delete: "motor vehicle, watercraft, aircraft, or"

Page 15 lines 22 & 23:

Delete: "For purposes of this section, "motor vehicle" has the meaning given in AS 28.40.100."

Renumber accordingly

AMENDMENT

3

OFFERED IN HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE *Kertola*

TO: CS HB 293 (FIN) version "W"

Page 15, lines 4-5:

Delete all text.

AMENDMENT

4

OFFERED IN HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE *Kerttula*

TO: CS HB 293 (FIN) version "W"

Page 18, line 8 after "(2)":

Delete: "."

Insert: ";"

Page 18, after line 8:

Insert a new sub section to read:

"(3) non-prescription drugs."

5

AMENDMENT

OFFERED IN THE HOUSE FINANCE COMMITTEE

To: CSHB 293 (FIN)

by MOSES

ADD: within Article 2 Exemptions, under Section 43.44.090,
Exemption: government agencies.

insert in subsection (b): "an unincorporated community as
that term is defined in AS 29.60.140."

PURPOSE: To ensure that unincorporated communities are included in the
sales and use tax exemption such as other governmental and
Indian tribal organizations are entitled.

*Withdrawn
held for floor*

6

AMENDMENT

6

OFFERED IN THE HOUSE FINANCE COMMITTEE

To: CSHB 293 (FIN)

by MOSES

Purpose: This amendment would allow municipalities to continue to levy local sales taxes on aviation gasoline sales, marine fuel sales, and sales for which refunds are permitted (home heating fuel).

Rationale: We are raising the motor fuel tax from 8 to 20 cents but that increase does not apply to aviation, marine, and refundable home heating fuel taxes.

Consequently, there is no reason to exempt these sales from local sales and use taxes when the "state exemptions" kick in and apply to local governments.

There are two places where an amendment allowing local taxation of fuel sales may be inserted. The most logical place to insert a change allowing local taxation is in Section 12. This also creates a vehicle where other types of sales we would like to continue to tax could be inserted. One possible political strategy is to insert a number of such items and then bargain them away to end up with just the motor fuel item.

One query such an amendment will raise is "who collects this additional local tax". Businesses will want to deal with a single collector. The State may not want the "burden" of making special calculations of a differential rate on fuel sales. It makes most sense to leave collection responsibility with the State. Fuel sales are made by a discrete number of vendors in rural Alaska. Those vendors may have to submit a separate form for sales made in each city that taxes fuel sales, however, it is likely state-wide businesses separately account for sales at each location already. The main concern of business should be not having to submit returns to two different tax collecting entities.

Section 29.45.650, General Sales and Use Tax.

(c) A tax authorized under this section shall be administered and collected by the State under AS 43.44. The exemptions to a tax authorized under this Chapter shall be identical to those provided in AS 43.44 with the following exceptions:

- (i) aviation gasoline subject to tax under AS 43.40 may be taxed by a municipality
- (ii) motor fuel used in or on water craft of all description subject to tax under AS 43.40 may be taxed by a municipality;
- (iii) aviation fuel other than gasoline subject to tax under AS 43.40 may be taxed by a municipality;
- (iv) motor fuel used to operate an internal combustion engine subject to tax under AS 43.40 that is also subject to a refund under AS 43.40.030(a) may be taxed by a municipality.

Alternate Amendment.

Sec. 44.43.200 Exemption for transactions subject to other taxes.

(a) Motor fuel transactions subject to tax under AS 43.40 are exempt from the sales tax and use tax levied pursuant to this Chapter, however, aviation gasoline, aviation fuel other than gasoline, motor fuel used in and on water craft of all descriptions and motor fuel to operate an internal combustion engine for which a refund is available under AS 43.40.030(a) transactions subject to tax under AS 43.40 may be taxed by a municipality

Of course, the best amendment is to simply delete section (a) from AS 44.43.200 entirely. I assume the political landscape does not allow this.

This legislation would provide exemptions from the state sales and use tax, including:

- Sale for resale and sale or lease for subsequent lease.
- Goods and services, ingredients, components and transportation used in operations and maintenance in natural resource industries (oil and gas, mining, timber and fishing), and manufacturing. Capital assets would be taxable. For self-constructed assets, only the tangible personal property incorporated into the asset would be taxable.
- The tariff on oil and gas pipelines.
- Goods moved in state as part of interstate or foreign commerce.
- Sales to federal, state and local government agencies, and sales by government agencies—except for sale of utility services to consumers.
- Sales to or by IRS-approved 501(c)(3) charitable organizations.
- Sales/services by licensed health-care providers, prescription drugs.
- Child-care services.
- Purchases with food stamps.
- All fuel subject to the state excise tax is exempt from the new sales and use tax.
- Car rentals subject to the proposed new state car rental excise tax.
- Wages, insurance premiums, dividends and interest.
- Financial services, including stock and bond brokerage fees, loan and account fees.
- Pull-tab, bingo and raffle sales.
- Isolated or occasional sales.
- Real estate is exempt, and additions to real estate (such as a new garage or home addition).

adopted No/Obj

Revised Amendment #5

By Rep. Moses

To CSHB 293 (FIN) Version X

Pg. 14; Line 22:

After "municipality, insert:

"an unincorporated community,"

Pg. 30; line 19; insert a new definition and renumber accordingly:

"(16) "unincorporated community" means a place that is not incorporated as a city and in which 25 or more persons reside as a social unit."

Purpose: Original Amendment #5 inadvertently limited the exemption to only unincorporated communities in the unorganized borough. We have another 50 or more communities that meet the test that are located within organized boroughs (e.g, Kenai; Mat-Su; Lake & Peninsula; Bristol Bay). These are communities that provide certain municipal services (e.g, Cooper Landing; Port Graham; Talkeetna; Willow; Pedro Bay; & Naknek). This change ensures all unincorporated communities are treated equally under the sales and use tax. DCED already has a process wherein the department determines whether an area meets the test.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 293 (W&M)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: "An Act relating to a state sales and BRU Civil Division
use tax; . . . Increasing the motor fuel tax . . ." Component Commercial
Sponsor House Ways & Means Committee
Requester House Finance Committee Component No. 2211

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services	247.0	247.0	247.0	247.0	247.0	247.0
Travel	1.0	1.0	1.0	1.0	1.0	1.0
Contractual	34.4	34.4	34.4	34.4	34.4	34.4
Supplies	4.6	4.6	4.6	4.6	4.6	4.6
Equipment	13.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	300.0	287.0	287.0	287.0	287.0	287.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	300.0	287.0	287.0	287.0	287.0	287.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	300.0	287.0	287.0	287.0	287.0	287.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill creates a statewide sales and use tax.

The Department of Law will advise the tax division on legal matters pertaining to sales and use taxes, and day-to-day administrative law questions. In addition the department will handle sales and use tax appeals on behalf of the tax division as necessary.

Based on our discussions with other states that have a statewide sales tax in place, we anticipate the services of two full-time equivalent attorney positions will be necessary to handle the new workload generated by the new tax.

Prepared by: Joan M. Kasson
Division: Attorney General's Office
Approved by: Kathryn Daughhete for Gregg D. Ranke, Attorney General
Agency: Department of Law

Phone (907) 465-5370
Date/Time 5/12/03 11:21 AM
Date 5/12/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB293(FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title State Sales Tax and Use Tax BRU Revenue Operations
 Component Tax Division
 Sponsor House Ways and Means Committee
 Requester House Finance Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY2008	FY 2009
Personal Services	2,496.4	3,881.5	3,881.5	3,881.5	3,881.5	3,881.5
Travel	85.0	75.0	75.0	75.0	75.0	75.0
Contractual	889.5	995.0	995.0	995.0	995.0	995.0
Supplies	76.3	92.0	92.0	92.0	92.0	92.0
Equipment	525.0	67.5	15.0	15.0	15.0	15.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,072.2	5,111.0	5,058.5	5,058.5	5,058.5	5,058.5

CAPITAL EXPENDITURES	1,900.0	400.0				
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CHANGE IN REVENUES ()	163,000.0	341,000.0	341,000.0	341,000.0	341,000.0	341,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5

Estimate of any current year (FY2003) cost: 150.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	67	74	74	74	74	74
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would put into effect a 3% state sales and use tax effective Jan. 1, 2004.

This legislation also includes an increase in the state excise tax on highway motor fuel, from 8 cents a gallon to 20 cents a gallon, effective July 1, 2003, with a provision that the legislature may share with municipalities half of the increase (using the revenue sharing formula in statute). The authorization for additional revenue sharing is not reflected in this fiscal note.

See Pages 2 and 3 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried
 Division: Tax Division
 Approved by: Larry Persily, Deputy Commissioner
 Agency: Department of Revenue

Phone 465-5469
 Date/Time 5/16/03 8:06 AM
 Date 5/16/2003

CSHB293(FIN) - Sales & Use Tax
May 16, 2003
Department of Revenue – Page 2 of 3

This legislation would:

- Increase the state's highway motor fuel tax rate from 8 cents a gallon to 20 cents a gallon. The rate increase would take effect July 1, 2003. This legislation would not affect marine fuel, aviation gas or jet fuel taxes, and would not change the tax on off-road motor fuel (which would remain at 2 cents per gallon).
- Direct that the Legislature may appropriate 6 cents a gallon of the 12-cents-a-gallon highway motor fuel tax increase to municipalities, through the revenue-sharing formula in AS29.60.
- Impose a statewide sales and use tax of 3% on the sale and rents of tangible personal property and services. The tax would take effect Jan. 1, 2004.
- Set a cap on the combined state and municipal sales and use tax rate at 8%, but would allow municipalities — as per their charter or ordinance — to raise the municipal sales and use tax rate to exceed the combined state/municipal cap.
- Provide that municipalities with a local sales and use tax in effect or approved as of April 1, 2003, may continue to receive the full amount due under the tax until Jan. 1, 2008, with the state to receive the amount remaining between the municipal rate and the 8% cap.
- The municipal share within the 8% cap would be limited to no more than 6% effective Jan. 1, 2008. Then, effective Jan. 1, 2010, municipalities would be limited to 5% within the 8% cap.
- Allow municipalities to collect and administer their own sales and use taxes for the first two years of the new state tax. Then, on Jan. 1, 2006, municipalities would need to start collecting their local sales and use tax under state rules. Then, on Jan. 1, 2008, the state would take over collection and administration of all municipal sales and use taxes.
- Require out-of-state vendors to collect the sales and use tax if the vendor is subject to the jurisdiction of the state under the U.S. Constitution.
- Limit the tax to \$5,000 of the purchase price of a motor vehicle, boat, plane or mobile home.
- Provide a mechanism for enforcement of the sales and use tax on the purchase of motor vehicles, including those purchased out of state and brought to Alaska: AS 28.10.021 would require that sales or use tax must have been paid to register a vehicle.
- Amend the interest rate the state charges on all delinquent taxes to a floating rate.
- Nothing in this measure would prevent municipalities from continuing existing or imposing new excise taxes on specific goods and services, such as a hotel bed tax or car rental tax.

CSHB293(FIN) - Sales & Use Tax
May 16, 2003
Department of Revenue – Page 3 of 3

This legislation would provide exemptions from the state sales and use tax, including:

- Sale for resale and sale or lease for subsequent lease.
- Goods and services, ingredients, components and transportation used in operations and maintenance in natural resource industries (oil and gas, mining, timber and fishing), and manufacturing. Capital assets would be taxable. For self-constructed assets, only the tangible personal property incorporated into the asset would be taxable.
- The tariff on oil and gas pipelines.
- Goods moved in state as part of interstate or foreign commerce.
- Sales to federal, state and local government agencies, and sales by government agencies —except for sale of utility services to consumers.
- Sales to or by IRS-approved 501(c)(3) charitable organizations.
- Sales/services by licensed health-care providers, prescription drugs.
- Child-care services.
- Purchases with food stamps.
- All fuel subject to the state excise tax is exempt from the new sales and use tax.
- Car rentals subject to the proposed new state car rental excise tax.
- Wages, insurance premiums, dividends and interest.
- Financial services, including stock and bond brokerage fees, loan and account fees.
- Pull-tab, bingo and raffle sales.
- Isolated or occasional sales.
- Real estate is exempt, and additions to real estate (such as a new garage or home addition).

**CITY OF HOMER
HOMER, ALASKA**

**City Manager
City Clerk**

RESOLUTION 03-71

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, OPPOSING HOUSE BILL 293 AN ACT LEVYING AND COLLECTING A STATE SALES AND USE TAX AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, House Bill 293 was introduced to the Twenty Third Legislature on April 30, 2003, as an act levying and collecting a State sales and use tax providing an effective date of January 1, 2004; and

WHEREAS, This bill levies a three percent year around statewide sales tax in the State of Alaska in and above that already levied by municipalities; and

WHEREAS, Municipalities would be subject to state tax collection/administration and limited to the exemptions listed in Section 43.44.090 of the bill; and

WHEREAS, The Kenai Peninsula Borough levies a 2% sales tax and the City of Homer levies a 3.5% sales tax for a total of 5.5% sales tax in Homer; and

WHEREAS, Adding an additional 3% sales tax would have significant economic impacts on the City of Homer and other municipalities around the State.

NOW THEREFORE BE IT RESOLVED, that the City of Homer opposes House Bill 293, an act levying and collecting a state sales and use tax and providing for an effective date; and.

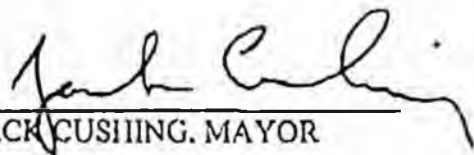
BE IT FURTHER RESOLVED, that copies of this resolution will be sent to Governor Murkowski, Lt Governor Lemmon, Senator Stevens, Representative Seaton, the State House Finance Committee, State House Ways and Means Committee and the Alaska Municipal League.

PASSED AND ADOPTED by the Homer City Council this 12th day of May, 2003.

CITY OF HOMER

ATTEST:


MARY L. CALHOUN, CMC, CITY CLERK


JACK CUSHING, MAYOR

Fiscal Note: Economic impact, projected loss of revenue due to lowered sales.



Alaska State Legislature

Please enter into the record my testimony to the JOINT FINANCE COM
Committee name

Committee on SB 220 HB 293, dated 5/13
Bill/Subject

No to NEW TAXES!

BATHER

- 1) Cut non-essential Gov positions*
- 2) Reduce wages of 7 or 10% of all Gov employees.*
- 3) Prevent lengthy leg sessions from going more than 60 days, by making a law with restriction (Lengthy sessions in Juneau that up tax programs are needed for A - schools B - long-term program C - Rehab + alcoholism + drug programs D. Hunting + subs for the needy)*

NO to proposed SALES TAX - We already have one in Wasilla - NO to ALASKA STATE TAX - We need just Murkowski to fulfill his promise by raising Alaskan income from oil, gas, fish, mining tourism etc - This WAS HIS (Gov Murkowski) promise!

Signed: *Eileen G. Johnson*
Testifier

CITIZENS OF ALASKA
Representing (Optional)

501 KAK GOOSE BAY Rd
Address

WASILLA ALASKA
Phone number

907-373-1139



NEA-ALASKA

Affiliated with the National Education Association

TO: Representative John Harris
Co-Chair House Finance Committee
Representative Bill Williams,
Co-Chair House Finance Committee
Representative Mike Hawker
Co-Chair House Ways and Means Committee
Representative Jim Whitaker
Co-Chair House Ways and Means Committee

FROM: Rich Kronberg *RK*
President NEA-Alaska

RE: Adequate Funding for Education and New Revenue Streams

DATE: May 14, 2003

Each year over 400 NEA-Alaska members are elected to represent our 12, 700 members and set policy for our organization in January. They do this largely in the form of New Business Items. New Business Item 99-84 states in part:

99-84: Adequate Funding for Alaskans: NEA-Alaska shall lobby the legislature to seek ways to ensure adequate funding for education, which may include, but not limited to a state sales tax, (or a) state income tax.

Based on this New Business Item, NEA-Alaska wishes to voice its support for the work being done by the House Ways and Means Committee to create a new revenue stream that can be used to support public schools in our state. As you are aware, NEA-Alaska has been requesting the legislature to increase the Base Student Allocation (BSA) by \$270 per student in order to allow all of our students an opportunity to meet state standards and all of our schools to meet the requirements of the federal No Child Left Behind Act. During the course of this legislative session, our members have met with you and other legislators to ask for support for providing all our students with this opportunity. We have heard a virtually unanimous support for that level of funding provided it could be done within the parameter set by Governor Murkowski of not withdrawing more than \$400 million from the Constitutional Budget Reserve. It is clear that the creation of a new revenue stream, such as the statewide sales tax that is being discussed, will provide the legislature with the opportunity to meet our goal of a \$4280 BSA.

We wish to urge your support for this new broad-based revenue stream as a first step towards a complete fiscal plan that will allow you to provide the resources our dedicated educators need to develop our most important resource, our children. Alaska's children are Alaska's future.

