

SB

220

SFIN

FILE

SB 220

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

Adopted 5/14/03

23-LS1128D
Kurtz
5/12/03

CS FOR SENATE BILL NO. 220()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

**Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND
AUDIT COMMITTEE**

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

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

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

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

1 WASTE SEAFOOD].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 purchase price of the tangible personal property or service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **Article 2. Exemptions.**

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

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

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

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

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

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

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

6 (2) interest on money loaned or deposited;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 AS 43.44.010(a).

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

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

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

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

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

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

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

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

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

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

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

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

1 exempt from the sales tax and use tax.

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

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

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

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

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

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

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

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

22 (3) the property or service purchased;

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

24 (5) a signature line for the purchaser.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (2) a person who

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **Article 4. General Provisions.**

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

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

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

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

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

22 (B) does not include

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

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

31 (iii) providing tangible personal property along with an

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

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

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

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

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

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

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

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

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

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

31 (10) "sales price"

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

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

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

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

11 (iv) delivery charges;

12 (v) installation charges;

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

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

18 (B) does not include

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

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

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

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

30 AS 43.44.010;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 220
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to a state sales and use tax; . . . Increasing the motor fuel tax . . ." BRU Civil Division
Sponsor Senate Rules Committee by Request Component Commercial
Requester Senate 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 Phone (907) 465-5370
Division: Attorney General's Office Date/Time 5/13/03 8:40 AM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 5/13/2003
Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

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

CHANGE IN REVENUES ()	190,000.0	410,000.0	410,000.0	410,000.0	410,000.0	410,000.0
-------------------------------	------------------	------------------	------------------	------------------	------------------	------------------

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.

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 Persily, 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.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mall Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

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 ^{KK}
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
Room 501
Juneau, AK. 99801
Phone (907) 465-3004
Fax (907) 465-2070
Contact: Lori Backes



Co-Chair, Representative Mike Lawler
State Capitol
Room 434
Juneau, AK. 99801
Phone (907) 465-4949
Fax (907) 465-4979
Contact: David Brewster

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

Alaska State Legislature

House Special Committee on Ways and Means

Co-Chair, Representative Jim Whitaker
State Capitol
Room 501
Juneau, AK. 99801
Phone (907) 465-3004
Fax (907) 465-2070
Contact: Lori Backes



Co-Chair, Representative Mike Hawker
State Capitol
Room 434
Juneau, AK. 99801
Phone (907) 465-4949
Fax (907) 465-4979
Contact: David Brewster

Committee Aide: Lori Backes, 465-6541

Sponsor Statement

HB 293 - State Sales and Use Tax

Among the primary charges of the House Special Committee on Ways and Means is the responsibility to propose new measures to raise additional revenues. After careful consideration of current economic and political reality of the state of Alaska, this state sales and use tax is proposed.

It is with recognition of the complexity and potential effect of such a proposal that this basic framework of a sales tax system is submitted with full expectation that it will be molded to fit the need for additional revenue in Alaska; the unique nature of Alaska's communities; and the best interests of the people of the state.

HB 293 establishes an important component to a General Revenue System aimed at stabilizing a balance between revenues and appropriations in the State budget. This measure is intended to compliment other necessary components including, but not limited to, the constitutional amendment that limits spending and appropriations, a constitutional amendment that establishes a percent of market value methodology for the Permanent Fund and attendant statute that directs the distribution method for resulting proceeds.

HB 293 adds to the General Revenue System a measure designed to fairly collect revenue on sales and use of tangible personal property and services. It is estimated that HB 293 will generate approximately \$300 million per year.

HB 293 will play an important role in closing the fiscal gap, and when combined with the other components, will provide for stability in the budget, thereby allowing the State to foster a healthy economic and quality of life environment for Alaskans.

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	
Nebraska	E	5.50	1.50	
Nevada	E	6.50	0.75	
New Jersey	E	6.00	---	0.00
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.

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.

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.

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.



Streamlined Sales Tax Project

Executive Summary

March 2003

Steering Committee

Diane Hardt
Co-Chair
Wisconsin

Scott Peterson
Co-Chair
South Dakota

Carol Fischer
Missouri

Harold Fox
New Jersey

Bruce Johnson
Utah

Eleanor Kim
Texas

Tom Kimmett
Pennsylvania

Charlotte Quarles
Kentucky

Marshall Stranburg
Florida

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.

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.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

 	NATIONAL CONFERENCE of STATE LEGISLATURES		Home Press Room Contact/Ask NCSI Search Site map	Members Log-in	
	NCSL Profile	Policy Issues	State Legislatures	State-Federal Relations	Publications

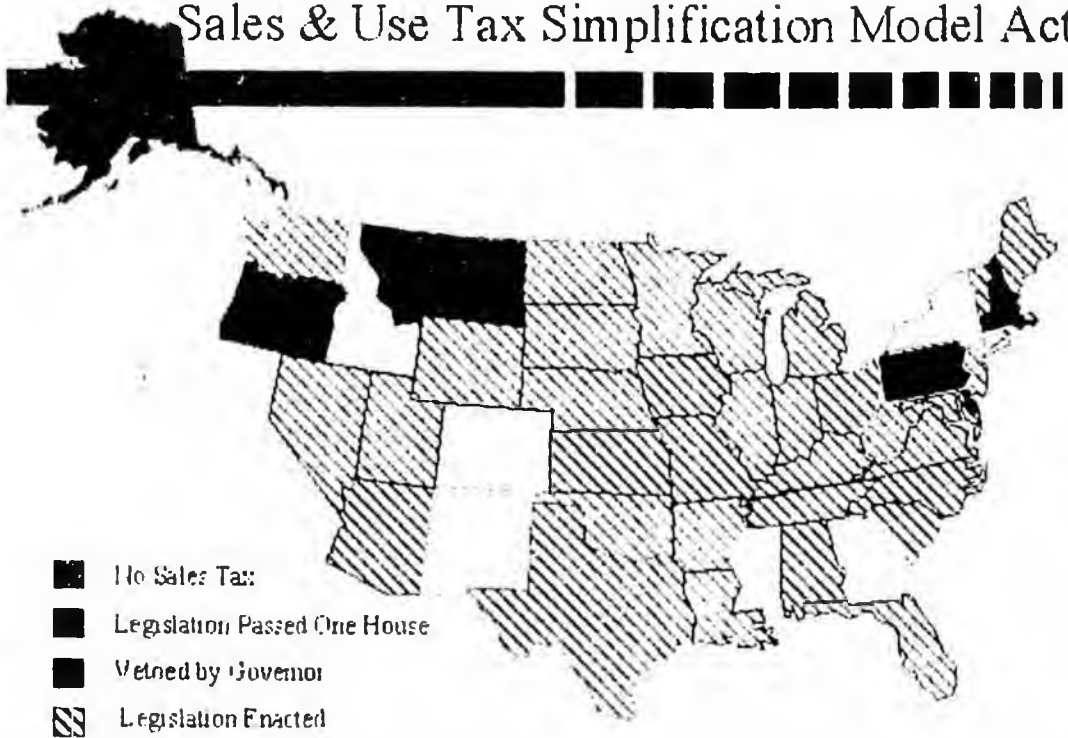
NCSL Profile	Policy Issues	State Legislatures	State-Federal Relations	Publications	Meetings
------------------------------	-------------------------------	------------------------------------	---	------------------------------	--------------------------

Login Here Register Now	To access special member content and services, legislators, legislative staff and Foundation for State Legislatures sponsors must log in. (Clear this notice.)	NCSI net Registration Help Forgotten NCSI net Password
--	---	---

Commerce and Communications Committee

State Legislative Action 2001- 2002

Sales & Use Tax Simplification Model Act



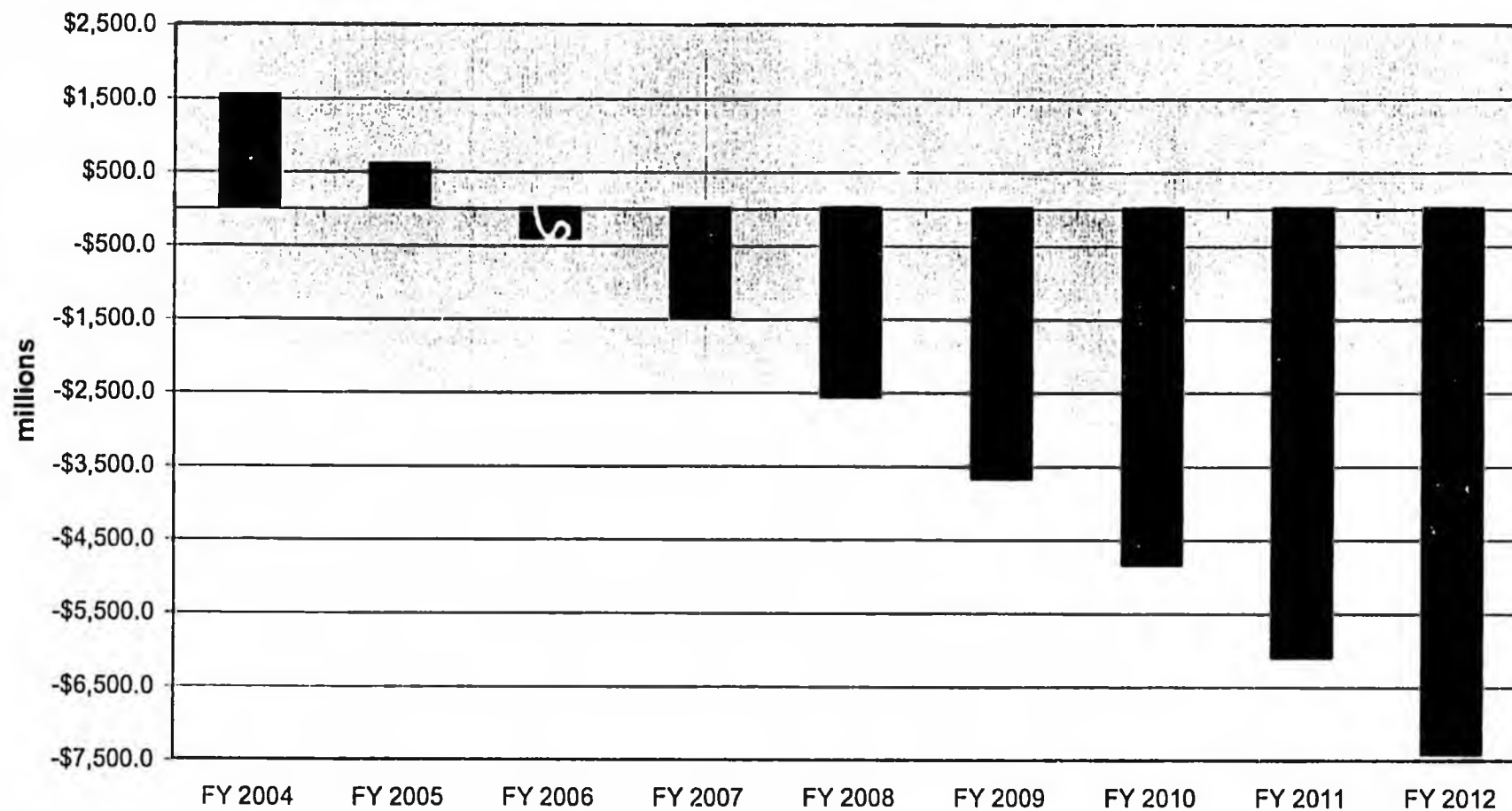
National Conference of State Legislatures
 INFO@NCSL.ORG (autoresponse directory)

Denver Office
 7700 East First Place
 Denver, CO 80230
 Tel 303-364-7700
 Fax 303-364-7800

Washington Office
 444 North Capitol Street N.W. Suite 515
 Washington, D.C. 20001
 Tel 202-624-5400
 Fax 202-737-1069

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)



NAME: Marie Davlin Subject/Bill No: _____

Co./Dept./Title: ANRP Phone: 6-3637

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

will leave testimony
NAME: Bon Peck Subject/Bill No: SB-220

Co./Dept./Title: A.T.I.A. Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: Judy Brady Subject/Bill No: SB 220

Co./Dept./Title: Benedict Alaska Oil & Gas Association Phone: 272 1481

Address: 121 west Firewele Zip: 99502

Do you wish to testify? Yes No Respond To Questions

NAME: Kevin Ritchie Subject/Bill No: _____

Co./Dept./Title: AK Mun. League Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