Draft, draft, draft – For Internal Discussion Only

Program Title	Lead Agency (Person)	Other State Agencies	Other Contributors	Eligible Applicant	Establish Criteria	Establish Timeline	Other
Direct Aid to Individuals	DOL Scavera	DCED ADF&G (fish tickets)		Fishermen and crew	April 18	TBD	Labor will handle the application review and appeal process.
Direct Aid to Impacted Communities	DCED Fisk/ Haight			Communities that received fish tax	April 18	Checks out ASAP.	Fund distribution through existing fish tax channels.
National Ad Campaign	DCED Johnson ASMI Riutta			Approved marketing vendor	TBD	TBD	ASMI will establish a process with deliverables.
Quality Control Standards	DCED Johnson	ASMI ADF&G DEC	UA – MAP	Quality assurance providers	May 2	April 25	DCED will convene a sub committee of agencies and contributors to establish a quality control program that will support the marketing efforts under the National Ad Campaign.
Transportation	DCED Johnson	DOT ADF&G ASMI	UA – MAP AFDF Industry - advice	Processors and transportation companies	May 2	April 25	DCED will convene a subcommittee of agencies and contributors to determine funding direction, amount and area to move product in support of the national ad campaign.
Research and Development	DCED Johnson	ASMI	UA – MAP AFDF Industry - advice	Private companies and research institutes.	May 9	April 25	DCED will convene a subcommittee of agencies and contributors to determine criteria, timeline, and project parameters. Decisions will be made by agencies and funds will go out under the grant section/DCED.
Fishery Economic Development Projects	DCED Fisk/ Haight	ADF&G DOT	UA – MAP UA – FITC AFDF Industry – advice	Communities, industry, other	May 9	April 25	DCED will convene a subcommittee of agencies and contributors to determine criteria, timeline and project parameters. Decisions will be made by agencies and funds will go out under the grant section/DCED.
Harbor and Transportation Infrastructure	DCED Fisk/ Haight	DOT	UA – MAP UA – FITC AFDF Industry – advice	Communities, industry, other	May 9	April 25	DCED will convene a subcommittee of agencies and contributors to determine criteria, timeline and project parameters. Decisions will be made by agencies and funds will go out under the grant section/DCED.
Rural Development Investment Fund	DCED Winegar			Eligible applicants under current program parameters	Done	Done	Utilize existing mechanism with Division of Investment.
Fishery industry business assistance	DCED Fisk	DOL Scavera	ARDORS SBDC Other economic development engines	Businesses	TBD	TBD	Through existing programs, direct technical assistance will be put to the fishing and seafood industry to enhance their success.

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**House Rpt.108-010 - MAKING FURTHER CONTINUING APPROPRIATIONS FOR THE
FISCAL YEAR 2003, AND FOR OTHER PURPOSES**

Full Display		Related Information	
GPO PDF	Printer Friendly Display	Bill Summary and Status	Full Text of Bill

TITLE V--FISHERIES DISASTERS

SEC. 501. FISHERIES DISASTERS- *In addition to amounts appropriated or otherwise made available, \$100,000,000 is appropriated to the Department of Commerce for fisheries disaster assistance. Not more than 5 percent of such funds may be used for administrative expenses, and no funds may be used for lobbying activities or representational expenses.*

(a) WESTERN PACIFIC AND NORTH PACIFIC- \$5,000,000 shall be made available as a direct lump sum payment to the State of Hawaii for economic assistance to fisheries affected by federal closures or fishing restrictions and \$35,000,000 shall be made available as a direct lump sum payment to the State of Alaska no later than 30 days after the date of enactment of this Act to make payments to persons or entities which have experienced significant economic hardship. Funds in Alaska shall be used to provide (A) personal assistance with priority given to food, energy needs, housing assistance, transportation fuel including subsistence activities, and other urgent needs; (B) assistance for small businesses including fishermen, fish processors, and related businesses serving the fishing industry; (C) and assistance for local and borough - governments adversely affected by reductions in fish landing fees and other fishing-related revenue; and (D) product development and marketing. .

(b) NORTHEAST AND WEST COAST- \$10,000,000 shall be made available to conduct a voluntary fishing capacity reduction program in the Northeast multispecies fishery and \$10,000,000 shall be made available to conduct a voluntary fishing capacity reduction program in the West Coast groundfish fishery. Such sums shall supplement the voluntary capacity reduction program authorized for the fishery in Sec. 211 of Public Law 107-206 and be consistent with section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act and the requirements relating to the capacity program in section 211 of Public Law 107-206 that shall--

(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and

(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.

May 12, 2003

Dear Alaska Commercial Salmon Fisherman or Crew Member:

Drastic changes in commercial salmon fishing have caused economic hardship for many Alaska salmon fishermen and their families. The State of Alaska is providing an opportunity for those fishermen in most urgent need to apply for direct financial assistance.

If you are an Alaska resident, held an active 2002 commercial salmon permit or salmon crew license, and meet other requirements defined on the enclosed form, you may be qualified for this financial assistance.

Please carefully read, complete, and sign the enclosed Confidential Data Request form. The completed form must be returned to the Alaska Department of Labor and Workforce Development at P.O. Box 25509, Juneau, AK 99802-5509, with all necessary documentation, **postmarked no later than June 7, 2003**. Those who qualify may expect to receive a one-time payment by June 27, 2003.

I hope this financial assistance will help you and your family with immediate necessities, such as food, energy needs, and housing.

Sincerely yours,

S/S FRANK H. MURKOWSKI

Frank H. Murkowski
Governor

Enclosure

FHM/FH/AA/mf
1120 (fisheries)

Salmon Fishermen 2003.doc

Confidential Data
Request

**Alaska Department of Labor
and Workforce Development**

PO Box 25509
Juneau, AK 99801
Phone: 907-465-4691
Fax: 907-465-2741

The following information is needed to determine if you are eligible for Fisheries Revitalization funds made available by Governor Murkowski. To qualify you must have had an active commercial salmon permit or salmon crew license in 2002, been at least the age of 18 in 2002, be an Alaska resident, and fall beneath the income limits shown below.

1. PERMIT HOLDER OR CREW MEMBER INFORMATION

State of Alaska 2002 Commercial Salmon Fisheries Entry Permit number: _____

Name of Salmon Permit Holder: _____

-OR-

State of Alaska 2002 Commercial Salmon Crew License number: _____

Name on Crew license: _____

Name of Salmon Permit Holder I crewed for: _____

My Mailing Address: _____

City: _____

State: _____

Zip: _____

Telephone: _____

Date of Birth: _____

Social Security Number: _____

2. 2002 INCOME INFORMATION (please use your 2002 Federal Income Tax Return- 1040 form)

2a. Total number of dependents, including yourself, listed on Line 6D of your 1040 tax return: _____

2b. Total 2002 Adjusted Gross Income listed on line 33 of your 1040 tax return: _____

2002 Income Limits

Family Size	Maximum Income
1	\$11,080
2	\$14,930
3	\$18,780
4	\$22,630
5	\$26,480
6	\$30,330
7	\$34,180
8	\$38,030

Please return this form with a copy of your 2002 Federal Income Tax return to the Alaska Department of Labor and Workforce Development, postmarked NO LATER THAN JUNE 7, 2003.

Signature: _____ Date _____

Allocation Assuming \$7,000,000*
8-Year Base (89-96)/5-Year Impacts (97-01)

by Allocation		by Municipality	
Municipality	Allocation	Municipality	Allocation
Ouzinkie	\$500.00	Akhiok	\$530.32
Angoon	\$500.00	Aleutians East	\$1,101,561.66
Marshall	\$500.00	Angoon	\$500.00
Skagway	\$500.00	Aniak	\$3,729.00
Kasaan	\$500.00	Anvik	\$2,267.43
Coffman Cove	\$500.00	Bethel	\$20,336.13
Tenakee Springs	\$500.00	Bristol Bay	\$1,739,289.51
Thorne Bay	\$500.00	Chignik	\$56,417.00
Cold Bay	\$500.00	Clark's Point	\$174,462.55
Soldotna	\$500.00	Coffman Cove	\$500.00
Tununak	\$500.00	Cold Bay	\$500.00
Akhiok	\$530.32	Cordova	\$101,637.02
Saint Michael	\$544.95	Craig	\$31,884.71
Toksook Bay	\$662.49	Dillingham	\$119,136.86
Koyuk	\$905.21	Egegik	\$63,659.89
Port Heiden	\$1,105.88	Emmonak	\$27,708.83
Nome	\$1,165.91	False Pass	\$27,729.80
Nenana	\$1,188.35	Galena	\$3,420.94
Old Harbor	\$1,603.29	Goodnews Bay	\$7,904.27
Klawock	\$1,704.83	Haines Borough	\$2,877.25
Port Lions	\$1,748.84	Homer	\$80,908.24
Kaltag	\$2,166.35	Hoonah	\$40,736.04
Anvik	\$2,267.43	Hooper Bay	\$2,858.49
Shaktoolik	\$2,576.71	Hydaburg	\$7,208.78
Hooper Bay	\$2,858.49	Kaltag	\$2,166.35
Haines Borough	\$2,877.25	Kasaan	\$500.00
Galena	\$3,420.94	Kenai	\$155,024.29
Mekoryuk	\$3,644.80	Kenai Peninsula	\$623,251.20
Unalakleet	\$3,719.25	Ketchikan	\$40,576.50
Aniak	\$3,729.00	Ketchikan Gateway	\$29,362.93
Seldovia	\$3,823.38	King Cove	\$207,498.85
Hydaburg	\$7,208.78	Klawock	\$1,704.83
Valdez	\$7,758.37	Kodiak	\$321,498.47
Goodnews Bay	\$7,904.27	Kodiak Island	\$362,937.67
Wrangell	\$13,432.73	Koyuk	\$905.21
Bethel	\$20,336.13	Lake and Peninsula	\$441,970.95
Emmonak	\$27,708.83	Marshall	\$500.00
False Pass	\$27,729.80	Mekoryuk	\$3,644.80
Ketchikan Gateway	\$29,362.93	Nenana	\$1,188.35
Craig	\$31,884.71	Nome	\$1,165.91
Ketchikan	\$40,576.50	Old Harbor	\$1,603.29
Hoonah	\$40,736.04	Ouzinkie	\$500.00
Chignik	\$56,417.00	Pelican	\$92,634.72
Pilot Point	\$61,230.88	Petersburg	\$277,023.20
Egegik	\$63,659.89	Pilot Point	\$61,230.88
Sand Point	\$72,139.36	Port Heiden	\$1,105.88
Homer	\$80,908.24	Port Lions	\$1,748.84
Pelican	\$92,634.72	Saint Michael	\$544.95

Yakutat	\$99,759.61	Sand Point	\$72,139.36
Cordova	\$101,637.02	Seldovia	\$3,823.38
Seward	\$117,126.44	Seward	\$117,126.44
Dillingham	\$119,136.86	Shaktolik	\$2,576.71
Kenai	\$155,024.29	Sitka	\$171,679.71
Sitka	\$171,679.71	Skagway	\$500.00
Clark's Point	\$174,462.55	Soldotna	\$500.00
King Cove	\$207,498.85	Tenakee Springs	\$500.00
Togiak	\$256,769.16	Thorne Bay	\$500.00
Petersburg	\$277,023.20	Togiak	\$256,769.16
Kodiak	\$321,498.47	Toksook Bay	\$662.49
Kodiak Island	\$362,937.67	Tununak	\$500.00
Lake and Peninsula	\$441,970.95	Unalakleet	\$3,719.25
Kenai Peninsula	\$623,251.20	Valdez	\$7,758.37
Aleutians East	\$1,101,561.66	Wrangell	\$13,432.73
Bristol Bay	\$1,739,289.51	Yakutat	\$99,759.61
	\$7,000,000.00		\$7,000,000.00

*Based on estimate of each municipality's "loss" of state shared fish tax for each of five years (97-01), attributable to declines in the salmon industry, compared to the average of state shared fish tax received by each community in the highest four years of the prior eight-year period (89-96). The amount allocated to municipalities is pro-rated based on the amount available for distribution -- in this case \$7,000,000.

SALMON MARKETING

To: Jim Clark
Chief of Staff

From: Margy Johnson
Director

Re: Salmon Marketing

The State of Alaska will pursue a WILD ALASKA SALMON marketing campaign, which will benefit both harvesters and processors. ASMI will be the lead organization in screening RFPs and implementing plan.

The Fish Cabinet and Chief of Staff is overseer. Not ASMI board.

The time is right for Wild Alaska salmon and we expect this to move quickly.

The plan will be based on promoting the health benefits of WILD ALASKA SALMON

- ** Alaska is one of the most important wild salmon producing areas in the world
- ** 5 different types of salmon
- ** Alaska salmon was the first North America seafood product to earn Marine Stewardship Council certification.

Marketing to include awareness and education driven by compact, well-balanced integrated marketing communications including:

- ** Public Relations
- ** Advertising
- ** Promotions
- ** Collateral and educational material

State will promote Wild Alaska salmon to the Lower 48, but we realize that much of our market is the Pacific Rim. Governor to do a trade mission to Japan, this fall. State will employ a salmon ambassador to help Japan marketing partners get over negative aspect of harvester/processor lawsuit.

Margy's point: Want Governor to do an add. Want Governor to go on sales calls with wholesalers ie pursuing the mega chains McDonalds, etc. Remember please! Every Alaska is a seafood marketer. It is our joy & duty to sell salmon!

Division of Community and Business Development
Department of Community and Economic Development
State of Alaska

*Fisheries Economic Development
Matching Grant Program
Grant Application Guide*

May 12, 2003



A. General Information

Governor Frank Murkowski recently announced the Alaska Fisheries Revitalization Strategy. The Revitalization Strategy combines federal Fisheries Disaster funds authorized under Title V – Fisheries Disaster, Section 501(b) of the 2003 Federal Appropriations Bill and Southeast Sustainable Salmon Fund monies, authorized under the Pacific Coastal Salmon Recovery Fund, made available by the work of Alaska Senator Ted Stevens.

The Revitalization Strategy is a multi-level, multi-year plan designed to spur increased productivity and innovation in the Alaska fishing industry by investing considerable resources into critical commercial fisheries infrastructure and capital improvement projects.

A key component within the Revitalization Strategy is the Fisheries Economic Development Matching Grant Program (Program), to be administered by the Alaska Department of Community and Economic Development (DCED). This Program is intended to assist communities, throughout the salmon fishing regions of Alaska, impacted by the downturn in the salmon industry. Assistance will be provided in the form of one-time grants to assist with the financing of fisheries-related infrastructure or economic development projects that have the potential to: (1) increase Alaska seafood/product quality, (2) increase Alaska seafood/product diversity and/or value, (3) increase industry efficiencies, or (4) lower costs within the industry.

There is approximately \$13 million available for grants under this Program. DCED is now requesting proposals from applicants interested in receiving one-time financial assistance (grant) under this newly established Program. Those interested in submitting an application under this Program are to follow the instructions provided in this Matching Grant Application Guide and must submit their completed application prior to 4:30 p.m. May 29, 2003.

B. ELIGIBLE APPLICANT

DCED Expectation: Eligibility (eligible applicant) is limited to

1. Government or non-profit organizations such as municipalities, tribal councils, other recognized governing bodies, or community/regional non-profit organizations representing communities that have been impacted by the downturn in the salmon industry. Accordingly, it is anticipated that the majority of the communities will be located throughout the salmon fishing regions of Alaska.
2. Small businesses including fishermen, fish processors, or related businesses serving the fishing industry. These applicants must demonstrate how they have been impacted by the downturn in the salmon industry. These applicants must also meet the US Small Business Administration definition of a small business. It is anticipated that private applicant projects will be located in or in close proximity to communities throughout Alaska located throughout the salmon fishing regions of Alaska.

Applicant's Proposal: An applicant's proposal (grant application):



- Must identify the applicant's organization; project director; and provide contact information including mailing address, phone, fax, and email.
- Must discuss the applicant's organization such as duration of existence, an organizational diagram, and lines of communication.
- Must discuss the applicant's experience with similar previous projects, the success of those projects, and current and/or on-going projects.
- Must identify the applicant's key personnel, previous experience, and ability to successfully complete this project. Individual resumes may be included as part of the applicant's proposal.

Evaluation of Applicant's Proposal: This section of an applicant's proposal (grant application) will be evaluated based on DCED's expectation and the applicant's proposal as discussed above and may receive up to a maximum of 20 points by each member of the Evaluation Committee during the evaluation process.

C. ELIGIBLE COMMUNITIES

DCED Expectation: Projects are limited to those that will benefit communities that have been impacted by the downturn in the salmon industry. Accordingly, it is anticipated that the majority of the communities will be located throughout the salmon fishing regions of Alaska.

Applicant's Proposal: An applicant's proposal (grant application):

- Must identify the communities and/or salmon fishing region(s) that will benefit from the project.
- Must describe the extent of the impact of the downturn in the communities and/or region by discussing recent economic indicators such as downturn in ex-vessel price, wholesale price paid to processors (if available), decline in permits fished, return to harvesters and processors, and declining economic activity for seafood related businesses.
- Must provide documentation from each community demonstrating community support. If the applicant is a local government, a resolution by the governing body is required. If the applicant is a non-profit organization, resolutions of support from the communities, cooperative agreement or memorandum of agreement between the applicant and the various local governing bodies are required. The applicant may submit proposed or draft documents with its application and approved documents must be received by DCED by June 12, 2003.

Evaluation of Applicant's Proposal: This section of an applicant's proposal (grant application) will be evaluated based on DCED's expectation and the applicant's proposal as discussed above and may receive up to a maximum of 20 points by each member of the Evaluation Committee during the evaluation process.



D. ELIGIBLE PROJECTS DESCRIPTION

DCED's Expectation: This Program is intended to assist communities throughout the salmon fishing regions of Alaska, impacted by the downturn in the salmon industry. Assistance will be provided in the form of one-time grants to assist with the financing of fisheries-related infrastructure or economic development projects that have the potential to: (1) increase Alaska seafood/product quality, (2) increase Alaska seafood/product diversity and/or value, (3) increase efficiencies and productivity, or (4) lower costs within the industry. Examples of potential projects have been grouped by the following categories:

- **Freezing and Chilling:** Projects would improve the quality of Alaska seafood by chilling or freezing. Projects may include the installation and/or expansion of slush ice bags, ice machines, or chilling gear; purchase and/or improvement to floating ice machine barges; additional equipment that improves access to freezing and chilling equipment.
- **Cold Storage Facilities:** Projects would improve the quality of Alaska seafood by building new and/or improve existing cold storage facilities.
- **Transportation and Distribution Network:** Projects would improve the quality of Alaska seafood by easing handling, increasing speed, and increasing efficiencies at key transportation nodes. Projects may include the installation and/or expansion of runway cooling systems, handling equipment, quality control equipment, freight consolidation facilities, and the chain of custody tracking systems and devices.
- **Processing Facilities and Equipment:** Projects would increase the quality, diversity, and value of seafood products. Projects may include the construction or improvement of seafood processing operations, processing equipment, fish by-product equipment, utility improvements to processing areas, and waste outfall lines.
- **Shellfish Mariculture:** Projects would improve the efficiency and productivity of shellfish farming. Projects may include nursery grow sites, transportation improvements, technological improvements, holding and processing capacity improvements.
- **New Fisheries Development:** Projects that seek to develop new fisheries in Alaska and may include test fishing, gear testing, and market research.
- **Marine Related Infrastructure:** Projects would increase seafood quality and efficiencies by improving existing or building new harbors, docks and other related marine infrastructure.
- **Airport Development:** Projects that would increase efficiencies, improve seafood quality and increase producers' access to valuable markets by improving existing or building new airport facilities and related infrastructure.
- **Other:** By no means should possible projects be limited to the above examples or categories. An application should be submitted for any project that develop fisheries-related infrastructure or economic development projects that have the potential to lower costs, increase product quality, increase product value and/or increase efficiencies for seafood economic activity.



- **Ineligible Projects:** Applications for initial start-up costs, operations and/or maintenance of existing or proposed infrastructure projects, feasibility studies are not eligible under this Program and will not be considered.

Applicant's Proposal: An applicant's proposal must provide a detailed and all-inclusive discussion of the project and should include but is not limited to:

- Detailed and concise discussion of every aspect of the project. This includes detailed milestones, completion date of each milestone, specific activities for completion of each milestone, and completion of entire project.
- Discussion of how the project meets "DCED's Expectations" items (1) through (4) and the specific category expectations (i.e. Freezing and Chilling, Transportation and Distribution, etc.).
- Detailed system design; engineering designs; technical specifications; and maps if applicable.
- Detailed information on locations, construction, expansions, modifications to new and/or existing structures, facilities, equipment, etc..
- Detailed information on initial construction and installation and continuing maintenance.
- Detailed discussion on environmental and industry impacts, special requirements, permits, certifications, and/or other pertinent necessary approvals.
- Detailed discussion of the project's feasibility. Include all potential obstacles in the current business environment that may hinder or halt the success of the project; ideas or areas of change that would improve the viability of the project; and any other unique characteristics and assumptions that may affect the project.

Evaluation of Applicant's Proposal: This section of an applicant's proposal (grant application) will be evaluated based on DCED's expectation and the applicant's proposal as discussed above and may receive up to a maximum of 20 points by each member of the Evaluation Committee during the evaluation process.

E. ELIGIBLE PROJECTS DURATION AND AMOUNT (BUDGET)

DCED's Expectation: Projects may range in duration from one to three years. For community or non-profit applicants, DCED's funding will not exceed 75 percent of the project's entire cost. Those applicant's must provide at least 25 percent of the funding. Inability to support the 25% match requirement will be reason for immediate elimination from the application process. For small business applicants, DCED funding will not exceed 50 percent of the project's entire cost. Those applicant's must provide at least 50 percent of the funding. Inability to support the 50% match requirement will be reason for immediate elimination from the application process.

This is a cost reimbursable grant program. The applicant will be required to expend funds and then seek reimbursement from DCED. If an applicant requires an initial advance, the applicant must declare it.



Applicant's Proposal: An applicant's proposal must provide a detailed and comprehensive budget that clearly identifies the entire cost of the project, with independent estimates as available. Discussion should include, but by no means be limited to the following items:

- Identify and project in detail any and all potential *direct* expenses. Examples include, but are limited to, facility modifications, construction costs, equipment purchases, materials, supplies, freight, transportation, payroll and benefits, and etc.
- Identify and project in detail any and all indirect expenses and/or indirect rate. An indirect rate shall not exceed 19 percent of actual direct payroll expenses, and it must be clearly identified.
- If the applicant's contribution includes an "in-kind" contribution such as the use of existing equipment, the monetary-value of the "in-kind" contribution must be based on industry-standards and documented in the applicant's proposal.
- Identify match funding e.g. revenue provided by any other source. Match funding may be obtained through private and/or public sources. Matches greater than that required under DCED's Expectations of this section are encouraged.
- Identify the expenses and percentage that are to be reimbursed (funded) by DCED and the expenses that are to be paid (funded) by the applicant or any other participant.
- Identify the timeframe and expense of equipment replacement and/or other improvements. Equipment depreciation and replacement schedules must be based on current industry rates and standards.
- Identify the amount and/or percentage of the amount anticipated as an initial advance from DCED; frequency of providing and example of summary financial reports on the entire project; frequency of providing and example of detailed information on expenses and revenue on the entire project.

Evaluation of Applicant's Proposal: This section of an applicant's proposal (grant application) will be evaluated based on DCED's expectation and the applicant's proposal as discussed above and may receive up to a maximum of 20 points by each member of the Evaluation Committee during the evaluation process

F. ELIGIBLE PROJECTS LONG-TERM VALUE

DCED's Expectation: This program is intended to assist communities and small businesses impacted by the downturn in the salmon industry by assisting with fisheries-related infrastructure or economic development projects that have the potential to lower costs, increase product quality, increase product value and/or increase efficiencies for seafood economic activity. Since DCED believes that this Program is a critical step towards revitalizing the salmon industry, the long-term sustainability and value of the projects is also pertinent.

Applicant's Proposal: An applicant's proposal must describe the long-term sustainability and expected return the project will generate by providing a detailed discussion on:



- How this project, short-term and long-term will increase: the overall value of the salmon in the consumer or food service market; profitability for the harvesting sector; profitability for the processing sector; value of economic activity in the identified Alaska communities.
- How this project will create greater product diversity.
- How the project will become self-sustaining in the short-term and long-term, and the built-in mechanisms to assure adequate returns for continued operation and maintenance.
- The overall economic contribution expected and built-in mechanisms to assure adequate returns
- For those projects, such as community cold storage facilities, that will be utilized by for-profit businesses, describe what relationship will be established between applicant and private sector entities describe mechanisms, either contractual or other, that assure proper maintenance, increased productivity and the capability for adapting to changes in the marketplace.

Evaluation of Applicant's Proposal: This section of an applicant's proposal (grant application) will be evaluated based on DCED's expectation and the applicant's proposal as discussed above and may receive up to a maximum of 20 points by each member of the Evaluation Committee during the evaluation process

G. COMPLIANCE TO FEDERAL AND STATE REQUIREMENTS

DCED's Expectation: DCED is receiving the funding for this Fisheries Economic Development Grant Program from the State's Department of Fish and Game and the Office of the Governor whom are receiving funding from the U.S. US Department of Commerce, National Oceanographic and Atmospheric Administration.

Since federal money is involved, all entities submitting a proposal for a grant under this Program must understand that in addition to state requirements, the following federal requirements may also apply. And, successful applicants must comply with all state and federal requirements.

Possible requirements for community and non-profit applicants:

As a government entity receiving federal funding, the DCED and its sub-recipient grantees (applicant's) will likely be required to comply with:

- Section 3016.22 incorporates the Cost Principles dictated by OMB Circular A-87 or similar document.
- Section 3016.37 requires DCED to give notice of all federal requirements to its sub-recipients.
- Applicants in the arrears with the federal government for any money owed may not be eligible for grants under this Program.
- State of Alaska's Single Audit Requirement established under Alaska Administrative Code 2 AAC 45.010.



Possible requirements for small business applicants:

As a for-profit entity, receiving federal funding through a state government, the successful applicants (sub-recipients) will likely be required to comply with:

- Federal Title 7, Chapter XXX, Part 3015 enacted by Department of Agriculture (USDA) for non-government entities receiving federal funding.
- Section 3015.21 requires the applicant retain all record for 3 years.
- Section 3015.24 allows the USDA and the Comptroller General of the United States, access to any books, documents, papers, or other records of the applicant, which are pertinent to the grant.
- Section 3015.113 requires changes in scope, objectives, or key people have prior approval by the USDA.
- Sections 3015.163 through .173 discuss key terms regarding property and equipment acquired under the grant. When the property or equipment is no longer needed for the authorized purpose of the grant, transfer or disposal may be required with compensation made to the federal government.
- Section 3015.194 incorporates the Cost Principles dictated by federal Title 48, Chapter 1, Part 31.2 (also referred to as 48 CFR Part 31)
- Section 3015.195 identifies that there may be different and conflicting requirements between initial and sub-recipient grantees.

As an entity, receiving funding through a State of Alaska entity, the successful applicants (sub-recipients) must comply with the State's Single Audit Requirement established under Alaska Administrative Code 2 AAC 45.010.

H. EVALUATION OF APPLICATIONS AND AWARD OF GRANTS

As of the release of this Application Guide, this Program is still evolving and not all aspects of this Program's funding have been authorized. Therefore, DCED retains the right to change this Program as need to comply with federal and/or state requirements that have not yet been identified.

The various processes for the initial review of the grant applications, evaluation of the remaining grant applications, and the award of grants is anticipated to be similar to the following:

- Prior to evaluating the grant applications, DCED will perform an initial review to identify grant applications that don't meet the minimum eligibility requirements, are incomplete, and/or have other problems. DCED at its sole discretion may contact the grant applicant for additional information and/or clarification or DCED may declare the application as



non-responsive and reject it in its entirety. If rejected, the grant application will be eliminated from the evaluation process and the applicant will be notified accordingly.

- The remaining grant applications will be forwarded to an evaluation committee. Each member of the evaluation committee will independently evaluate each grant application based on the criteria, evaluation factors, and numerical values identified in this Application Guide and summarized below:

Eligible Applicants	20
Eligible Communities	20
Eligible Projects -- Description	20
Eligible Projects -- Duration and Amount (Budget)	20
<u>Eligible Projects -- Long-term Value</u>	<u>20</u>
Maximum Possible Points	100

- The Evaluation Committee, at its sole discretion may decide if discussion with applicants, presentations by applicants, and/or site inspection are necessary. If held, members of the Evaluation Committee may change their individual scores based on the additional information.
- The individual Evaluation Committee members will have the opportunity to meet as a Committee to discuss the grant applications before and/or after their individual review and scoring. Members of the Evaluation Committee may change their individual scores based on these discussions.
- When the individual Evaluation Committee members have completed their scoring, the total points for each grant application will be determined. Those applicants receiving "sufficient points" will then be afforded the opportunity of entering into a Grant Agreement with DCED.
- "Sufficient points" will be determined at a later date and will depend on the number of applications received, the amounts being requested. Additionally, since this Program is intended to assist communities throughout Alaska's salmon fishing regions, DCED retains the option of ensuring the funding of projects funding is sufficiently balanced among the regions.
- DCED will provide each applicant with a list reflecting all applicants and the score of each.
- Unsuccessful applicants have up to 10 working days from the date of receiving notice, to provide a written appeal to DCED. DCED, at its sole discretion, may consider the appeal and will notify the applicant accordingly.
- Successful applicants will be afforded the opportunity to enter into a Matching Grant Agreement with DCED. There will be little to negotiate in the Matching Grant Agreements since the Matching Grant Agreements will basically incorporate the applicant's application. DCED reserves the right to partially fund an application.

I. Grant Application Submission and Tentative Schedule

Approximate Dates

Activity



05/12/03	Matching Grant Application Guide Available
05/29/03	Matching Grant Applications (Proposals) Received
06/12/03	Initial Matching Grant Applications Review and Evaluation
06/13/03	Grant Applicants Notified
06/30/03	Drafting Matching Grant Agreements

Those interested in submitting an application under this Program as discussed in this Application Guide must do so prior to 4:30 p.m. May 29, 2003.

The body of the application is to be presented in the same format as this Application Guide i.e. Eligible Applicant, Eligible Community, Eligible Project Description, etc. and is to consist of no more than eight (8) pages. Attachments to the body, such as resumes, detailed designs, estimates from others, resolutions, etc are in addition to the eight-page limit and are to be clearly identified.

Five hard copies of the entire application (body and attachments) are to be delivered to DCED at the below address by 4:30 p.m. May 29, 2003.

Debbie McBride
Alaska Dept. of Community and Economic Development
Division of Community and Business Development
P.O. Box 110804
Juneau, AK 99811-0804

Delivery-service (FedEx, UPS) application packages should be addressed to:

Debbie McBride
Alaska Dept. of Community and Economic Development
Division of Community and Business Development
333 Willoughby Avenue, 9th Floor
Juneau, AK 99811

Failure to meet the deadline will result in disqualification of the application and it will not be reviewed. Faxed, emailed, and/or or electronic versions of a grant application is not acceptable.

Questions. Contact Debbie McBride at the Dept. of Community & Economic Development in Juneau, (907) 465-2023 or d-bbbie_mcbride@dced.state.ak.us.

Revitalization Projects, Economic Development/Harbor & Transportation

Organization	Contact	Phone	Fax	Address	City	Project	Funds Requested--high	Funds Requested--low
Alaska Fishermen's Products LLC	Bob Thorstenson					Salmon In a Pouch Facility In Ketchikan Wards Cove Plant	\$5,000,000	
Ketchikan Gateway Borough	Dick Adams	(907) 225-6651		dick.adams@borough.ketchikan.ak.us				\$1,500,000
Alaska Intertribal Council	Roland Shank	(907) 563-9334				Portable Incubation, Egg Planting and River Fertilization Technology Improvement	\$1,300,000	\$200,000
Alaska Ocean Products	Jeff Knaut	(907) 350-1168		815 Tagura	Kodiak, AK 99615	Suspension Freezing Technology Implementation		
Alaska Seafood Connection	Glen Leason	(800) 867-7390	(760) 771-0988		Swordfisher@yahoo.com	Processing Facility in Kake/Advertising	\$300,000	\$150,000
Alaska Shellfish Grower's Association	Rodger Painter				Rodgerpainter@hotmail.com	Aquatic Farming Infrastructure	\$750,000	
Alaska Shellfish Grower's Association	Rodger Painter				Rodgerpainter@hotmail.com	Developing Species R&D	\$120,000	
Alaska Shellfish Grower's Association	Rodger Painter				Rodgerpainter@hotmail.com	Mariculture Development Planning	\$50,000	
Alaska Shellfish Grower's Association	Rodger Painter				Rodgerpainter@hotmail.com	Statewide Shellfish Aquaculture Development Plan	\$80,000	
Alutians East Borough	Robert Juellner/Karon Monloya	(907) 274-7555	(907) 276- 7569	3380 C Street, Ste 205	Anchorage, AK 99503	Aleutia Marketing Project: Sand Point Processing Infrastructure, Marketing and Expansion to King Cove and Nolson Lagoon	\$583,500	
Aleutians East Borough	Robert Juellner	(907) 274-7555				Cold Bay Airport Fish Hub Facility	\$750,000	
Armstrong Keta/Alaska Catch	Bart Watson	(907) 585-3443				Pin-Bone Out Fillet Pilot Project at Port Armstrong Hatchery	\$590,000	
Annette Island Packing Co.	John T. Sessions	(206) 587-4040				Tunnel Freezer		
Annette Island Packing Co.	John T. Sessions	(206) 587-4040				Fish Meal Equipment		
Bering Sea Fishermen's Association	Henry Mitchell	(907) 279-6519	(907) 258-6668	725 Christensen Drive, 3	Anchorage, AK 99501	Kotzebue Chum Salmon Project	\$434,000	
BuyNPack Seafoods	Dave Bowen			Buynpack@hoonah.net		Broker/Boxer/Shipper Facility	\$1,200,000	
Chignik Seafood Producers Alliance						Chignik Live Haul and Handling Project	\$190,000	
Chilkoot Fish Company	Rhonda Blough	(907) 283-3649				Processing Equipment to Service More Fishermen	\$210,000	
City of Collman Cove	Elaine Price	(907) 329-2233				Processing Equipment for Local Gillnetter's Facility	\$125,000	
City of Cordova						Airport Cooler	\$200,000	
City of Cordova						Boat Haul-Out Facility	\$700,000	
City of Craig	Dennis Watson, Mayor	(907) 209-1299				Cold Storage Facility	\$430,000	
City of Dillingham	Tom Briggs	(907) 826-3275				Dillingham All Tides Dock	\$2,500,000	
City of Haines	Robert Venables	(907) 766-2231				40 Ton/Day Flake Ice Maker	\$160,000	
City of King Cove						Community Tank Farm	\$100,000	
City of King Cove						Spit Land Development	\$175,000	
City of King Cove						Power & Lighting for New Boat Harbor	\$200,000	
City of Ketchikan	Bob Weinstein, Mayor			334 Front Street	Ketchikan, AK 99901	Regional Community Cold Storage	\$5,000,000	