SB 220-STATE SALES AND USE TAX

NAME: JOE SONNESHAN Subject/Bill No: CS SB 220
Co./Dept./Title: _____ Phone: 463-2624
Address: 324 Willoughby Junction Zip: 99801
Do you wish to testify? Yes No Respond To Questions

NAME: John Bitney Subject/Bill No: SB 220
Co./Dept./Title: AK State Home builders Phone: 586-3007
Address: Juneau Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SITE: KETCHIKAN

COMMITTEE: (S)FIN

DATE: 05.14.03

SUBJECT OF MEETING: SB220

Meeting-ID#: 7346

UPDATE #: first

PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

✓ Jack Shay		KGB	Y-220
Email address:			
✓ Michael Salazar		KGB	Y-220
Email address:			
✓ Roy Eckert		KGB	Y-220
Email address:			
✓ Len Laurance		Self	Y-220
Email address:			
✓ Doug Ward		Chamber of Commerce	Y-220
Email address:			
Email address:			
Email address:			

SITE: Cordova

COMMITTEE:

DATE:

SUBJECT OF MEETING:

UPDATE #:

PLEASE SIGN IN

P R I N T YOUR NAME	ADDRESS (MAILING & ZIP)	DO YOU WANT REPRESENTING	TO TESTIFY? Y or N
✓ Denny Kay Weathers <small>northerngirl@ctcak.net</small>	C/o P.O. Box 1791 Cordova, Alaska 99574		Yes
✓ Kenny Simpson <small>gmaw@pci.net</small>	7948 Highlander Drive Anchorage, AK 99518		Yes
✓ Tim Joyce <small>Email address:</small>	P.O. Box 1210 Cordova, AK	City of Cordova mayor	yes
✓ Nancy Bird <small>Email address:</small>	P.O. Box 1185 Cordova, AK 99574	City Council	Yes
<small>Email address:</small>			
<small>Email address:</small>			
<small>Email address:</small>			
<small>Email address:</small>			

SITE: Kodiak LIO

COMMITTEE: Senate Finance

DATE: 05/14/03

SUBJECT OF MEETING:

SB 220 - State Sales Tax

UPDATE: FINAL

PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

P R I N T YOUR NAME	ADDRESS (MAILING & ZIP)	REPRESENTING	DO YOU WANT TO TESTIFY? Y or N
<input checked="" type="checkbox"/> Linda Freed	Kodiak, 99615	City of Kodiak Manager	Y (SB 220)
Email address:			
<input checked="" type="checkbox"/> Jake Jacobson			
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

SITE: MAT-LIO

SUBJECT OF MEETING:

SB220

COMMITTEE: SFIN

UPDATE#:

DATE: 05/14/03

PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y OR N**

✓ Marci Schmidt		Self	Y
Email address:			
✓ Mary Kvalheim			Y
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			

SITE: Petersburg LIO

COMMITTEE: SFIN

DATE: 5-14-03

SUBJECT OF MEETING: SFIN, SB220

State Sales Tax

UPDATE #: 

PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?
Y or N**

<input checked="" type="checkbox"/> Julie Hursey	P.O. Box 213, Psg, AK 99833	Self	Yes
Email address:			
<input checked="" type="checkbox"/> Michael Lopez	P.O. Box 1004, Psg, AK 99833	P.I.A.	Yes
Email address:			
<input checked="" type="checkbox"/> Tom Laurent	P.O. Box 137, Psg, AK 99833	Self	Yes
Email address:			
<input checked="" type="checkbox"/> Nancy Berg	P.O. Box 1435, Psg, AK 99833	Chamber of Commerce	Yes
Email address:			
<input checked="" type="checkbox"/> Rick Fleischman	1802 Balderway, Sitka, AK 99835	Self	Yes
Email address:			
Email address:			

SITE: ANCHORAGE LIO

COMMITTEE: SFIN

DATE: 5-14-03

SUBJECT OF MEETING:

SB220

UPDATE #: Pg:1

PLEASE SIGN IN

P R I N T YOUR NAME

ADDRESS (MAILING & ZIP)

REPRESENTING

**DO YOU WANT
TO TESTIFY?**

Y OR N

<input checked="" type="checkbox"/> Mary Hugues		The Alaska Club	Y-SB220
Email address:			
<input checked="" type="checkbox"/> Brad Phillips		Phillips Cruises & Tours	Y-SB220
Email address:			
<input checked="" type="checkbox"/> Richard Block		Christian Sciences Committee	Y-SB220
Email address:			
<input checked="" type="checkbox"/> Brooks Chandler		City of Dillingham	Y-SB220
Email address:			
<input checked="" type="checkbox"/> Chris Hladick		City of Unalaska	Y-SB220
Email address:			
Kelli Dindinger		AK Industry/Holiday Downtown	Travel Inn Y-SB220

**PUBLIC
TESTIMONY
SB 220**

Subject: Public Testimony before Senate Finance May 14, 2003 on SB 220

Date: Wed, 14 May 2003 13:36:41 -0800


From: "Mary K. Hughes" <mkhughes@acsalaska.net>

To: <Senator_Lyda_Green@legis.state.ak.us>, <Senator_Gary_Wilken@legis.state.ak.us>, <Senator_Con_Bunde@legis.state.ak.us>, "Sen. Ben Stevens (E-mail)" <Senator_Ben_Stevens@legis.state.ak.us>, <Senator_Robin_Taylor@legis.state.ak.us>, <Senator_Lyman_Hoffman@legis.state.ak.us>, <Senator_Donny_Olson@legis.state.ak.us>

Dear Senators Green, Wilken, Bunde, Stevens, Taylor, Hoffman and Olson:

Although I plan to testify this afternoon before the Senate Finance Committee on SB 220, the time parameters of public testimony are limiting (especially for an attorney) and thus am sending a statement via email to be included in the Committee proceedings. Thank you. I look forward to appearing before the Committee. mk

Mary K. Hughes
1592 Coffey Lane
Anchorage, AK 99501
(907) 274-6290 (voice and fax)
mkhughes@acsalaska.net

 Testimony May 14, 2003 Senate Finance.doc	<p>Name: Testimony May 14, 2003 Senate Finance.doc Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message</p>
---	--

May 14, 2003

**Testimony of Mary K. Hughes
for The Alaska Club**

The Legislature has before it two pieces of legislation SB 220 and CSHB 293 (House W & M). Both are efforts to address Alaska's current fiscal situation by increasing state revenues.