City of Kodiak	Linda Freed, City Manager	(907) 486-8640	(907) 486-8600	710 Mill Bay Road	Kodiak, AK 99615	Harbormaster's Dock Replacement	\$1,000,000
City of Kodiak	Linda Freed, City Manager	(907) 486-8640	(907) 486-8600	710 Mill Bay Road	Kodiak, AK 99615	Oscar's Dock Replacement	\$1,500,000
City of Kodiak	Linda Freed, City Manager	(907) 486-8640	(907) 486-8600	710 Mill Bay Road	Kodiak, AK 99615	St. Herman's Harbor Inner Harbor Replacement	\$500,000
City of Pelican	Duff Mitchell	(907) 735-2204				Vessel Purchase for Processed Salmon Transport to Juneau and Gustavus	\$151,500
City of Petersburg						Airport Cooler	\$200,000
City of Petersburg						Community Cold Storage Phase One (site selection, acquisition, design)	\$500,000
City & Borough of Sitka						Airport Cooler	\$200,000
City & Borough of Sitka	Hugh Bevan, Director					Sawmill Cove Industrial Site Dock	\$480,000
City of Skagway	Robert Ward, Mayor	(907) 983-2297	(907) 983-2151	P.O. Box 415	Skagway, AK 99840	Chinook Hatchery	
City of Skagway	Robert Ward, Mayor	(907) 983-2297	(907) 983-2151	P.O. Box 415	Skagway, AK 99840	Harbor Fish Transfer Facility	
City of Valdez	Dave Dengel, City Manager	(907) 835-4313	(907) 835-2992	Ddengel@ci.valdez.ak.us		Fish Meal Plant	\$950,000
	Bob Prunella	(907) 874-2381					
City of Wrangell	Terry Olness	(907) 789-1992/ (907) 635-6092 (c)		terry@mac.com		Economic Impact Study for Bradfield Canal Road to Canada	\$400,000
City of Wrangell/Wrangell Seafoods	Gig Decker	(907) 874-3110		P.O. Box 2138	Wrangell, AK 99929	Flash Freezer Unit/Value-Added Center	\$1,240,000
City of Wrangell	Bob Prunella	(907) 874-2381				Water Storage Capacity Improvement	\$83,010
City & Borough of Yakutat	Larry Powell	(907) 784-3355				Value-Added Processing Equipment	\$278,200
Department of Transportation						Chignik Ferry Dock Upgrade	\$250,000
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Port Graham Hatchery Capital Improvements	\$625,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Fillet and Pin Bone Removal Machines	\$300,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Fish Processing Equipment for Access to New Markets	\$250,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Cold Storage and Chilling Facility	\$1,700,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Miscellaneous Fish Processing Equipment to Improve Quality and Provide Access to New Markets	\$375,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Miscellaneous Fish Processing Equipment to Improve Quality and Provide Access to New Markets	\$975,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Small Stream Habitat Improvement	\$500,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Paint River Enhancement and Remote Research Facility	\$925,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
Cook Inlet Salmon Brand, Inc. +				43335 Kalifornsky Beach Road	Soldotna, AK 99669	Eklutna/Port Graham/Tulka Sockeye Enhancement Project	\$2,000,000
Cook Inlet Aquaculture Association	Mark Powell	(907) 262-6355	(907) 262-6762				
DIPAC w/Glacier Bay Feed	David Wilson	(907) 364-1511				Premium Pet Food from Late Run Salmon and Hatchery Waste	\$172,400

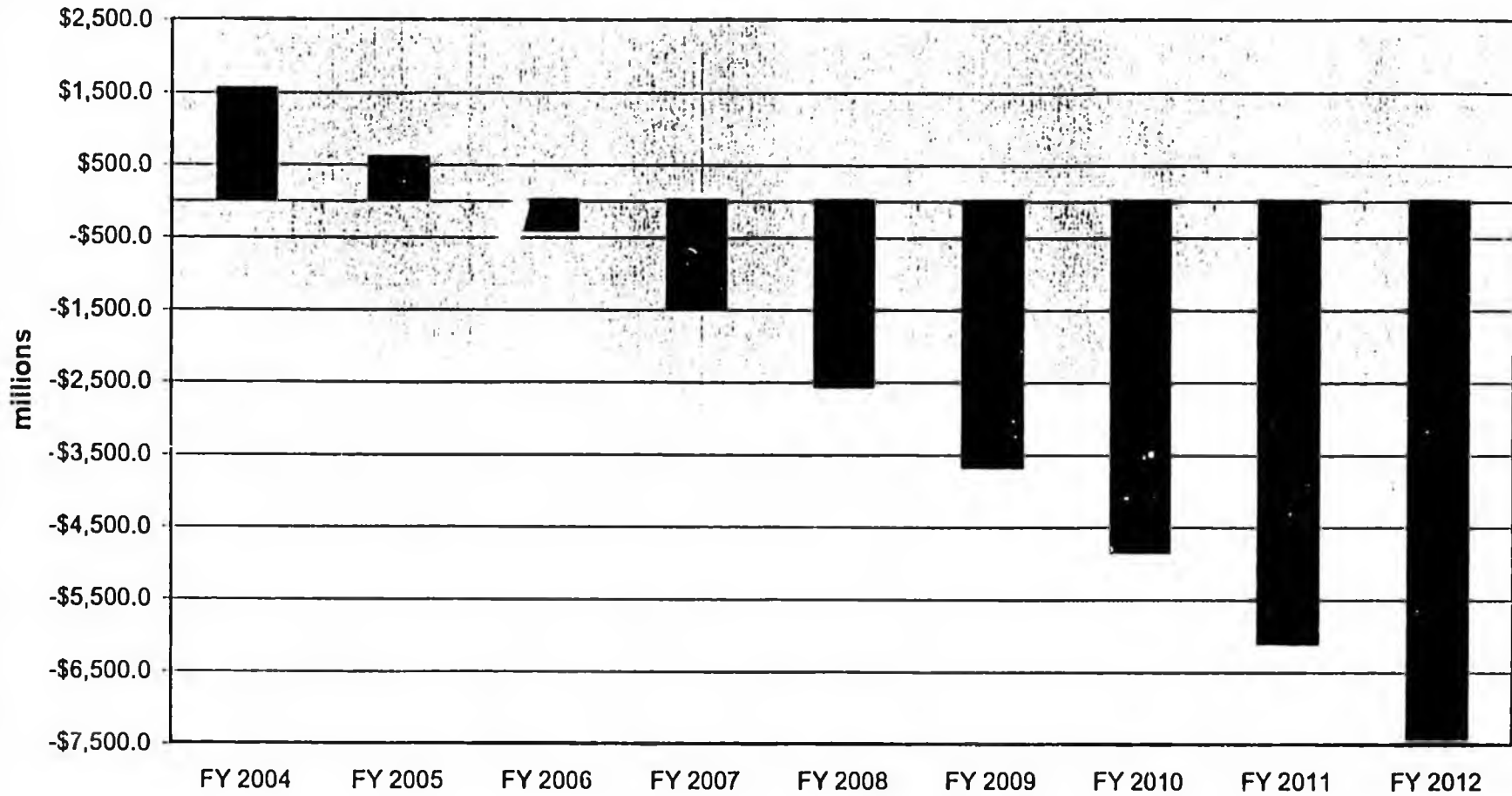
Juneau Economic Development Council	Lance Miller	(907) 463-3662				By-Product Development		
Ellin Cove Community Association						Incinerator	\$500,000	
Kaitag Fishermen's Association	Richard Burnham				Kaitag, AK 99748	Fish Processing Plant/Ice Machines		
	Doug Swoat	(907) 534-2309	P.O. Box 125		Kaitag, AK 99748			
Kachemak Research Development, Inc.	Larry Riley, Vice President	(907) 226-2400	(907) 226-2402	P.O. Box 15422	Fritz Creek, AK 99603	Salmon Stream Obstruction and Rehabilitation Analysis	\$3,000,000	
Mark Buckley						Smart Tag Project		
						Draft Engineering Plans to Fix Eroding Access Road in Juneau (suffocating coho eggs)	\$25,000	
Mendenhall Valley Partnership	Cheryl Van Dyke	(907) 586-6853				Southwest Alaska Live-Haul Demonstration Project	\$100,000	
Northern Southeast Regional Aquaculture Association						Bunkhouse for Interns	\$40,000	
Prince of Wales Hatchery	John Bruns	(907) 755-2231				Expand Water Lines to Generate Power and Reduce Electric Bills	\$57,400	
Prince of Wales Hatchery	John Bruns	(907) 755-2231				Funding for Quetkokcak Shellfish Hatchery		
Quetkokcak Shellfish Hatchery	Representative Paul Seaton	(907) 465-2689	(907) 465-3472	State Capitol Building	Juneau, AK 99801	Develop Enzyme Process to Turn Sockeye Roe into Caviar	\$66,000	
Raven Environmental + Alaska Seafood Company	Paul Rusanowski	(907) 586-2459						
Ray Wadsworth						Chignik Pin Bone Out Fillet Project		
Ray Wadsworth			Ray@pinboneout.com					
						Plans to Utilize Surplus Carcasses and Create New Markets	\$45,000	
Sheldon Jackson College Hatchery	David Harrington	(907) 747-5222				Wet Lab Upgrade w/New Displays and Better Tour Group Access	\$246,200	
Sheldon Jackson College Hatchery	Lon Lambert	(907) 747-5222				Planning Study for Regional Cold Storage Consolidation Facility	\$75,000	
Southeast Conference	Mailani Clark Schijvens	(907) 463-3445 X27				Fisheries Business Incubator Investment Phase II: Value-Added Processing Equipment/Cold Storage Research and Design	\$612,000	
Valdez Fisheries Development Association						Enzyme Installation to Turn Pink Roe from Sulfko to Caviar	\$1,750,000	\$1,050,000
Wards Cove Packing + Red Caviar Partnership	David Forbush	(206) 323-3200				High Volume Conveying Tunnel Freezer	\$726,500	
Wrangell Seafoods	Gig Dockar	(907) 874-3110				Low-cost Housing for Plant Employees		
Wrangell Seafoods	Sherri Cummins	(907) 874-33346	(907) 874-3035		641 Wrangell, AK 99929	King Cove Landfill and Road Design	\$60,000	
Aleutians East Borough	Sharon Boyette	907) 274-7555	(907) 276-7569	3380 C Street, Ste 205	Anchorage, AK 99503	Energy Cost Reduction Grant Match	\$50,000	
Aleutians East Borough	Sharon Boyette	907) 274-7555	(907) 276-7569	3380 C Street, Ste 205	Anchorage, AK 99503	Aleutians Aviation System Plan/Air Service Evaluation		
Aleutians East Borough	Sharon Boyette	907) 274-7555	(907) 276-7569	3380 C Street, Ste 205	Anchorage, AK 99503	Ice Machines	\$200,000	
Bristol Bay						Fish By-Product Utilization	\$100,000	
City of Cordova						Galena Boat Ramp	\$200,000	
City of Galena								
City of Old Harbor	Percy Fisby, Chief Executive Officer	(907) 277-6442				Small Boat Harbor Renovation Harbor Expansion Completion	\$2,000,000	
City of Seward								
City of St. George	Max Malavansky, City Administrator	(907) 859-2263	(907) 859-2212	P.O. Box 929	St. George, AK 99591	Harbor South Breakwater Repair	\$3,500,000	
City of Whittier	Leonard Jones	(907) 472-2323				Small Boat Harbor Repair	\$350,000	

City of Whittier	Leonard Jones Steve Henry, City Manager	(907) 472-2323				Public Works Facility	\$3,000,000	\$2,500,000
City & Borough of Yakutat						Community Processing Corporation		
Cold Bay						Boat Launch	\$300,000	
Matsu Electric Association						Power Intertie to West Cook Inlet	\$3,000,000	
Northwest Arctic Borough						Kotzebue Region Small Bridge		
Old Harbor						Repair	\$150,000	
Nelson Lagoon						Ice Plant and Support Facilities	\$2,500,000	
Nome						Boat Lift	\$500,000	
Port Graham						Economic Diversification	\$1,350,000	
Shishmaref						Processing Plant	\$1,000,000	
Skagway						Erosion Control	\$500,000	
St. Paul						Land Development	\$500,000	
Wrangell						Harbor Dredging and Expansion	\$1,000,000	
Yukon River Drainage Association	Jill Klein	272-3130				Economic Development	\$500,000	
Round Gold LLC	Sandro Lano, CEO	(907) 463-5863		Sandro@roundgold.com		Hydrolysate Barge		
Sand Point						Harbor Shoreside Infrastructure	\$380,000	
Soward Peninsula & SW AK						Airborne Geophysical Surveys	\$1,000,000	
Unalaska East Borough	Sharon Boylto	907) 274-7555	(907) 276- 7569	3380 C Street, Ste 205	Anchorage, AK 99503	King Cove Landfill and Road		\$60,000
Alaska Queen Eyak/Fishermen's Market	Jody Lozori, President					Design		
Adak	Lamar Cotton	345-9952		ljcotton@gci.net		Processing Equipment/Upgrades	\$149,000	
Kodiak Chamber of Commerce	Wayne Stevens, Exec. Director			P.O. Box 1485	Kodiak, AK 99615	Harbor Development		
Port Bailey Wild Enterprises, LLC	Jaymie Mitchell, General Manager	(907) 487-4430		P.O. Box 4349	Kodiak, AK 99615	High Protein/Low Ash Meal from Fish Wastes		
City & Borough of Yakutat	Steve Henry, City Manager	(907) 784-3323	(907) 784-3281	P.O. Box 160	Yakutat, AK 99689	Port Bailey Cannery Improvement		
City & Borough of Yakutat	Steve Henry, City Manager	(907) 784-3323	(907) 784-3281	P.O. Box 160	Yakutat, AK 99689	Floating Fuel Dock	\$600,000	
						Fender Piles System of Ocean		
						Cape Dock Repair	\$65,000	
								66,959,710.00

Economic Development	73,114,710
Research	2,843,500
Education	3,592,555
Marketing	2,822,977
Miscellaneous	1,390,706
Total	83,764,448

CBRF End-of-Year Balance

Assumes Status Quo Permanent Fund Distribution and No New Revenues
(Assumes House FY 2004 budget as the base, with no increase and no other new taxes)



Tom Williams -

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114

May 12, 2003

Senate Finance Committee Members
House Finance Committee Members
Alaska State Legislature
State Capitol
Juneau, Alaska

Dear Committee Member:

In conjunction with this letter, the Alaska Oil and Gas Association (AOGA) is submitting detailed comments on HB 293 (Version 23-LS1064\D), which would enact a new state sales and use tax. The purpose of this letter is to draw your attention to the key points in those comments.

HB 293 must have transitional provisions.

It will come as a surprise to every Alaskan to find that all their personal property already in this state on January 1 next year will be taxed at 3% because HB 293 has no transitional provision to "grandfather" property that's already here when the tax becomes effective. There is a similar problem for services for which contracts are made before the tax takes effect.

Starting on Day 1 when the tax takes effect, people are going to need to have certificates and other paperwork in hand from the Department of Revenue (DOR) immediately, in order to qualify for the tax exemptions they are entitled to under the legislation. Of course, it will be impossible for DOR to have all the necessary paperwork processed and issued on Day 1. There needs to be a presumption that people who have filed their paperwork with DOR are assumed to have whatever it is that they applied for from DOR until DOR has had a reasonable time to process and act on their application.

DOR needs immediate legal authority to develop regulations and adopt forms to implement the sales and use tax, instead of having to wait to do these things until HB 293 becomes effective on the first of next year.

Our comments have a complete set of Transition Rules for your consideration which would take care of these and similar transitional matters.

- There are a number of technical errors in the legislation and the way it would operate.

For example, the exemption of sales for resale is flawed. It often happens that sales for resale are linked, as when a sub-subcontractor provides services to a subcontractor that is providing services to a general contractor that is providing services to the client, for example. The way the sales-for-resale exemption is currently written, the sales in such a linked series of sales for resale would be taxed. As a result, a single product or service in such a series of sales for resale would be taxed several times before it is bought by its

customer or end-user. We know this is not how the sales-for-resale exemption is meant to work.

The fix that we offer for this particular problem is not hard, but the problem does need to be fixed. So do other problems like this in HB 293.

- Oil and gas operations already taxed under AS 43.55 (severance tax) and AS 43.56 (state property tax) should not be taxed again under the state sales and use tax. The State already acknowledges this principle through the exemptions from state and municipal taxes set out in AS 43.55.017 and AS 43.56.030, and it simply needs to be reconfirmed in HB 293.

The operation of a field by the field operator apparently will be a "service" to the other partners in the field, which would subject it to tax under HB 293. So would Alyeska's operation of TAPS. In addition, everything that we buy and use for the fields or for the pipelines would be taxed. It also appears that the pipeline tariffs for shipping oil will be taxed, even though that would reduce the netback value in the field upon which state severance tax and royalties are based.

It makes no sense to make it more expensive to operate in Alaska, and to lower the netback value of the oil and gas resources at the same time, when new oil and gas exploration and development are a cornerstone in the State's long-term fiscal plan.

It makes no sense to tax the construction and operation of a Gas Pipeline under this sales and use tax, when the project's economics represent a major obstacle to moving forward with it.

The petroleum industry already bears more than its fair share of the tax burden in Alaska, through the State's special property and severance taxes on its exploration, production and pipeline operation.. It is unfair to tax those operations again under this sales and use tax.

The member companies in AOGA feel very strongly about these last points. But you may be surprised to find that most of AOGA's comments are concerned with making the sales and use tax work, and are not arguing against taxing our industry. It is in no one's best interests, including ours, to have Alaska enact a sales and use tax that doesn't work in a clear and reasonable fashion. AOGA's comments represent the thinking of tax professionals who want to see this tax work smoothly if it passes. Therefore, despite the length and technical detail of our comments, and despite the lateness in the legislative session, I would urge you to take the time to read and consider them carefully. Our intention is to help make HB 293 a better bill for all Alaskans.

Very truly yours,

Judith M. Brady
Executive Director

JMB:tw

cc: Gene Therriault, Senate President
Pete Kott, Speaker of the House

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114

COMMENTS AND RECOMMENDATIONS OF THE ALASKA OIL & GAS ASSOCIATION ON HOUSE BILL NO. 293 (Proposed State Sales and Use Tax)

May 12, 2003

The Alaska Oil and Gas Association (AOGA) is an industry trade association whose 17 members account for the great majority of the oil and gas exploration, production, transportation, and refining and marketing activities in the State of Alaska. The AOGA Tax Committee has reviewed House Bill No. 293, which would enact a new state sales and use tax. The members of the AOGA Tax Committee unanimously offer the following comments and recommendations regarding this Bill. Because of the ongoing and rapid revision in the working draft for a Committee Substitute by the House Ways & Means Committee, these comments are tied to the original version of HB 293 as introduced.

1. In General. AOGA is not taking a stand one way or the other regarding the basic idea of a state sales and use tax. The question of whether such a tax should be enacted as a step toward balancing the state budget, or whether some other tax or revenue source should be used instead, is something that legislators and their constituents should discuss and decide for themselves. As the trade association for the oil and gas industry in Alaska, AOGA will only say that we encourage the State to adopt and implement in a timely manner a feasible and fair financial plan to balance the budget.

For much the same reasons AOGA has no comment about the merits of the proposed 3% rate for the sales and use tax relative to some other rate for it. This, too, is a matter for legislators and constituents to decide among themselves.

The remainder of our comments are addressed toward making the sales and use tax under HB 293 work fairly and reasonably, in recognition of the possibility that Alaskans will decide such a tax is right for Alaska. We will also address specific aspects of the tax that would directly affect AOGA members.

2. Transition Rules. HB 293 needs transitional provisions in order to avoid unintended consequences during the transition from no sales and use tax to the proposed tax. For example, the use tax under proposed AS 43.44.010(b)(3) would fall on property "acquired

as the result of a transaction that was not initially subject to the sales [or use] tax ... but ... because of the buyer's subsequent use of the property is subject to the ... tax." Such a provision may well make sense once the state sales and use tax is up and running. But what it means for the transition is that, when this proposed tax takes effect, all existing property in Alaska as of that effective date will be subject to the 3% tax. We doubt such a massive and unexpected tax on all Alaskans and businesses is the intended effect. There are similar issues regarding the taxability of services that have been contracted for (and perhaps even paid for) before the effective date, but which are performed in whole or in part after that date.

To address these transitional issues, AOGA offers the following as a new section of the Bill (to be numbered as appropriate):

* **Sec. _.** TRANSITIONAL PROVISIONS. The uncodified law of the State of Alaska is amended by adding the following provisions regarding the sales and use tax under AS 43.44 enacted by Section 1 of this Act:

(a) All property in the state immediately before the effective date of this Act shall be exempt from the sales and use tax under AS 43.44 until it is first sold (within the meaning of "sale" for purposes of AS 43.44) on or after the effective date of this Act.

(b) All property bought in the state or brought into the state before the effective date of this Act which is temporarily outside the state on the effective date of this Act shall, when it is back in the state, be exempt from the sales and use tax under AS 43.44 until it is first sold (within the meaning of "sale" for purposes of AS 43.44) on or after the effective date of this Act.

(c) All services performed in this state pursuant to a contract or other agreement made before the effective date of this Act shall be exempt from the sales and use tax under AS 43.44 even though the services are performed on or after the effective date of this Act, except that services performed under such a contract after the effective date of this Act shall become taxable under AS 43.44 beginning as of the earlier of the following:

(1) the date the contract or agreement is amended, renewed or extended, regardless of any particular date as of which the amendment, renewal or extension may be stated to take effect; for a contract or agreement that automatically renews itself periodically unless a party to it acts to prevent the renewal, it shall be deemed to be renewed for purposes of this paragraph as of the end of the contract period in which the effective date of this Act falls; and

(2) one year after the effective date of this Act.

(d) During the first year after the effective date of this Act, for purposes of any provision in AS 43.44 requiring a person to register with, have a certificate from, or obtain some other action by the Department of Revenue in order for that person to perform an act or qualify for an exemption or other status under AS 43.44,

(1) the person shall be presumed to fulfill the requirements of that provision for six months from the date when the person submits to the Department of Revenue the registration, application for the certificate, or request for action on such

forms as the Department of Revenue may require or on a form of the person's own devising if the Department has not prescribed a form for the person's situation, together with such supporting documentation and materials which the Department of Revenue may by regulation require for such a submission;

(2) if the Department of Revenue affirmatively rejects a person's submission under (1) of this subsection, or refuses to register, issue a certificate to, or take an action requested by a person in a submission made under (1) of this subsection, the presumption under (1) of this subsection shall be rebutted as of the date of that action by the Department of Revenue, and

(A) the person shall have a reasonable time (as prescribed by the Department of Revenue by regulation, but not less than 60 days) from the date of the rejection or refusal in which to cure any defect or meet any condition specified by the Department of Revenue in the rejection or refusal, and upon such a cure or fulfillment of the condition by that person, the presumption under (1) of this subsection shall be reinstated without any interruption;

(B) if the person fails to cure the defect or fulfill the conditions specified by the Department of Revenue pursuant to (A) of this paragraph, or if the Department in its rejection or refusal specifies no defect to be cured and no condition to be fulfilled, then the person shall, within a reasonable time (as prescribed by the Department of Revenue by regulation, but not less than 60 days) from the date of the rejection or refusal, take all necessary action to comply with AS 43.44 with respect to the actions taken or status claimed by the person while acting under the presumption under (1) of this subsection, except that interest under AS 43.05.225 on any unpaid taxes under AS 44.43 shall only accrue with respect to those taxes remaining unpaid at the end of the period for the person to come into compliance with AS 43.44;

(3) if the Department of Revenue fails to act on a person's submission under (1) of this subsection within six months of its submission, the presumption under (1) of this subsection shall be extended until the Department of Revenue does act on it; if the Department of Revenue then affirmatively rejects the submission or refuses to register, issue a certificate to, or take an action requested by a person in the submission, the provisions of (2) of this subsection shall apply with respect to that rejection or refusal; and

(4) if the Department of Revenue registers, grants a certificate to, or takes an action requested by a person in a submission made under (1) of this subsection, the presumption for that person under (1) of this subsection shall become conclusive with respect to the time when the presumption applies under (1) - (3) of this subsection.

3. No Double Taxation of Oil and Gas Operations. Alaska already imposes two special state taxes directly on our operations:

- the Oil and Gas Properties Production Tax (AS 43.55, the "severance tax"), which is imposed on the act of producing crude oil and natural gas from property in this state, and

- the Oil and Gas Exploration, Production and Pipeline Transportation Property Tax (AS 43.56, the "state property tax"), which is imposed on property that is used, or committed by contract for use, in oil and gas exploration, production, or transportation by pipeline within Alaska.

Both of these special taxes are very substantial monetarily. The State received \$496.3 million in severance tax in FY2002 and is expected to receive \$596.6 million this fiscal year and \$498.1 million in FY 2004.¹ In FY2002 the petroleum industry paid \$270.4 million under AS 43.56, of which \$220.7 million was paid to municipalities and \$49.7 million to the State.² The State's net receipts under that tax this fiscal year and next are projected to be \$48.6 million and \$48.5 million, respectively.³ Based on the state-municipal ratio for FY2002, this implies a total tax under AS 43.56 of more than \$260 million a year for this year and next.

Historically the State has recognized that, in imposing these special taxes directly on our operations, it would be inappropriate and unfair to subject those operations to a second or third tax.⁴ To this end AS 43.55.017 currently provides:

Sec. 43.55.017. Relation to other taxes. (a) Except as provided in this chapter, the taxes imposed by this chapter are in place of all taxes now imposed by the state or any of its municipalities, and neither the state nor a municipality may impose a tax upon

- (1) producing oil or gas leases;
- (2) oil or gas produced or extracted in the state;
- (3) the value of intangible drilling and exploration expenses.

¹ Source: Alaska Dept. of Revenue, *Spring 2003 State Revenue Sources Book*, p. 25, Table 11.

² *Id.*, p. 38, Table 17.

³ *Id.*, p. 25, Table 11.

⁴ This principle that the payment of tax specifically targeted on the oil and gas industry is in place of other, more general taxes that would otherwise fall on it, goes back to Alaska's very first oil and gas tax legislation back in Territorial days. The original severance tax (now AS 43.55) provided in part:

... The payment of the taxes herein imposed shall be in full, and in lieu of all ad valorem taxes now or hereafter imposed by the Territory, cities, towns, school districts, and other local government units upon any property rights attached to or inherent in the right to producing oil and/or gas, upon producing oil and/or gas leases, upon machinery, appliances and equipment used in and around any well producing oil or gas and actually used in the operation of such well, and also upon oil and gas produced in the Territory upon which gross production taxes have been paid, and upon any investment in any property hereinbefore in this paragraph mentioned or described. Any interest in the land, other than that herein enumerated, shall be assessed and taxes as other property within the taxing district in which such property is situated. It is expressly provided that the gross production tax shall not be lieu of income taxes nor excise taxes upon the sale of oil and gas products at retail.

(b) The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(c) The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of oil or gas products.⁵

AS 43.56.030 has a similar provision exempting property taxable under that tax from all municipal taxes, including "taxes on the retail sale or use of the property" beyond the first \$1,000 of each sale, and "taxes on the sale or use of [natural] gas or unrefined oil[.]"

Together, these two statutes provide that the special taxes on our industry are in place of other, more general taxes that could or would otherwise tax our operations a second time. The State historically has thought, rightly, that the taxation of oil and gas is sufficiently important as to be treated as a separate policy matter, apart from the general issues of state tax policy. By specifically dealing with oil and gas taxes separately, the State frees itself to consider and decide tax policy issues for Alaskans and their businesses as a whole, without having to worry about any unexpected implications which those general policy decisions might have on the State's very large oil and gas tax revenues. This approach by the State is sound.

From industry's perspective this historical approach has also been fair. We already pay taxes to the State once through the special taxes that are imposed on our operations. It would be unfair for the State to tax those operations a second or third time through general taxes like the proposed sales and use tax.

It appears that HB 293, as currently drafted, would tax the oil and gas exploration operations, field production operations, and pipeline transportation operations in two different ways. One would be through the tax on all the property and equipment used in these various operations. The other would be through the tax on all the services that are being provided in the course of conducting these operations. Here are some illustrations of how this would occur:

- Exploration operations. All the seismic and geophysical work performed for the leasehold owners by geophysical companies would be taxable services. The materials and supplies used in those operations would be taxable personal property. For any exploratory well that might be drilled, the actual drilling itself would be a taxable service by the drilling company, and all the pipe used to line the well bore would be taxable property. Even the managerial functions performed by one oil

⁵ These other kinds of taxes are not preempted by our payment of severance tax because they are not directly imposed on the same operations. In other words, the severance tax is on the act of producing oil and gas, and it increases the total cost of conducting those production operations. In contrast, an income or franchise tax does not increase the costs of producing the oil and gas, but only falls on whatever profits or net income is realized as a result of those production operations and any other business activities the taxpayer may have within the state. Similarly, a tax on retail gasoline sales, for example, does not increase the cost of producing the crude oil from which that gasoline was refined.

company on behalf of other working-interest owners in directing these exploration operations on their leases appear to be taxable services provided by the operator to the other owners.

- Production operations. Here, too, the activities performed by the field operator to operate a field on behalf of all the owners appear to be taxable services performed by that operator for the other owners. As with exploration, the drilling of wells by drilling companies would be taxable services, and the hardware in the wells and on the surface would be taxable property. Any new production facilities for existing fields, and all production facilities for new fields, would be taxable property when they are built or installed.
- Pipeline operations. All material and supplies being used in the operations of TAPS and other pipelines apparently would be taxable property. Any new pipelines or additions to existing ones would also be taxable property when completed. The work of Alyeska Pipeline Service Company in operating TAPS apparently would be taxable services to the pipeline companies that actually own TAPS.

Even the tariffs which pipeline companies charge for transporting oil through their pipelines appear to be taxable services. Proposed AS 43.44.320 (on p. 12, lines 4-6) would require all carriers "engaged in the business of intrastate or interstate transportation"⁶ to register as retailers and pay tax under AS 43.44.010, which apparently means the tax is on the transportation "services" they provide. However, this seems to conflict with proposed AS 43.44.220 (at p. 7, line 21 - p. 8, line 2), which says the transportation of property from one point to another within Alaska "is not taxable if the ... property [is] being transported in interstate or foreign commerce under a single contract" (emphasis added). Even if the latter is the rule that applies, it is unclear how it will apply to North Slope oil in light of its "under a single contract" requirement. Except for oil produced from the Prudhoe Bay Unit production facilities (which deliver the oil directly into TAPS Pump Station No. 1), all North Slope oil passes through one or more pipelines on the Slope before being delivered into TAPS. Each pipeline is a different entity from the others, and so there is a separate contract with each pipeline company to transport oil through its pipeline. Will the "single contract" requirement remove the transportation of all non-Prudhoe oil from this exemption under AS 43.44.220? An aggressive rule-maker in the Department of Revenue or an auditor on audit could certainly assert this position.⁷ In fact, even for Prudhoe Bay oil shipped out of state, s/he could assert that, because the contract with TAPS does not extend to

⁶ It is not clear why carriers engaged in transporting people or goods to another country ("foreign" commerce) are not included in this.

⁷ In case it seems farfetched that someone in the Department could take this position and make it stick, it is worth recalling that proposed AS 43.44.030 (at p. 2, line 23 - p. 3, line 7) would create a presumption of taxability, and similarly in the context of audits and assessments of tax deficiencies, AS 43.05.225 already on the books creates a presumption the a claim raised by a state tax auditor on audit is correct and "sufficient for all legal purposes."

the movement of that oil by the tanker carrying it from Valdez, there is not a "single contract" for the transportation of that oil and hence the transportation of that oil falls outside this exemption under AS 43.44.270.

Equally unclear is how proposed AS 43.44.160 (at p. 6, lines 1-7) — which would exempt sales-for-resale from the tax — would apply to transfers of custody and/or legal title that occur with respect to North Slope oil on its way from the field to its destination. There is a transfer of custody⁸ when the oil moves from the field into the pipeline serving that field, and again each time the oil is transferred from the facilities of one pipeline into another. There is a final transfer at Valdez when the oil is loaded onto a tanker. Legal title to the oil may be transferred from one affiliate to another in the same business, at one or more of these custody-transfer locations. Proposed AS 43.44.160 would exempt the oil if, in addition to a nontaxable transaction certificate from the buyer, the buyer resells it "and the property will be subject to the sales tax[.]" If that buyer then resells the property in another sale-for-resale, it is quite possible that the first sale-for-resale would not qualify as tax-exempt in the Department of Revenue's view, because the buyer in the first sale does not resell the property in a sale that is "subject to the sales tax" as required in AS 43.44.160(2). Under this view of the scope of the sale-for-resale exemption, each in-state transfer of legal title to the oil except the last one — and quite possibly each in-state transfer of custody as well⁹ — would be taxable with the tax being 3% of the oil's value at that point. This means the oil could be taxed as many as four times before it leaves the state.¹⁰ In fact, if the Department were to take the position that a transfer of custody over the oil is a different taxable "sale" from a transfer of legal title to that oil even though they happen simultaneously,¹¹ the number of times the oil is taxed might end up even higher.

⁸ A transfer of custody means the physical control and temporary possession of the oil, but not the ownership of it, changes hands from one person or entity to another.

⁹ A "sale" of property (as opposed to a sale of services) is defined in proposed AS 43.44.900(9) (at p. 16, lines 9-10) to be "the transfer of property for consideration[.]" Since this does not define a "sale" in terms of transferring ownership or legal title to the property, one cannot rule out the possibility that this definition could be construed by the Department of Revenue to include transfers of custody as "sales" for purposes of the tax.

¹⁰ Oil from the Alpine field, for example, has a custody transfer from the field into the Alpine Pipeline, a second custody transfer from the Alpine Pipeline into the Kuparuk Pipeline, a third custody transfer from the Kuparuk Pipeline into TAPS, and a fourth custody transfer from the TAPS Marine Terminal at Valdez onto an oil tanker.