Although it was the stated intent of the House Ways & Means Committee to forgo incorporation of exemptions within the legislation, various exemptions have already been added. Consumer expenditures for health services are currently exempt in both pieces of legislation. This exemption focuses solely on after-the-fact costs of health treatment and fails to recognize the cost-effectiveness of incentives to prevent illness and injury in the first place.

Alaska stands at a policy crossroads created by the intersection of two critical policy thoroughfares: one

May 14, 2003

traveling the path to fiscal fitness for the State; the other, to physical fitness for its citizens. The Alaska Legislature is uniquely positioned to start off each journey on the right foot by recognizing and incorporating fitness incentives into its emerging public tax policies.

From the State's fiscal perspective, this improvement will cost very little, may cost nothing, and might even promote a budget improvement. At worst, revenues lost through the deduction might prove minor and immaterial in amount. More plausibly, an increase in healthful conduct by the public could translate into a net fiscal gain for the public treasury, with reduced State expenditures for health care.

The State already recognizes the basic cause-and-effect relationship between diminished public health and increased public expenditure. In consequence, it previously

May 14, 2003

inaugurated the *Healthy Alaskans 2000 Program* to target health issues in Alaska and to formulate governmental policies that would improve health and thereby reduce health care expenditures.¹ Public tax policy offers a new constructive tool - tax incentives - for concurrently achieving the goals of improved public health and reduced public expenditure.

We would suggest the following amendment:

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

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

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

¹ The State is continuing this effort with the *Healthy Alaskans 2010* program.

May 14, 2003

The relationship between tax incentives and health care cost conservation is being acknowledged and actively explored at the federal level. Secretary of Health and Human Services Tommy Thompson has recently pointed out that it costs \$270 billion a year – the amount of the entire Medicare budget – to treat many preventable conditions. Accordingly, he is “considering tax breaks for people who stay in shape”. In the context of sales, amusement and admission taxes, a clear majority of the states imposing such taxes (28 of 45) exempt health clubs.

The benefits of spurring private sector efforts through worksite physical activity and fitness programs have long been acknowledged.² This proposal builds upon that precedent in order to serve multiple State interests:

² See, e.g., Department of Health 2010 at 22-26: “Worksite physical activity and fitness programs provide a mechanism for reaching large numbers of adults and have at least short-term effectiveness in increasing the physical activity and fitness of program participants.”

May 14, 2003

improved fiscal performance, improved public health, and improved Alaskan lifestyle. Given the critical health care needs of the State, and the still-nascent condition of state tax policy, the creation and implementation of a program for physical fitness exemptions is both innovative and timely. Alaska and Alaskans will both be better off for its adoption.

Mary K. Hughes
(907) 274-6290
mkhughes@acsalaska.net

Opinion

(Published: May 16, 2003)

Sales tax questions

Time is too short; special session on broad-based tax is needed

When the Legislature first started seriously considering a sales tax late last month, the concept sounded so simple. When you're at the cash register, the state adds a couple of percent to the amount of the sale; the merchant sends the money to the state, and that's that.

As the Legislature has learned in the past week, however, it's not so simple. There are a host of complications to consider and questions to be resolved.

Should necessities like food be covered? Prescription drugs? How about visits to the doctor? Hospital bills? Legal fees? Purchases of stocks or bonds? Buying a home? Your monthly rent payment? If the state makes some exemptions, what happens if they are different from existing exemptions in local sales taxes?

Do you have to collect tax

when you sell a used car to someone else? How about collecting the tax at garage sales?

How do you stop people from dodging the sales tax by mail order or Internet shopping? How do you stop them from going out of state to buy big-ticket items like cars or boats or RVs or airplanes? Is it fair to charge the full tax rate on milk and diapers while capping the amount of tax collected from expensive purchases like luxury automobiles?

Can a state sales tax be made more fair in rural Alaska? In the Bush, almost every item costs substantially more than in cities, so the rural customer is forced to pay more tax on an identical purchase. If the sales tax is charged on freight bills, the burden on rural Alaska grows even worse.

To cut down on tax dodging, the measure under discussion covers either the sale or the use of an item. You might be able to avoid the tax when you buy something -- say, a mail order computer -- but you're supposed to pay the tax when you get it home and use it. How can that be enforced without widespread government snooping? Without firm enforcement, how can you stop tax dodging?

The tax that legislators are discussing also covers the sale of services. When you hire a housekeeper, she's supposed to charge you sales tax. When a major oil company hires a company to drill a well, the driller is supposed to collect sales tax. Every construction project in Alaska will be subject to tax. What will that do to the business climate in the state? Tens of thousands of Alaskans have business licenses. Will each one have to become a tax collector for the state?

After all those complications, an income tax begins to look a lot simpler. The state could charge a certain percentage of the federal income tax each Alaskan pays every year. Everything could fit on a one-page form.

Whether or not legislators treat the income tax as a serious alternative to the ever more complicated sales tax, one thing is clear. The six remaining days of the legislative session are not enough to work out all the complications and produce a coherent, fair version of a state sales tax.

That doesn't mean lawmakers can put the subject off until next January, however. Even with oil prices well above historic levels, lawmakers draw hundreds of millions of dollars from the Constitutional Budget Reserve each year

to balance the budget. The CBR is supposed to be insurance against huge drops in oil prices. As the reserve shrinks below \$2 billion, one bout of low oil prices will put the state on the precipice of fiscal and economic disaster. Even if Alaska gets lucky and oil prices stay high, the reserve will still disappear in less than three years.

Gov. Frank Murkowski and many of his fellow Republican legislators have come to realize that burning up the state's emergency reserve funds is dangerous. They have come to realize that fiscal responsibility requires some kind of broad-based statewide tax. To figure out what tax will work best and carefully craft it will require better information, better consultation with the public, more open deliberations and more focus on this, the most important decision facing Alaska's lawmakers today. The only way to produce a responsible decision is to stop the rush, to collect more data and analysis, and to hold a special legislative session later this summer.