¹¹ The Department, to justify such a position, could point out that the transfer of custody is from one pipeline company to another (or from the producer to the pipeline serving the field, or from TAPS to the tanker owner/operator), whereas the transfer of legal title involves different parties (e.g., from the upstream entity that produces the oil to its mid-stream oil trading and logistics affiliate). Since the parties to the two transfers are not the same, the Department could argue the transactions cannot be the same even though they occur simultaneously.

- Natural gas development. The tax effects with respect to TAPS and other oil pipelines in Alaska appear also to apply to the Alaskan portion of any project to develop North Slope natural gas reserves and transport that gas to market, both during construction as well as once it is put into operation.

In addition to the fairness and tax policy issues already mentioned about taxing oil and gas operations two or three or more times through the proposed sales and use tax, taxing our operations again through this tax would also harm the State's own interests, directly and indirectly. For example, taxing pipeline tariffs would simply increase those costs of transporting Alaskan oil by three percent. That will reduce the netback value of the oil in the field upon which the State's severance tax and royalties are based. It also harms the state indirectly because the lowered netback also hits the producers' pocketbooks and makes the economics for new oil and gas developments less competitive — this is in addition to the 3% increase in field operating costs that HB 293 would also cause. Weakened competitiveness means fewer opportunities here will succeed in the internal business competition for investment capital, making fewer investments means less development, and less development means less oil and gas in the long run, which is in neither our interest nor Alaska's. Taxing the pipeline tariffs would also increase the cost of crude oil for Alaska's in-state refiners, weakening their operating economics and perhaps threatening the jobs of Alaskans whom they employ.¹²

For all these reasons, the special taxes that the oil industry already pays to the State under the severance tax and the state property tax should be in place of any new sales and use tax on our property and operations. Accordingly, AOGA recommends adding the following Bill sections to HB 293 (to be numbered as appropriate):

* **Sec. .** AS 43.55.017 is amended to read:

Sec. 43.55.017. Relation to other taxes. (a) Except as provided in this chapter, **AS 43.20, and AS 43.56**, the taxes imposed by this chapter are in place of all taxes [NOW IMPOSED] by the state or any of its municipalities **upon**

(1) oil and gas produced in the state, including the sale, use and transfer of oil and gas;

(2) property and services used or contractually committed for use in the course of, or to support, operations to explore for, develop, and/or produce oil and gas in the state, including the sale, use and transfer of such property and services.

(b) [. AND NEITHER] Neither the state nor a municipality may impose a tax upon

¹² The possibility that an in-state refinery might cut back or close its operations is not just an abstract possibility. It is worth remembering that Alaska has already seen an in-state refinery close its doors due to poor economics. The refinery built at Nikiski on the Kenai Peninsula by Standard Oil Company of California (now ChevronTexaco) in 1963 was the first refinery in Alaska after Statehood. It was permanently shut down on June 17, 1991 after nearly 28 years of operation.

(1) producing oil or gas leases;
(2) [OIL OR GAS PRODUCED OR EXTRACTED IN THE STATE;

(3)] the value of intangible drilling and exploration expenses.

(c)[(b)] The taxes imposed by this chapter are in place of all taxes imposed by a municipality upon oil or gas in place or nonproducing oil or gas leases or properties.

(d)[(c)] The taxes imposed by this chapter are not in place of the tax imposed by income taxes, franchise taxes, or taxes upon the retail sale of [OIL OR] gas or products from oil or gas.

* Sec. . AS 43.56.030 is amended to read:

Sec. 43.56.030. In place of other taxes. Except for those taxes imposed under AS 43.20 and AS 43.55, the taxes levied or authorized under AS 43.56-010(b) are in place of

(1) all other ad valorem taxes or other taxes imposed by a municipality on property subject to tax under this chapter or exempted from taxation by AS 43.56.020; [AND]

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

(A) tax on the retail sale or use of the property except for the retail sales tax on the first \$1,000 of each sale;

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

(C) taxes on the sale or use of services used in or associated with the property or in its maintenance or operation except for the sales tax on the first \$1,000 of each sale;

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

(E) any license, excise, fee, charge or other tax on or pertaining to the property or services used in or associated with the property or in its maintenance or operation; and

(3) all other taxes imposed by the state on or with respect to the property subject to tax under this chapter or exempted from taxation by AS 43.56.020, including, but not limited to,

(A) tax on the sale, use or transfer of the property;

(B) tax on the sale or use of services used in or associated with the property or in its maintenance or operation;

(C) tax on the sale or use of services provided through the use of the property; and

(D) any license, excise, fee, charge or other tax on or pertaining to the property or services used in or associated with the property, used in or associated with its maintenance or operation, or provided through the use of the property.

This concludes AOGA's comments on the major substance of HB 293 as it impacts our industry. However, in the course of examining the Bill to understand how it would operate, we have come across a number of technical matters of substance, as well as some drafting problems, that should be corrected in the Bill. These are discussed in the following portion of these comments. AOGA has not attempted to find every single drafting or technical issue, and the following list should in no way be seen as being exhaustive or comprehensive.

4. Technical and drafting issues.

On p. 1, lines 1-2, amend the Bill title to read:

“An Act levying and collecting a state sales and use tax; exempting from the state sales and use tax certain property subject to tax under AS 43.55 and AS 43.56 and certain associated services and operations; providing for transition rules for implementing the state sales and use tax; and providing for an effective date.”

On p. 1, lines 9 and 10, insert the words “tangible personal” immediately before the word “property” both times where it appears. This is to make subsection (b) consistent with subsection (a), which uses the phrase “tangible personal property” to describe what property is subject to tax.

On p. 1, line 11, delete the entire line and renumber the remaining paragraph in AS 43.-44.010(b) accordingly. Suppose a person owns forested land and builds a cabin from the trees on that property. Should the cabin be subject to this new use tax? We don't think so. If a person manufactured the property that s/he is using, the use of that property should not be taxable until that property is eventually sold.

On p. 2, line 2, the word “buyers” should be “buyer's” with an apostrophe before the “s”.

On p. 2, line 4, insert the word “rendered” between “services” and “in this state”. This is to avoid serious difficulties in dealing with services (e.g., financial accounting) rendered outside Alaska to the corporate parent of a multistate or international business or to the business as a whole. Otherwise the amount of time and effort spent arguing of whether any such services are taxable by Alaska, and if so how much, promises to exceed the amount of tax that the State would stand to collect by attempting to tax them.

On p. 2, line 28, if our proposed transition rules (or something resembling them) are adopted, then the phrase “after December 31, 2003” should be inserted between “sold” and “by any person”. Note that, if the effective date for the new sales and use tax is changed from January 1, 2004, then this December 31, 2003 date should be changed so that it is the day before the tax becomes effective.

On p. 3, line 22, replace the word "person" with "seller" so there can be no argument that the person in question is the "purchaser" referred to at the beginning of the line.

On p. 3, line 27, the word "occurs" is ambiguous. A nontaxable transaction could "occur" when the parties make the agreement or contract for the transaction, or it could "occur" when the property in question is delivered to the purchaser or the services are rendered. AOGA does not have a preference between one or the other, but "occurs" should be replaced by an appropriate verb reflecting the Legislature's choice about when a transaction should be deemed to occur.

On p. 3, lines 30-31: This says only someone "registered" with the Department of Revenue and holding a valid seller's permit may execute a nontaxable transaction certificate. The practice of the federal government in other states is not to register with them nor seek any permits from them, which may reflect a federal view that the national government, as the paramount sovereign under the Supremacy Clause of the United States Constitution, does not have to comply with any state requirements. In any case, there needs to be an accommodation here in the Bill so that people can get nontaxable transaction certificates from federal agencies and officials when the latter are not registered and don't have state buyer's permits. We suggest that the phrase ", or an agency or officer of the United States," be inserted between the words "valid" and "may execute" in line 31. Because of the large military presence in Alaska, we recommend using "officer" instead of "official" in this context because "officer" includes military officers as well as civilian officials, whereas "official" is not ordinarily used to describe military officers.

On p. 4, lines 6-9: In the 21st Century, there should be an explicit provision allowing the Department of Revenue to issue, and purchasers to hold, these nontaxable transaction certificates in electronic form instead of hard copy.

On p. 4, lines 10-17: In describing what information must be included in each nontaxable transaction certificate, there is no provision for including in the certificate the date when it is issued or becomes effective.

At p. 4, line 14, a new statutory section or a new subsection to proposed AS 43.44.080 should be added to provide for direct-pay permits, which will greatly facilitate the operation of this certificate program.

On p. 4, lines 29-30, there is a potential for this language to be misconstrued. Clearly it is intended that the phrase "natural gas, water, electricity, telephone communications services, refuse collection" is modifying "utility service." However, as it is written, one could argue that it is the actual natural gas, water, electricity etc. that is being referred to, instead of utility services involving these things. To prevent this, the words "utility services for" should be inserted between "of" and "natural gas" in line 29, and the word "utility" in line 30 should be deleted.

On p. 5, line 24, the word "and" should be "or". With "and" as the conjunction, that sentence is saying "occasional sales" only occur if they are truly intermittent and, in addi-

tion, they are for fundraising purposes by a nonprofit organization. Clearly, it makes much better sense to exempt as "occasional sales" those sales which meet either condition, and to do this requires "or" as the conjunction.

On p. 6, lines 5-7: These lines contain the provisions causing the problems in the sale-for-resale exemption for property. They say the sale is tax-exempt if:

- (2) the buyer resells the property either by itself or in combination with other property in the ordinary course of business and the property will be subject to the sales tax imposed by AS 43.44.010(a).

The problem with paragraph (2) is caused by the timing mismatch between "the buyer resells" (which is in the present tense) and "the property will be subject to the sales tax" (which is in the future tense). This mismatch makes it unclear whether the buyer has to resell the property in a taxable sale in order for the first sale to be tax-exempt, or whether the buyer resells the property with the knowledge that, if it isn't taxable then, it will eventually be resold again in a taxable sale. Either way you read it, there is a problem. If the resale has to be taxable in order for the first sale to be tax-exempt, then this ignores the possibility that the first sale was the first in a series of sales for resale before the property is finally sold to the end-user or sold at retail. On the other hand, if the resale doesn't have to be taxable so long as the person reselling the property knows that it will be resold again within the state in a taxable sale, then the provision is unrealistic because a reseller cannot know for sure that such a taxable resale will actually occur. And since the reseller cannot know this for a fact, the condition in (2) would be unfulfilled and the first sale would be taxable.

The simple way to fix paragraph (2) would be to make the first sale tax-exempt if either the resale is a taxable sale or if the reseller sells the property to a buyer who delivers a nontaxable transaction certificate to the reseller. This will allow for a series of linked sales-for-resale to remain untaxed until the end of the chain when there is finally a taxable sale. Paragraph (2) should be rewritten to read as follows:

- (2) the buyer resells the property either by itself or in combination with other property in the ordinary course of business, and
 - (A) the property when it is resold is subject to the sales tax imposed by AS 43.44.010(a); or
 - (B) the buyer resells the property and is delivered a nontaxable transaction certificate by the person buying it in that resale.

On p. 6, lines 14-15: Here is the same problem in the context of sales of services for resale that was just addressed with sales of property for resale: the statute fails to deal adequately with the possibility that there may be a linked chain of sales for resale, as from a sub-subcontractor to a subcontractor to a general contractor to the client. As in the context with property, the solution is to allow the exemption either if the resale is taxable or if the resale is to someone who provides a nontaxable transaction certificate for that resale. Paragraph (3) should read as follows:

- (3) the subsequent sale is in the ordinary course of business and

- (A) is subject to the tax imposed by AS 43.44.010(a); or
- (B) is made to a person who delivers a nontaxable transaction certificate for that subsequent sale.

On p. 7, lines 18-20, the entire text should be relocated as a new statutory section (e.g., a new AS 43.44.005) at the beginning of AS 43.44 setting out the Legislature's intent about how this tax is to be administered. That way, by saying that the Legislature's intent is for the tax to be imposed on interstate and foreign commerce to the fullest extent allowed by the U.S. Constitution, the Legislature would be providing instruction to the Department of Revenue about the philosophy and approach that it is to use in implementing and enforcing this tax. But, by having it here as a substantive provision of the tax law itself, the Legislature would be making this part of the actual tax itself. The Department of Revenue is not empowered to determine where the limits of the federal Commerce Clause are, and so the only way it could carry out such a substantive provision would be to claim that everything is taxable and leave it to the courts to tell it what isn't. Clearly that's not a feasible way to run a tax. Similarly, taxpayers are entitled to know what their tax obligations are so they can fulfill them. If this stays part of the substantive tax law, it would be impossible for businesses to know whether they have complied with the tax or not without going to court.

On p. 7, line 21 – 8, line 2: The provisions of proposed AS 43.44.220 would exempt intrastate transportation if it an integral part of a larger movement of the property in question from Alaska to another state or country. The technical problem here is that the statute uses the concept of a "single contract" to define when the Alaskan segment is part of the larger movement. Often the in-state portion of an interstate or international shipment will involve some mode of ground transportation, and then the goods are transferred into a ship or airplane for shipment from Alaska to its ultimate destination Outside. For any number of reasons,¹³ a business moving goods from Alaska to Outside is likely to set up a separate subsidiary for the interstate or international leg of that shipment. In such a case there will most likely be two contracts, one between the shipper and the subsidiary doing the intrastate portion of the shipment and the other with the subsidiary handling the interstate or international portion. The concept of a "single contract" for interstate or international shipments from Alaska is unduly narrow in the real world. It should be expanded to include all situations where the in-state and out-of-state legs of the transportation are being handled by the same business, instead of being limited to cases where a carrier has only one legal entity handling both legs and thus is able make only one contract for the shipment.

On p. 8, line 3: Before the existing proposed statutory section exempting certain sales of services to out-of-state buyers, there should be a statutory section exempting similar sales of property to out-of-state buyers. Elsewhere there are parallel provisions exempting

¹³ Such considerations could include, for example, potential conflicts between the laws of Alaska and the United States on the one hand and the laws of the country where the goods are being delivered, specific provisions of aviation law or admiralty law, tax considerations, risk management, etc.

sales of property for resale (AS 43.44.160 at p. 6, lines 1-7) and sales of services for resale (AS 43.44.170 at p. 6, lines 8-15). There is no reason not to do the same for sales to out-of-state buyers.

On p. 8, lines 9-20: These statutory provisions set out the conditions under which sales of services to out-of-state buyers will be tax-exempt. Those conditions are impossible to meet, particularly in light of the presumption in proposed AS 43.44.030 (p. 2, lines 26-27) that all sales are taxable. How will an out-of-state buyer possibly be able to prove "a negative" — that is, prove that, besides him/herself, no employee and no person "in privity"¹⁴ with the buyer either used the service in Alaska, or received the service in Alaska, or had any office or place of business in Alaska, or was in Alaska more than briefly¹⁵ or occasionally,¹⁶ or had any "communication in this state"¹⁷ relating to the service, or did anything in Alaska "related to the subject matter of the service."

Apart from the ambiguity in the meaning of these various terms that has been footnoted, the real point is that all a state auditor would have to do in order to make an out-of-state sale taxable is merely to assert that the out-of-state buyer did not meet all the conditions for exemption. The burden would then be on the buyer to prove that they were met, but it's vastly more difficult to prove that something didn't happen than it is to prove that something did. It would be impossible in most cases for the out-of-state buyer to make the requisite showing that all of these potential events never occurred. And if the buyer can't show that all of them never occurred, s/he will have failed to meet her/his burden of proof to merit the tax exemption.¹⁸

If the intended effect of proposed AS 43.44.230(b) will be to prevent any out-of-state buyer in actual practice from ever having a tax-exempt purchase of services, why not

¹⁴ In what sense is "privity" being used in the statute? Does it mean someone with whom the buyer is personally intimate or familiar, such as a spouse, child, parent or sibling? What about a best friend, or a business partner? Or does "privity" mean someone who has a contract with the buyer and is said in the common law to have "privity of contract" with the buyer? If the latter, wouldn't the person performing the services in Alaska always disqualify an out-of-state buyer of those services because of this "privity" of contract?

¹⁵ How brief does a stay in Alaska have to be in order to be "brief"?

¹⁶ How often can a person visit Alaska ("briefly" each time, of course) and still only be here on only an "occasional" basis?

¹⁷ What about someone call to someone in state placed from Outside by someone "in privity" with the buyer?

¹⁸ The really exquisite thing about proposed AS 43.44.230 is that not only does an out-of-state buyer have to prove all these "negatives" are true at the time the sale is made, but in order to keep the tax-exemption, s/he must prove that they continue to be met throughout the time when the service is being performed. Otherwise, under subsection (c), the exemption ceases the moment the services no longer qualify. In other words, even if the buyer successfully shows that on Day 1 the deal qualified for a tax exemption, it could be lost starting on Day 2 unless s/he can prove all the "negatives" still prevailed on Day 2.

come right out and say so in the statute, instead of creating a false impression that somehow there could be an exemption?

On p. 8, at line 24: Services provided by one affiliated entity to another affiliate should not be taxed. In some cases such sales of services will be exempt under the sale-for-resale exemption for services. But sometimes one affiliate provides a service to another than is not sold in turn to a third party, but that service is instead used or consumed by the affiliate to which it is provided in the course of the latter affiliate's business operations. The sales from the latter's business operations, whether of services or property, will be taxable, so it would be just as inappropriate to tax the latter kind of inter-affiliate services as it would to tax a sale of services for resale. Thus, on line 24, immediately before proposed AS 43.44.240, the following new statutory section should be inserted:

Sec. 43.44.235. Nontaxability – Intercorporate Services. (a) Sales of service transactions among affiliated entities, at least one of which is a corporation, that report their income to the Internal Revenue Service on a single consolidated return for the tax year in which the transaction occurs are not taxable.

(b) For purposes of this section, "affiliated entity" includes an entity that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504 but for the exclusions provided by that section.

(c) Services that are exempt under this section may not be purchased for resale by the providing company.

(d) Tangible personal property that is transferred as an integral part of a service exempted under this section may not be purchased for resale by the providing company.

On p. 9, at line 3: Just a few years ago the Legislature amended the state motor fuel tax in order keep the playing field between in-state refiners wanting to sell jet fuel to airplanes on international routes, and importers bringing in foreign fuel into a Free Trade Zone to be sold to those aircraft. Sales from a Free Trade Zone pay no state motor fuel tax, and the motor fuel tax had to be amended to exempt in-state refiners from that tax so they could compete for that business. The same is true now with a state sales and use tax. If the in-state refiners are to be able to continue competing for this business on an equal footing with imported jet fuel, they need to be exempt from the sales and use tax. We recommend inserting the following new statutory section immediately before AS 43.44.250:

Sec. 43.44.245. Nontaxability – jet fuel for international flights. Sales of jet fuel to refuel an aircraft for a flight to a destination outside the United States or for a flight originating outside the United States that continues to a destination within the United States shall be exempt from the tax imposed by AS 43.44.010.

On p. 9, lines 9-23: These are provisions for obtaining seller's permits. Again, there should be explicit authority for the Department of Revenue to issue, and for people to hold, these permits in an electronic form instead of having hard copies.

On p. 12, lines 10-11: There should be explicit authority for the Department of Revenue to issue, and for people to hold, this documentation in electronic form instead of hard copy.

On p. 12, line 16: There should be explicit authority for the Department of Revenue to authorize filing tax returns on an electronic basis without having to file hard copies. Either the statute, or the Department by regulation, should prescribe standards and electronic documentation (e.g., CD or DVD) required to preserve a record of what is filed.

On p. 16, line 3, immediately following the definition of "manufacturing" there should be inserted a definition of "mining". Proposed AS 43.44.180 (p. 6, lines 16-28) would exempt certain sales to "mining or manufacturing" businesses. Having just defined the one, it is appropriate for the Bill to define the other. This is especially so since the reference to "production of [a] mineral from a mine or wellhead" on p. 6, line 27 promises to create an issue about whether "mining" includes oil and gas production. If our proposed Bill sections to amend AS 43.55.017 and AS 43.56.030 are not adopted, then "mining" should be defined to include oil and gas production since it is a similar extractive industry involving a nonrenewable resource. Conversely, if AS 43.55.017 and AS 43.56.030 are amended as we suggest, then "mining" should be defined here in the sales and use tax law to exclude oil and gas production.¹⁹

On p. 21, line 25: Currently this line contains the effective-date clause of HB 293. If our transition rules (or something comparable to them) are added to the Bill, then it will be necessary to make those transitional provisions effective immediately while keeping January 1, 2004 as the effective date for the substantive tax law changes. On the assumption that our proposed Bill sections amending AS 43.55.017 and AS 43.56.030 are added to HB 293 as Bill sections 5 and 6, then the transition rules would be Bill section 7. Using this assumed numbering, then the present Bill section 5 should be renumbered and amended, and a new final Bill section added, to read as follows:

* **Sec. 8.** Sections 1 – 6 of this Act take effect January 1, 2004.

* **Sec. 9.** Sections 7 – 9 of this Act take effect immediately under AS 01.10.-070(a).

Conclusion. This concludes AOGA's comments on HB 293. On behalf of AOGA and its members, we thank you for this opportunity to offer these comments and for your consideration of them. We would be pleased to answer any questions you may have or to be of assistance in any other way that we can regarding this legislation.

¹⁹ In the event oil and gas production is excluded from the definition of "mining", it would be a mistake to delete the reference to "wellhead" on p. 6, line 27 because some substances (particularly sulfur) may be recovered from the ground in molten form and thus would come from a "well" with a "wellhead."

Alaska State Legislature

Co-Chair
House Finance Committee
Subcommittee Chair
Environmental Conservation
Courts



Representative William K. Williams

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May 13, 2003

Kathryn Kertz
Legislative Legal
Terry Miller Building
Juneau, Alaska 99801
Re: HB 293

Dear Kathryn:

Enclosed are comments regarding HB 293 from AOGA. Please review them when you can. At least some of the comments raise issues of major concern.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ray R.", with a long horizontal flourish extending to the right.

Cc: Rep. Whittaker
Rep. Hawker
Deputy Commissioner Persily

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MEMORANDUM

May 12, 2003

SUBJECT: CSHB293(W&M) (Work Order No. 23-LS1064\S)

TO: Representative Jim Whitaker, Co-Chair, House Special Committee
on Ways and Means
Attn: Lori Backes

Representative Mike Hawker, Co-Chair, House Special Committee
on Ways and Means

FROM: Kathryn L. Kurtz *KLK*
Legislative Counsel

This morning your committee passed out a version of CSHB 293 with a sunset date of January 1, 2012.

I have prepared the \S version in final with the necessary sunset provisions, according to the Manual of Legislative Drafting (2003), page 21, using a bill section that repeals each new codified provision, and a separate bill section that "undoes" each change to current law.

The new codified provisions, including all of the state sales tax sections in AS 43.44, will be repealed effective January 1, 2012 under this draft. The potential problem with the effective dates arises in relation to the separate bill sections "undoing" each change to existing statutes--including the changes to the municipal tax statutes in AS 29, and the motor fuel tax in AS 43.40. Those provisions also take effect January 1, 2012 under this draft version of the bill, assuming the effective date clause receives the necessary two-thirds vote. If the effective date clause fails, the section changing existing statute and the section undoing the change will take effect simultaneously, the net effect being uncertain.

Also, please note that the amendment to AS 29.45.650(a) in sec. 12 permitting municipalities to tax intangibles creates a conflict with the structure of 29.45.650(c) that requires municipal exemptions to conform to state exemptions, as well as the transitional provision in sec. 36(b) of the bill that requires municipalities to conform their exemptions, definitions and sourcing rules to the state sales and use tax law.

KLK:lmb
03-200.lmb

Enclosure

Alaska State Legislature

House Special Committee on Ways and Means

Co-Chair, Representative Jim Whitaker
State Capitol
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Phone (907) 465-3004
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Committee Aide: Lori Backes, 465-6541

HB 293 State Sales Tax

As amended in the House Special Committee on Ways and Means, the current version:

- Levies a statewide sales and use tax at 3% effective January 1, 2004
- Caps the total amount of combined local and state sales tax at 8%. The effect on municipal sales and use tax rates shall be phased in with the municipal rate not to exceed 6% as of January 1, 2008, followed by a limit to 5% on January 1, 2010. The 8% combined cap may be exceeded by a municipality if approved by the local voters in a referendum.
- Phases in statewide authority to administer and collect sales and use tax according to the following schedule:
 1. For the first two years, municipalities may collect and enforce their own sales and use tax laws under their current ordinances,
 2. Then, on January 1, 2006, municipalities must begin enforcing and collecting local sales and use taxes under the state sales and use tax laws.
 3. Finally, on January 1, 2008, the state assumes responsibility for administering and collecting state and local sales and use taxes.
- Allows the state to contract with municipalities for tax administration field office services
- Allows municipalities to continue to levy and collect special taxes on single categories of items
- Includes an increase in the motor fuels tax to 20 cents per gallon and deposits 6 cents per gallon of those proceeds into the special highway fuel tax account to be used for increased revenue sharing to the municipalities

Committee Members:

Representative Cheryll Heinze • Representative Vic Kohring • Representative Norman Rokeberg
Representative Bruce Weyhrauch • Representative Peggy Wilson
Representative Max Gruenberg • Representative Carl Moses

Exemptions: the following sales, uses, purchasers, or categories will be exempt from the statewide tax:

- Sales to and uses by a governmental agency
- Sales and rents of real property
- IRS approved charitable organizations
- Purchases with food stamps or WIC program benefits
- Intangible items
- Isolated or occasional sales or leases
- The prices of a motor vehicle, boat, snowmobile, airplane or mobile home above \$5,000
- Sales for resale
- Services for resale
- Sales for ingredients used in mining and manufacturing
- Sale of property for lease
- Certain intrastate transportation and services in interstate commerce
- Health care services by licensed providers
- Child care services

The bill authorizes the department to enter into the Streamlined Sales and Use Tax Agreement to simplify and modernize sales and use tax administration.

The statewide sales and use tax sunsets on January 1, 2012.

Committee Members:

Representative Cheryll Heinze • Representative Vic Kohring • Representative Norman Rokeberg
Representative Bruce Weyhrauch • Representative Peggy Wilson
Representative Max Gruenberg • Representative Carl Moses

Comparison of State and Local Retail Sales Taxes

January, 2003

	Food Items [1] Taxable (T) Exempt (E)	State Rate	Maximum Local Rate [2]	Maximum State/Local Rate [2]
Alabama	T	4.00	7.00	11.00
Alaska	T	0.00	7.00 [3]	7.00
Arizona	E	5.60	3.00	8.60
Arkansas	T	5.125	4.750	9.875
California	E	6.00	2.50	8.50
Colorado	E	2.90	5.00	7.90
Connecticut	E	6.00	---	6.00
District of Columbia	E	5.75	---	5.75
Florida	E	6.00	1.50	7.50
Georgia	E	4.00	3.00	7.00
Hawaii	T *	4.00	---	4.00
Idaho	T *	5.00	3.00	8.00
Illinois	T **	6.25	3.00	9.25
Indiana	E	6.00	---	6.00
Iowa	E	5.00	2.00	7.00
Kansas	T *	5.30	3.00	8.30
Kentucky	E	6.00	---	6.00
Louisiana	T **[4]	4.00	5.50	9.50
Maine	E	5.00	---	5.00
Maryland	E	5.00	---	5.00
Massachusetts	E	5.00	---	5.00
Michigan	E	6.00	---	6.00
Minnesota	E	6.50	1.00	7.50
Mississippi	T	7.00	0.25	7.25
Missouri	T	4.225	4.125	8.350
Nebraska	E	5.50	1.50	7.00
Nevada	E	6.50	0.75	7.25
New Jersey	E	6.00	---	6.00
New Mexico	T	5.00	2.25	7.25
New York	E	4.00	4.50	8.50
North Carolina	E [4]	4.50	3.00	7.50
North Dakota	E	5.00	2.50	7.50
Ohio	E	5.00	2.00	7.00
Oklahoma	T	4.50	5.35	9.85
Pennsylvania	E	6.00	1.00	7.00
Rhode Island	E	7.00	---	7.00
South Carolina	T **	5.00	2.00	7.00
South Dakota	T *	4.00	2.00	6.00
Tennessee	T	7.00	2.75	9.75
Texas	E	6.25	2.00	8.25
Utah	T	4.75	2.25	7.00
Vermont	E	5.00	1.00	6.00
Virginia	T **	3.50	1.00	4.50
Washington	E	6.50	2.40	8.90
West Virginia	T	6.00	---	6.00
Wisconsin	E	5.00	0.60	5.60
Wyoming	T *	4.00	2.00	6.00

[1] Food purchased for consumption off-premises.

[2] Highest local rate known to be actually levied by at least one jurisdiction. Includes local taxes for general purposes and those earmarked for specific purposes (e.g. transit). Taxes applying only to specified sales (e.g. lodging or meals) are excluded.

[3] Alaskan cities and boroughs may levy local sales taxes from 1% to 6%.

[4] Food exempt from state tax, but subject to local taxes. In Louisiana, food will be exempt from state tax 7/1/03.

** Food taxed at lower rate.

* Income tax credit allowed to offset sales tax on food.

Source: Compiled by the Federation of Tax Administrators from various sources.

Statewide Sales Tax

What Do Other States Charge?

The only states in the nation without a statewide sales tax are Alaska, Delaware, Montana, New Hampshire and Oregon. The others collect taxes that range from a low of 2.9% in Colorado to 7% in Mississippi, Tennessee and Rhode Island.

- In most states, the cities, counties, transit districts and other taxing authorities add their tax onto the state tax rate, with the states handling collection and enforcement, then disbursing the funds to the municipal agencies.
- State and city sales taxes are collected and administered separately in only a very few locations nationwide. Businesses prefer to deal with a single set of rules and a single taxing authority (reducing compliance costs to businesses).

Because of the cumulative effect of adding local sales taxes to the state tax, many states set a maximum overall rate.

- The highest combined state and municipal sales tax rate in the nation is in Alabama, with at least one community at 11%. Arkansas and Oklahoma are tied at second at 9.875%.

Most states — 28 of 45 — exempt all or some food purchases from sales taxes, with three additional states charging a lower tax rate on foods.

- All states exempt prescription medicines from sales tax.
- Fewer than 10 states exempt non-prescription medicines from sales tax.

Most states allow businesses to retain a portion of their collections as reimbursement for the expense of collecting the tax for the state.

- For those states that do allow a "discount" to businesses on their sales tax returns, the rate ranges from 0.5% of the amount collected to as much as 5% for businesses with small tax collections.
- One-third of the states set a maximum on the amount of money a business is allowed to retain.

Of those states with a general statewide sales tax, the tax provides an average of around 30% of the state's overall general fund revenues.

How Many Alaska Cities and Boroughs Already Have a Sales Tax?

About one-third of Alaskans live in a community — a city or a borough — with a municipal sales tax. The rates for those 200,000-plus Alaskans range from:

- A low of 1% in Tenakee and White Mountain.
- To a high of 7% in Wrangell, with a 6% rate in Petersburg, Cordova, Kodiak and Kotzebue.

The 97 cities and boroughs with a sales tax collected about \$125 million in Fiscal Year 2001, for an average of more than \$600 per capita.

Each municipality has its own list of tax exemptions, limits and rules, such as a cap on the maximum amount of a single purchase subject to a sales tax (to ease the burden on purchasers of big-ticket items such as cars). There is no uniformity across the state. In this aspect, merchants likely would appreciate a state-governed sales tax program, with one set of rules statewide.

The Alaska Municipal League has gone on record opposing a statewide sales tax. The league's members see the sales tax as historically the domain of municipalities in Alaska and do not want to lose control over the tax revenue or administration. Alaska communities with an existing sales tax also fear the economic damage that could be inflicted upon their cities and boroughs if the state were to impose a statewide sales tax on top of municipal taxes.

- For example, Wrangell and Petersburg, at 7% and 6%, respectively, believe merchants in their communities would lose a significant amount of business to out-of-state suppliers if residents were charged an 8%, 9% or 10% combined state/municipal tax.

Most municipalities allow for some form of exemption for senior citizens, though the process varies from city to city.

- For example, Juneau issues tax-exempt cards to seniors and then requires businesses to keep a log of all tax-exempt purchases. Wrangell uses a different approach. It issues seniors a \$250-a-year sales tax rebate, rather than requiring businesses to keep a log and enforce the exemption.

Assuming the state controlled collection of the tax, the most efficient method for distributing the local tax back to cities and boroughs would be to determine the local share of the tax revenue — for example, if Sitka had a 5% rate and the state had a 3% rate — and then compute the local share of total collections and send out the check.

How Much Would the State Raise from a Sales Tax?

The Department of Revenue estimates the state would collect approximately:

- \$110 million a year for every 1% in a statewide sales tax on retail goods and services sold in Alaska, assuming no exemptions.
- \$75 million a year if foods and medical goods and services were exempted.

Additional exemptions would reduce the tax burden on some residents and, consequently, reduce revenues to the state. Exemptions also could complicate administration of the tax. And, if the state exempted any goods or services already subject to municipal sales taxes, and then imposed its exemptions on municipalities, some cities and boroughs could see a drop in their tax revenues.

Is a Seasonal Sales Tax a Good Idea?

This is hard to judge, but it appears from Juneau's sales tax records that sales are not as heavily weighted to the summer season as many people might expect. Permanent Fund dividends and the Christmas shopping season appear to help keep the volume of sales from leaning too heavily toward a summer surge.

Regional hub, influx of Legislature during off months
Based solely on Juneau's records, it appears a six-month seasonal tax might not generate much more than 50% to 55% of the year's taxable revenues. And it could be less if local residents shifted their purchases to the no-tax season.

A seasonal sales tax, while intended to grab more tax revenues from summer visitors, could actually harm local businesses, particularly big-ticket merchants that depend on local sales. For example, would a heavy seasonal sales tax deter residents from making purchases locally during the summer season? Would it hurt car dealers, appliance and furniture stores and electronic shops? Would the sales return each fall?

Who Would Pay the Tax?

A sales tax is generally considered to be regressive, meaning that lower-income people, who spend a greater proportion of their income on local goods, would pay a larger share of their income in sales taxes when compared to higher-income people. Exemptions for medical care and other necessities would reduce but not eliminate this imbalance. And the state could use a credit system to somewhat reimburse lower-income households for taxes paid on food. Taxing all services also would help to lessen the proportion of the tax burden on lower-income households, as middle- and upper-income households generally purchase services more than households on limited income.