Lawmakers should take some time to gather information, flesh out more details and listen to public reaction. By about July, they should reconvene, and they should stay at work until they have agreed on a responsible, well-understood way of raising revenue. And they should consider all the options -- carefully.

Provided by Alan Judson

SB 220



[Click here to return to the original story](#)

Some legislators are penny-wise, pound-foolish

Letter to the editor

Friday, May 16, 2003

Rep. Mike Hawker, an Anchorage Republican, seems to be operating under a misapprehension about the purely economic value of treating substance abuse. ("Funds cut for substance abuse programs," May 14).

It sounds like Hawker agrees, in principle, to alleviating the recognizable suffering of the horrors of substance abuse, but objects to funding these programs at too high a level because "the brutal political reality is every penny that we spend on these programs comes from some Alaskan's pocket."

This semester I learned from a professor at Georgetown University Law Center, Peter J. Cohen (M.D., J.D.), that many otherwise educated people have similar misapprehensions. Although Mr. Hawker is correct that every penny spent fighting substance abuse can be considered as being taken from the pocket of some Alaskan, the proper question (for a purely economically minded person who cares little about the value of human suffering) is "what kind of rewards come from treatment programs?" For example, what if scientific reports show these programs (many of which admittedly treat drug addictions more like diabetes than smallpox) actually save taxpayers' money?

According to a National Institutes of Medicine (NIM) report on heroin and cocaine treatment programs: "The result is unambiguous: Every dollar invested in treatment yields two and up to four dollars, and sometimes more, in societal benefits."

Other legislators, such as Rep. Jim Holm, a Fairbanks Republican, might still say, "but we should teach people with addictions to take personal responsibility for their disease." So what are the costs for the Holm approach to not treat addiction at all? The 1995 NIM report indicated that untreated addiction costs \$43,200. How about incarceration? It costs \$39,600. The costs of various treatment options: \$12,467, \$3,500 and \$2,722.

An investigation of the costs and benefits of these treatment programs will uncover the brutal reality that every penny we fail to spend on these programs not only results in further human misery but in another two pennies coming from some Alaskan's pocket. I'm a young Alaskan. I would like to both keep my two pennies as well as alleviate people suffering from a disease. So please, legislators, do some investigation before making short-term budget cuts that will have long-term negative repercussions.

Aaron M. Clemens
Juneau

No bonds for new school

Letter to the editor

Friday, May 16, 2003

The approval of additional bonds for the construction of a new high school is an unwise idea for several reasons.

The original approval (October 1999) included renovation of Juneau-Douglas High School. JDHS is crowded; however, there are no new classrooms added under the proposals.

The state of Alaska projections indicate a lower growth in the student population of Juneau than the school district projections. Do we need a school larger than the one currently funded?

The current design calls for a core area for 1,500 students and classroom space for about 800 students. "As the student population grows, more classrooms can be added cost-effectively." This seems like a wise way to manage a possible need for more classrooms in the future.

Enrollment figures for the school district for the past five years show a decrease in the number of students:

1998 5,718

1999 5,652

2000 5,486

2001 5,460

2002 5,497 (This is larger than the prior year, but is still below the 1999 enrollment figure).

The initial, increased, annual cost to the school district (net of state funding) is about \$247,000 for the current school planned and about \$359,000 for the larger school proposed. At the present time, the city funds the school district to the maximum extent allowed by law.

The revised plans for the new high school include a "commercial kitchen large enough to support lunch programs at additional schools (which may require some separately funded modifications at those schools)". How much will these modifications cost? How will they be paid?

The state's financial future is uncertain.

Will the state be able to continue debt reimbursement as it has in the past? If not, and the new bonds are approved, Juneau citizens would be responsible for full payment of the debt on the bonds.

Are the citizens of Juneau receptive to a possible sales tax and the increased property taxes related to this increased bond issue?

The quotations above are from the Voter Information available on the city Web site.

We want good education for our children. We need to realize that we can achieve this under the funding approved by the voters in 1999. The additional bonds are not needed to achieve this objective.

Sara H. Willson
Auke Bay

CITY OF UNALASKA

P.O. BOX 610
UNALASKA, ALASKA 99685-0610
(907) 581-1251 FAX (907) 581-1417



SENT VIA FAX (907) 465-2187 UNALASKA, ALASKA

May 15, 2003

Senate Finance Committee
Room 520, Capital Building
Juneau, AK 99801

Re: SB 220, State Sales and Use Tax

Dear Senate Finance Committee Members:

My name is Aimée Kniazowski and I'm the Assistant City Manager for the City of Unalaska. I testified on behalf of the City of Unalaska at the Senate Finance Committee hearing on SB 220 last evening, May 14th. Per your request, I'm also submitting my written testimony.

The City of Unalaska has two major areas of concern on the proposed statewide sales tax legislation; the financial impact due of lost revenue through exemptions, and collection and remittance concerns. I also want to address the importance of consistency in definitions, policies, and guidelines that are essential for any successful implementation of a state sales and use tax.

While the bill allows for a phased implementation of the state sales tax, it will eventually have a financial impact on Unalaska due to the exemption of sales tax on marine fuel sales. As you know, the State currently taxes marine fuel at 5 cents per gallon. In 2002, vendors in Unalaska sold 71 million gallons of marine fuel, which provided more than 60% of the state's total Marine Fuel Tax revenues in FY02. In addition to the existing state tax, the City taxes these sales at 3%. If Unalaska isn't able to collect sales tax on marine fuel due to the exemption in the proposed bill, and assuming we would sell 70 million gallons a year, we estimate the revenue loss to be approximately \$3million after the two-year phase in period. While Unalaska is a prosperous community, we simply cannot absorb a financial loss of this size.

The unintended consequence of this bill is that local governments whose citizens have agreed to tax themselves in order to provide services will be faced with mandated revenue reductions in order to comply with a new state sales tax.

We encourage the Senate to reconsider this exemption by amending the bill to allow municipalities to collect sales tax on marine fuel.

Letter to Senate Finance Committee

Re: SB 220

May 15, 2003

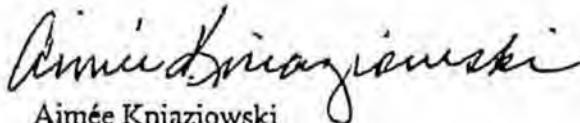
Page 2

The second point of concern we have is that, if the State collects both local and state sales tax, we will likely face delays in receiving local sales tax revenue payments. Unalaska currently collects an average of over \$430,000 per month in sales tax. Our cash flow could be drastically impacted if the State remits our share on an annual basis as it does our share of the Fisheries Resource Landing Tax and Fisheries Business Tax. While we recognize that this is an administrative issue that would be addressed by the Department of Revenue, we recommend the Committee amend the bill to allow the State to contract with municipal governments who already have tax collection procedures in place.

As is true in other rural Alaskan communities, Unalaska relies heavily on goods purchased from locations outside the state, especially catalog and Internet suppliers. Unalaska supports the state's goal of maintaining consistency with definitions, policies, and guidelines, as mentioned in Section 35 of the bill, which outlines the authority to enter streamlined sales and use tax agreements with other states. One of the reasons Internet commerce has been exempted from sales and use taxes is because of the near impossibility for businesses to comply with all local sales tax ordinances. There are thousands of counties/boroughs and cities each with their own definitions and exemptions. Some courts have agreed the diversity of sales and use tax regulations makes compliance nearly impossible for national and international businesses. We encourage the legislature to recognize that the collection of sales and use taxes is reliant on a unified system.

Thank you for the opportunity to express the City's views and concerns.

Sincerely,
CITY OF UNALASKA



Aimée Kniaziowski
Assistant City Manager

Cc: Senator Lyman Hoffman
Representative Carl Moses
Chris Hladick, Unalaska City Manager
Mayor Fitch and Unalaska City Council Members
Ray Gillespie, Lobbyist

Greater Ketchikan Chamber of Commerce

P.O. Box 5957
Ketchikan, Alaska 99901
ph. 907.225.3184
fax 907.225.3187



May 15, 2003

Senator Lyda Green State Capitol Room 516
Senator Gary Wilkin State Capitol Room 518
Co-Chairs Senate Finance Committee
Juneau, AK 99801-1182

RE: Senate Bill No. 220: An Act Relating to a State Sales and Use Tax

Dear Senator:

Yesterday I testified before the Senate Finance Committee regarding SB No. 220. Time constraints caused me to cut my oral comments short, so I am providing you written testimony so that you may add my full testimony to the record.

As written SB 220 will institute an 8% tax (5% municipal, 3% state) in Ketchikan on the full value of all goods and services that commerce requires in the daily course of business. Currently, Ketchikan and Southeast suppliers face strong competition from Puget Sound businesses that now enjoy tax exemptions for Alaska consumers. Modifying this narrowly defined exemption to a general exemption for sale or purchase of services, equipment acquisition and equipment rental in excess of \$5,000 will minimize the erosion of the regional competitive advantage for Alaska's businesses, particularly in Southeast.

An example of an emerging Southeast Alaska industry that would suffer by further erosion of regional competitive advantage is large volume ship repair and maintenance as conducted at the Ketchikan and Wrangle shipyards. Currently, Southeast Alaska shipyards compete with Puget Sound shipyards where the sales tax structure is designed to attract Alaska owned vessels to Washington State shipyards. Also, the majority of Southeast Alaska shipyard's customers currently homeport their vessels in Washington State establishing the cost of travel to Alaska as disadvantage even before a new Alaska sales tax is imposed. The impact of an 8% sales tax on large volume vessel repair or maintenance contracts will compound the competitive disadvantage to Southeast Alaska shipyards for a majority of their customers.

This is only one example of how the present language will erode regional competitive advantage. Many of Southeast businesses are competing against the cost of shipping goods directly to Alaskan consumers that are exempt from Washington state sales tax. The urge to buy direct, will only increase with the size of the purchase.

I urge you to consider broadening the exemption of the sales tax for sales and purchases over \$5,000 to support the regional competitive advantage of Alaska's commerce.

Sincerely,

A handwritten signature in dark ink that reads "Doug Ward".

Doug Ward, President
Ketchikan Chamber of Commerce

HFIN
SPIN
WIL
TAY

ALASKA STATE LEGISLATURE

50 Front St. Suite #203
Ketchikan, Alaska 99901



Phone: 225-9675
Fax: 225-8546

LEGISLATIVE INFORMATION OFFICE

WRITTEN TESTIMONY

NAME: GUY H. TOWNSEND
ADDRESS: 830 PETERSON ST.
KETCHIKAN, AK 99901
PHONE: 907 225-4351
EMAIL: NONE

BILL# or SUBJECT: BUDGET & LONGEVITY OF SENIORS,
COMMITTEE: ALASKA

I AM 73^{3/4} YEARS & ALASKAN SINCE 1936 & ONE
OF FEW EVACUATED FROM ^{AK TO} USA IN EARLY
WW 2 DAYS I FIND MYSELF WONDERING
HOW OUR LEADERS (YOU) ^{ARE} IN PROCESS OF
REMOVING OUR "LONGEVITY" & DIVIDENDS FROM
SENIORS OF ALASKA & SALES TAX ~~OF~~
~~PROT~~ ON ALL ITEMS. ARE YOU PEOPLE
"TOO" RICH YOU CAN'T SEE OR UNDERSTAND
MOST OF THE SENIORS ARE IN FINANCIAL
STRAIGHTS WITHOUT YOUR TRYING TO
LIVE ON OUR FEW DOLLARS - I REALIZE
YOU FEEL WE ARE HARMLESS & DYING OFF.
IT'S HARD TO BELIEVE WE HAVE VOTED
FOR SUCH A MERCILESS BUNCH OF PEOPLE,
AS YOUR EFFORTS INDICATE WITH THESE 2
MATTERS - ARE THERE ANY DECENT POLITICAL
PEOPLE LEFT IN ALASKA? PLEASE ADVISE WHERE
THE OLD PEOPLE GO AFTER THE "MANUVER"!

Guy H. Townsend
Guy H. Townsend



[Click here to return to the original story](#)

Ashamed and outraged

Thursday, May 15, 2003

Fairbanks Republican Rep. Holmes is so wrong! In case you missed it he said: "We must respect people's right to fail," and, "... if the state is not responsible for the fact that somebody abuses a substance, it is not necessarily the place of the state to bail people out."