It's hard to say how much of the sales tax would be paid by visitors from out of state, although the Department of Revenue believes it would be in the range of 10% of total tax revenues for a tax in place for the entire year. Visitors spend heavily on gifts, food, lodging and tours, although federal law prohibits a state sales tax on air transportation.

What is the Nationwide Streamlined Sales and Use Tax Agreement?

Businesses nationwide and other states are working hard to win nationwide adoption of a Streamlined Sales and Use Tax Agreement.

"It is the purpose of this agreement to simplify and modernize sales and use tax administration in the member states in order to substantially reduce the burden of tax compliance."

One of the key reasons for the push is to address the loss of state and municipal sales tax revenues to mail order and Internet commerce. The growth of mail order and Internet sales is costing states and municipalities billions of dollars a year in lost sales taxes. The retail industry has made it clear it wants to see a set of uniform sales tax rules nationwide as a condition of working with the states to collect taxes on interstate commerce. Alaska would not be in compliance with the nationwide effort if it adopted a state sales tax without the same exemptions and rules for municipal taxes statewide.

The agreement, which has been adopted by more than 20 states, requires:

"States to administer any and all sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions."

What Other Issues Should be Considered?

In addition to questions of local control, joining the nationwide streamlined sales tax campaign, and the risk of economic damage to communities that already have a heavy sales tax burden, other issues for the state to consider include:

- Taxable vs. non-taxable sales.
Food (prepared vs. unprepared), medicines (prescription vs. non-prescription), medical care (licensed care only or all care), sales by nonprofit organizations, and sales at vending machines are among the obvious issues.
- Senior citizen tax exemption.
No exemption, or exempt all purchases by seniors, or issue an annual rebate check? If purchases are exempt, should such tax-exempt purchases be limited?
- An exemption for purchases and/or sales by nonprofit organizations.
- Expectation for audits and enforcement. A stronger enforcement and audit program would add to the costs but would produce higher revenues to the state.

One other major issue to consider is the essential need for a "use tax" as part of any sales tax. Most states collect a use tax under the same set of statutes as their sales tax. This helps cover sales by nationwide retailers with a nexus (presence) in individual states, and allows the taxation of goods brought into the state. It is a matter of fairness. For example, it would allow taxation of office equipment brought into Alaska the same as a photocopier purchased in the state.

How Much Would it Cost the State to Administer a Sales Tax?

The Department of Revenue estimates it would cost approximately \$5 million a year to administer a statewide sales tax program, depending on the complexity of the tax, the number of exemptions, and the attention to enforcement and audits. The cost of sales tax programs nationwide average around 2% of collections. At \$5 million a year, Alaska would be within that range with a reasonable sales tax that raised \$250 million per year.

In addition to annual costs, there would be a first-year expense of approximately \$2 million to set up the tax program, including programming, offices, public and taxpayer educational programs, publications and tax forms, and a web-based filing system.

Sales and Use Taxes
The Building Blocks

Policy Issues

What is the nature of a sales and use tax?

- Tax on consumption.
- Sales tax and use tax are complementary. It is important to have the use tax in statute if the state wants to collect tax on purchases made out of state and then brought into Alaska, such as new cars and trucks.

What is important in a good sales and use tax?

- Certainty.
- Simplicity.
- Fairness.

Why is it important?

- Business development. An overly complex set of tax codes is bad for business.
- Consumer acceptance.

What makes a good sales tax?

- Affordable rate.
- Broad base.
- Understandable rules.

Technical Issues

1. What is included in the tax base, and is it properly defined? Some examples of problem areas that need workable definitions in statute.

- "Tangible personal property." Such as software? Does it depend whether the software is off the shelf, customized or downloaded from the internet?
- Intangible property. Such as copyrights or trademarks or the sale of business goodwill.
- Services. Does this include mortgage interest, bank fees or insurance?
- Real property is not taxed through sales/use tax, but is stationary machinery at a business considered personal property or real property?

2. To what extent are business inputs taxed?

- Common exemptions.
 - “Sales for resale” generally are exempt from sales taxes, but do not generally include the following:
 - Promotional items to be given away.
 - Filling material purchased by a dentist.
 - Leather purchased by a shoe repairman.
 - Manufacturing.
 - How is “manufacturing” defined? Many states require that the process “transform” one material into a different material.
 - What is the point at which production begins and ends? Are all of the components of the production process tax exempt? Most states say production begins with the withdrawal of raw materials from storage and ends when finished goods are taken to storage within the plant. The next sale of the goods then is taxable.
 - How integral to manufacturing process must an input be for it to be considered taxable?
- Use tax. Generally, the use tax is applied against:
 - Consumables.
 - Self-constructed assets.
 - Assets brought in from other states.
- Consider:
 - Direct-pay permits for businesses to remit use taxes, such as contractors and others with a significant amount of tax-exempt use of goods (such as a manufacturer or refinery). For example, raw material used at a welding shop would be tax exempt but not the paper or toner for the photocopier.

3. What issues arise with common exemptions?

- Food. Prepared food vs. groceries? Is restaurant potato salad treated the same as grocery deli potato salad and the same as prepackaged potato salad? If candy is excluded, are marshmallows considered candy? Or does it depend on the size of the marshmallows? Is food from the deli counter exempt even if the purchaser sits down and eats in the food court just as it were a restaurant?
- Medicine. What about herbal supplements? Over-the-counter drugs?
- Medical. Veterinary services? Massage therapy? Include prescription glasses? What about the drugstore magnifying glasses?
- Utilities. What about self-generated electricity? Fuel going into generators?
- Clothing. Safety gear or receiving blankets sold by a midwife? Wigs?
- Bundling. If taxable and non-taxable items are sold as a unit, how is it taxed?

4. Who should collect tax on charitable gaming? The operator of the game that sells the pull-tabs to players, or the distributor that sells the bulk pull-tabs to charities?

5. Challenges to simplicity. These are policy calls that could complicate administration, collection and enforcement of a sales and use tax.

- Sales tax holidays.
- Caps, such as a limit on the taxable amount of a single transaction. Define a single transaction? What about a 60-month car lease? Is each month's payment a transaction? What about businesses that keep an invoice open for favored customers to take advantage of the cap? And what about professional services? Does the cap apply to the law firm's entire billing for the month, or for each piece of work done for the client?
- Multiple rates.
- Differing tax bases in local jurisdictions. This raises the issue of state jurisdiction over sales and use tax exemptions and administration statewide. Is it fair to expect a statewide business to operate under 100 different tax codes?

6. How will special sale situations be handled?

- Leases: Is the tax collected upfront or on payment?
- Casual or occasional sales. Such as Girl Scout cookie sales and garage sales.
- Mergers and acquisitions. Do we really want to try collecting a sales tax on a sale such as BP's sale of ARCO assets to Phillips?
- Bartering. Can the state collect a sales tax on bartered goods?

7. Will local sales taxes be administered by the state? Will the state charge municipalities for administering and collecting their share of the taxes?

8. What administrative provisions are necessary to ensure goals of certainty and fairness?

- Registration of sellers. This would allow the state to monitor taxpayer compliance. This could also simplify the process for claiming an exemption for goods for resale.
- Can a seller file an extension for return?
- Allow or require consolidated returns?
- What accounting method is permissible?
- Are inactive sellers required to file?
- Are division-organized sellers allowed to file by division?

9. Why is use tax important? Is this fuss all about a pair of shoes bought in Seattle?
- Equal treatment of taxpayers. Is it fair for one Alaskan to avoid the tax by shopping out of state?
 - Businesses are the largest payors under a use tax.
10. What can be done about the regressivity of a sales tax?
- Taxing services, and not just goods, would help spread the tax burden across middle- and upper-income households that tend to spend more on services than low-income households.
 - Grocery credit. Perhaps a credit based on family size instead of a food exemption would achieve the same purpose, while avoiding the definition of tax-exempt food.
11. What can the nationwide Streamlined Sales Tax Project do for us?
- Provide standard definitions to make tax administration easier and more business friendly.
 - Uniform sourcing rules. This applies to determining the source of the taxable transaction, which is an important issue in interstate commerce.
 - Clear administrative provisions already articulated.
12. Is the internet sales issue important to Alaska? Yes, especially in Alaska where consumers rely heavily on catalog, phone and internet orders. But there are federal legal restrictions to taxing sales placed with out-of-state companies — which is something the Streamlined Sales Tax Project is trying to resolve so that states and municipalities can collect revenue from such sales.



Streamlined Sales Tax Project

Executive Summary

March 2003

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. The Project's proposals include tax law simplifications, more efficient administrative procedures, and emerging technologies to substantially reduce the burden of tax collection. The Project's proposals are focused on improving sales and use tax administration systems for both Main Street and remote sellers for all types of commerce.

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Harold Fox
New Jersey

Bruce Johnson
Utah

Eleanor Kim
Texas

Tom Kimmitt
Pennsylvania

Charlotte Quarles
Kentucky

Marshall Stranburg
Florida

Thirty-nine states and the District of Columbia are involved in the Project. Thirty-six states and the District of Columbia are voting participants in the Project because their legislators have enacted enabling legislation or their governors have issued executive orders or similar authorizations. Three states are non-voting participants in the work of the Project because they do not have the formal commitment of the state executive or legislative branches, but are still participating. Forty-five states and the District of Columbia impose a sales and use tax.

The Project was organized in March 2000. The Project is conducting its work through a steering committee with co-chairs, four work groups, and a number of sub-groups. Project participants are generally state revenue department administrators but there are also representatives of state legislatures and local governments. Businesses — including national retailers, trade associations, manufacturers, direct marketers, telecommunications companies, leasing companies, technology companies, printers, accounting firms, and others — have actively participated in the Project by offering expertise and input, reviewing proposals, suggesting language, and testifying at public hearings.

The goal of the Streamlined Sales Tax Project is to provide states with a Streamlined Sales Tax System that includes the following key features:

- **Uniform definitions within tax laws.** Legislatures still choose what is taxable or exempt in their state. However, participating states will agree to use the common definitions for key items in the tax base and will not deviate from these definitions. As states move from their current definitions to the Project's definitions, a certain amount of impact on state revenues is inevitable. However, it is the intent of the Project to provide states with the ability to closely mirror their existing tax bases through common definitions.

- **Rate simplification.** States will be allowed one state rate and a second state rate in limited circumstances (food and drugs). Each local jurisdiction will be allowed one local rate. A state or local government may not choose to tax telecommunications services, for example, at one rate and all other items of tangible personal property or taxable services at another rate. State and local governments will accept responsibility for notice of rate and boundary changes at restricted times.
- **State level tax administration of all state and local sales and use taxes.** Businesses will no longer file tax returns with each local government within which it conducts business in a state. Each state will provide a central point of administration for all state and local sales and use taxes and the distribution of the local taxes to the local governments. A state and its local governments will use common tax bases.
- **Uniform sourcing rules.** The states will have uniform and simple rules for how they will source transactions to state and local governments. The uniform rules will be destination/delivery based and uniform for tangible personal property, digital property, and services.
- **Simplified exemption administration for use- and entity-based exemptions.** Sellers are relieved of the "good faith" requirements that exist in current law and will not be liable for uncollected tax. Purchasers will be responsible for paying the tax, interest and penalties for claiming incorrect exemptions. States will have a uniform exemption certificate in paper and electronic form.
- **Uniform audit procedures.** Sellers who participate in one of the certified Streamlined Sales Tax System technology models will either not be audited or will have limited scope audits, depending on the technology model used. The states may conduct joint audits of large multi-state businesses.
- **State funding of the system.** To reduce the financial burdens on sellers, states will assume responsibility for funding some of the technology models. The states are also participating in a joint business – government study of the costs of collection on sellers.

The Project proposes that states change their sales and use tax laws to conform with the simplifications as proposed by the Project. Thus, the simplifications would apply to all sellers. Sellers who do not have a physical presence or "nexus" are not required to collect sales and use taxes unless Congress chooses to require collection from all sellers for all types of commerce. Sellers without a physical presence can volunteer to collect under the proposed simplifications. Registration by sellers to voluntarily collect sales and use taxes will not infer that the business must pay business activity taxes, such as the corporate franchise or income tax.

The Streamlined Sales Tax System will provide sellers the opportunity to use one of three technology models. A seller may use Model 1 where a Certified Service Provider, compensated by the states, will perform all of the seller's sales tax functions. A seller may use Model 2, a Certified Automated System, to perform only the tax calculation function. A larger seller with nationwide sales that has developed its own proprietary sales tax software may use Model 3 and have its own system certified by the states collectively. However, some sellers may choose to continue to use their current systems and still enjoy the benefits of the Project's simplifications.

The Streamlined Sales Tax Project envisions two components to the legislation necessary to accomplish the Project's goals. First, states would adopt enabling legislation referred to as the Uniform Sales and Use Tax Administration Act ("Act"). The Act allows the state to enter into an agreement with one or more states to simplify and modernize sales and use tax administration in order to reduce the burden of tax compliance for all sellers and all types of commerce. The Act does not require any amendments to a state's sales and use tax law.

Secondly, states would amend or modify their sales and use tax laws to achieve the simplifications and uniformity required by the participating states working together. The Project refers to this legislation as the Streamlined Sales and Use Tax Agreement ("Agreement"). Some states will require only minor changes to current law to implement the requirements of the Agreement. Other states with more complicated sales tax laws may require significant changes to current law to be in accord with the Agreement.

A certificate of compliance will document each state's compliance with the provisions of the Agreement and cite applicable statutes, rules or regulations, or other authorities supporting such compliance. Public notice and comment will be provided before a state becomes part of the interstate Agreement. A state is in compliance with the Agreement if the effect of the state's laws, rules or regulations, and policies is substantially compliant with each of the requirements of the Agreement. If a state is found to be out of compliance with the Agreement, it will not be accepted into the interstate Agreement or will be sanctioned or expelled by the other participating states. In a voluntary system, sellers who are voluntarily collecting sales taxes for participating states may decide to no longer collect for the expelled state. Also, that state may not have a vote on changes in the Agreement.

A governing board will be comprised of representatives of each member state of the Agreement. Each member state is entitled to one vote on the governing board. The governing board is responsible for interpretations of the Agreement, amendments to the Agreement, and issue resolution. A State and Local Government Advisory Council and a Business and Taxpayer Advisory Council from the private sector will advise the governing board.

On November 12, 2002, thirty states and the District of Columbia approved the interstate Agreement provisions. States will move forward in 2003 and enact the conforming legislation. The Agreement will become effective when at least ten states with twenty percent of the total population of all states imposing a state sales tax have enacted the conforming legislation and are found to be in compliance with the requirements of the Agreement.

It's anticipated that states that enact the conforming legislation and are found to be in compliance with the Agreement will continue as the governing states of the interstate Agreement of the future.

The project website is www.streamlinedsalestax.org.

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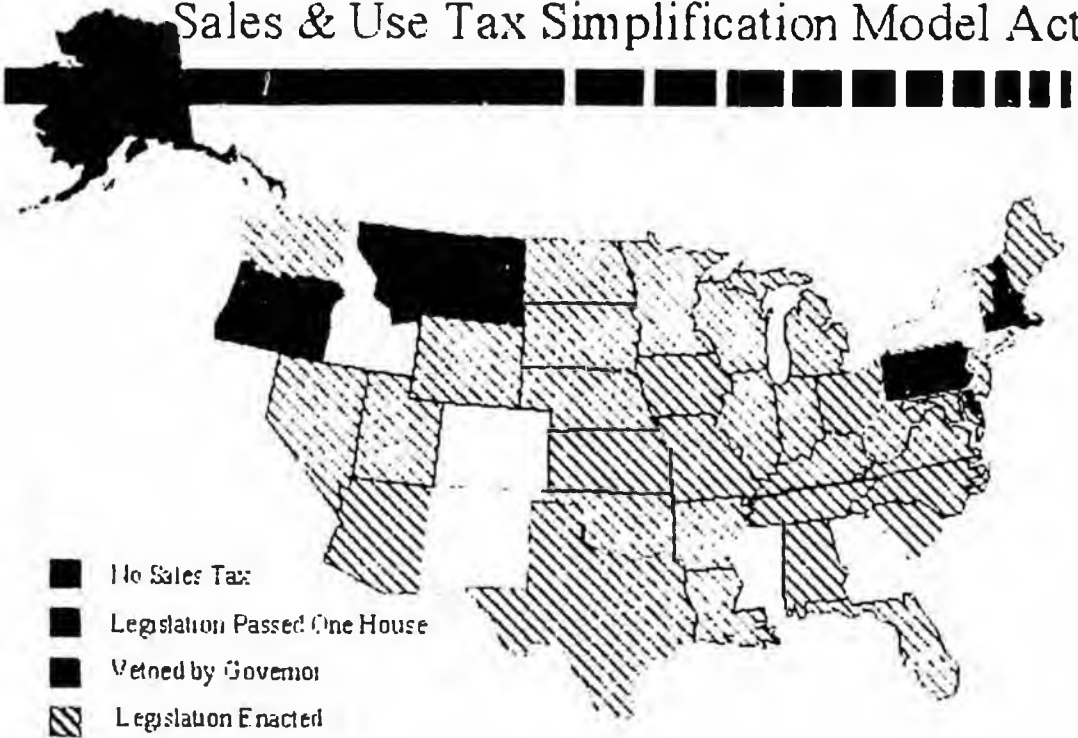
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Commerce and Communications Committee

State Legislative Action 2001- 2002

Sales & Use Tax Simplification Model Act



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