His remarks are in support of slashing \$1.6 million from state substance-abuse programs.

I hope others are as outraged as am I. Holmes is saving nickels and dimes and costing the state millions. For every FAS/ARBD (fetal alcohol syndrome/alcohol-related birth defects) baby born the state has estimated it will cost taxpayers \$1 million. That doesn't include the suffering, injuries, abuse and death that result.

I am so very ashamed of our elected legislators making such ill-informed and stupid remarks and I'm proud of those elected legislators who see the real cost and human suffering. By the way, don't we collect millions of tax dollars on alcohol?

K.J. Metcalf
Juneau

All contents ©Copyright 1997-2003 Juneau Empire, Morris Digital Works & Morris Communications Corporation
[Contact Us](#) | [About Us](#) | [Privacy Policy](#) | [Advertising Information](#)



[Click here to return to the original story](#)

The old shell game

Thursday, May 15, 2003

The front page of Wednesday's Empire featured an article headlined "Funds cut for substance abuse program," wherein House Republicans saved \$1.6 million by upping the matching cost for grants to substance abuse programs by 150 percent. The rationalization as to how this was good for the people in need was that it freed that money to fund smaller programs that didn't require a match for their grants. It also noted (Rep. Jim Holm) that it was a personal responsibility issue aimed toward substance abusers.

This is apparently known as conservative Republican saving the taxpayer's money.

In the same article, the head of the DHSS administration clearly states that the expenditure of the money won't necessarily go to the smaller substance abuse community programs. In fact, it may be used anywhere that DHSS sees fit. Undoubtedly DHSS has many worthy places to use it but it already had a worthy place.

This is known in my world as bait and switch. The money isn't saved from the citizens pockets and doesn't reduce the overall budget. It merely goes from a clearly dedicated purpose to some other, less clearly defined and accountable paper bag where it can be spent as discretionary.

I am mentally losing the connection to both concepts of "personal responsibility" and "fiscal savings." In the real world, this used to be known as "flim-flam."

Christopher Wright
Juneau

Measure loosens lobbying limits

Critics say law tough to enforce; supporters say it helps small businesses

Thursday, May 15, 2003

By **TIMOTHY INKLEBARGER**
JUNEAU EMPIRE © 2003

A bill that would allow lobbyists to spend 10 times as many hours with lawmakers before having to register with the Alaska Public Offices Commission is expected to be voted on today in the House of Representatives.

Senate Bill 89 gives lobbyists 40 hours a month with lawmakers before having to register with APOC. Now lobbyists must register after spending more than four hours in a 30-day period.

Brooke Miles, executive director for APOC, watched Wednesday's House debate from the gallery. She said in an interview the 40-hour requirement would be too difficult to regulate.

"How do you enforce it? Are we going to get floor monitors?" she asked. "When you expand it to 40 hours it's just way too much time."

But Rep. Lesli McGuire, an Anchorage Republican, argued it is a freedom of speech issue and that small businesses are prevented from lobbying the Legislature because they do not want to be regulated by prohibitive APOC laws.

Registered lobbyists are prevented by law from holding political fundraisers, serving as campaign managers and contributing to lawmakers outside their own districts. They also must pay a \$100 registration fee and submit financial disclosure statements to APOC.

"Make no mistake - what the lobbying act is doing is forcing them to give up their First Amendment rights," McGuire said.

But Miles says the bill opens the floodgates to special interests. She said large corporations generally send only three or four professional lobbyists to the Legislature to minimize the number of employees who are subject to lobbyist laws.

"But now they would have no reason to minimize that, so they can send in teams of employees (who spend fewer than 40 hours with lawmakers) who aren't required to register, and the public will have no information about who is participating and how much time they're spending," she said.

Anchorage Democratic Rep. Les Gara offered an amendment to reduce the limit to 12 hours, but it was voted down by the House.

Another bill moving in the Legislature would more than double the amount individuals and political action committees could contribute to candidates and political parties.

Senate Bill 119 proposed by Gov. Frank Murkowski would allow individuals to contribute \$1,000 a year to candidates and political action committees, up from \$500. The bill also increases contributions to political parties from \$5,000 to \$10,000.

Political action committees could contribute \$2,000 a year to candidates and \$4,000 a year to political parties. The limit for both now is \$1,000.

The bill also would give APOC authority to issue cease and desist orders on political ads that would cause irreparable harm to a candidate or materially affect the outcome of an election.

APOC supports the proposal, noting that a clause in the bill would close a loophole in state law that allows outside interest groups to run "issue ads."

Issue ads, also known as "soft money ads," do not expressly endorse a particular candidate by name but work to discredit the candidate's opponent.

"It should really close a loophole because this would mean that they are no longer permitted," Miles said.

Senate Bill 119 was passed out of the Senate Finance Committee Wednesday and is expected to be debated by the full Senate today.

Timothy Inklebarger can be reached at timothyi@juneauempire.com.

Good afternoon, Chairmen and Committee Members.

My name is Marie Darlin and I am here today representing AARP.

Whenever AARP examines a tax proposal we use certain principles by which to measure it as reflected in our policy manual:

Equity---people in similar circumstances should face more or less the same tax burdens (horizontal equity); people with lower incomes should pay less tax as a percentage of income than higher-income people (vertical equity).

Economic neutrality---to the extent possible, taxes should not distort individuals' and businesses' decision-making; taxes should not unduly encourage behavior undertaken to avoid taxation, eg., this could include tax avoidance by internet sales or it could include older Alaskans leaving the state because they feel they can no longer afford to live here.

Administrative efficiency---taxes should require the minimum possible administrative costs; they should be easy to collect and administer.

Revenue potential---other things being equal, a tax should be "fruitful", raising as much money from its administration as possible. When taxed, we prefer broad-based taxes over narrow-based taxes.

Social and economic goals---tax incentives (credits, exemptions, deferrals, and the like) are often an efficient means of encouraging desired goals or discouraging undesirable behavior, eg., last year AARP supported the additional tax on alcohol. We would also support additional taxes on tobacco. Taxes can save eventual health costs to the state.

As you review the sales tax proposal, obviously you have a variety of issues of concern.

Taxes on consumption take a higher percentage of income from low-income people. The regressive nature of the sales tax can be modified by exempting certain necessities. Most states exempt prescription drugs and food purchased for home preparation. It is also possible to tax services more likely to be used by higher income citizens. Some states also offer sales tax credits to low-income residents.

However, as we all know, any exemption, however meritorious, narrows the tax base and so must be offset by higher taxes or additional taxes elsewhere.

Although a sales tax will be a major revenue raiser, it is regressive. AARP believes that we do need a broad base of various taxes. We don't like taxes any more than anyone else but we believe the progressive income tax is the most fair method.

Many of our members live in the cities that have no sales tax. Certainly it makes sense for a sales tax to be part of an

overall revenue producing system in those cities. Many other members live in areas that already have a substantial sales tax. We understand completely the feelings of the municipalities who fear a state sales tax will financially harm them. There is no easy answer.

We would like to support the package that you agree on and will work with our members so they understand the necessity of a sales tax. We likewise stand by to work with you when you eventually also deal with the income tax issue.

I hope you notice that AARP is not looking for senior exemptions. Our members sincerely appreciate what many municipalities have done to give tax breaks for older citizens. But we are also the largest organization of grandparents in Alaska. We are willing to pay our fair share to enjoy living here. If exemptions are desired, we feel that a young diabetic deserves a sales tax break on prescriptions as much as a grandfather with Alzheimer's. AARP believes that young families with children should be able to purchase necessary groceries without a sales tax just as their grandparents should be able to buy food. We believe our rural citizens should be able to stay warm in winter without having to pay significant sales taxes on their heating fuel...no matter how old they are.

We know you have very difficult decisions to make. Alaska is at an economic crossroads and we're all in this together, young and old alike. Thank you.



Alaska State Legislature

Please enter into the record my testimony to the Senate Finance
Committee name

Committee on SB 220, dated May 14, 2003
Bill/Subject

Please accept this testimony as strong support for the wise appropriation of a set amount of the 3% statewide sales tax ^(from tourism oriented businesses) towards tourism marketing for the State of Alaska. Alaska has fallen behind when it comes to marketing our resources. To be competitive with other destinations (who are applying far larger \$ amt's to their marketing budgets) we have to make the investment in marketing. Tourism is a large employer in our State, helps build infrastructure and hires local. Also, pays fees/taxes ^{which help} support our state government.

Tourism marketing by and for the State of Alaska is just a wise investment in the future of our State. Thank you for your time + consideration of this important issue.

Signed: [Signature] Sandra White
Testifier

Talkeetna Air Taxi - (I myself.)
Representing (Optional)

PO Box 130 Talkeetna AK 99676
Address

(907) 733-1861
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Finance
(committee name)

committee on SB 220 / HB 293, dated 5/14/03
(bill # / subject)

I believe THAT THE SAIE TAX
IS ON FARE to OUT LAYING AREER'S.
FOOD AND clothing should BE
EXEMPT. ALSO IF TAXES
MUST BE BROUGHT ABOUT AN
INCOME TAX IS THE MOST
FAIR WAY

Signed:

Dean Willi (Dean Willi)
Testifier

Representing (optional)

1215 River Drive
Address

(907) 835-5833
Telephone

CLIFF BURGLIN
President, Farthest North Press Club
17 Adak Street, Fairbanks, AK 99701
(907) 452-5149

May 14, 2003

House Ways & Means Committee
State of Alaska

Re: Harassment Sales Taxes and User Fees

All of the income from any sales tax or user fees would go to generations of retired bureaucrats and politicians, who do not live in Alaska. Some of these ex-state employees and politicians receive more than one check from Alaska's coffers.

The most either these taxes or users fees could possible bring in is estimated to be 300 million. No one in Murkowski's administration knows exactly how many employees would have to be hired to collect and administer this new tax that essentially takes from the poorest Alaskans to subsidize Alaska's 'three favorite charities - Exxon-Mobil, BP, and Conoco Phillips. These three corporations profits are the highest in their history, according to the Wall Street Journal.

The state does not mention the 17 billion barrels discovered in NPR4 (National Petroleum Reserve), plus the trillions of cubic feet of natural gas that is valued today at \$5.91 per thousand cubic feet.

The search for money by the state of Alaska should be as easy as looking for salt water in the Pacific Ocean. Alaska is blessed with abundant resources. Why are we still unable to get the money our government thinks it needs?

As long as the financial problems remain the same year after year, so do the obvious solutions. One is to get more land into private ownership - along with this all important property rights to minerals and oil and gas. Another solution to our continual budget shortfalls would be to lease and explore more of the state owned lands. Remember that the state has jurisdiction over more than 600 million acres of onshore and offshore lands in potentially productive oil and gas basins.

Of all the oil producing states in America, Alaska produces the most oil per acre leased, but has the smallest amount of state and Federal land leased. Texas produces slightly more oil than Alaska, but more than 250 million acres of Texas land are leased for oil and gas exploration and production, compared to Alaska's four to five million acres under lease. If Alaska had just 150 million acres leased the rental income alone would be between 200 and 500 million dollars per year. Twenty-five percent of that would go directly into Alaska's Permanent Fund to benefit all the citizens of Alaska. Billions of dollars more could, and would, be added from royalties on new discoveries.

How could Alaska lease more land? There are ways to accomplish this. Every one of the oil producing states has devised ways to encourage development on each acres of its land that has even a remote possibility of being productive. Alaska could certainly revise its leasing system by following the example of one or more of the other states.

Remember that increased state revenue from additional oil and gas leasing would be insignificant compared to the thousands of jobs that would be created or regained by a renaissance of oil and gas exploration and production. How many of you or your relatives have lost a good job on the Slope or in Cook Inlet in the last twenty years? Doesn't the next generation deserve a chance to maintain a good standard of living?

Sincerely,



Cliff Burglin

CB:kw

***Christian Science
Committee on Publication
for the State of Alaska***

Richard L. Block

Facsimile Cover Sheet

To: Senate Finance Committee Alaska State Senate FAX 907 465 2187	From: Christian Science Committee on Publication for the State of Alaska Richard L. Block 360 W. Benson Blvd., Suite 301 Anchorage, Alaska 99503 Tel: 907 562 5183 Ak.t. f.: 877 380 5183 Fax: 907 562 5187
--	--

Date: 5/14/03 **Time:** 1730 **Pages:** 2

Message:

The draft Committee Substitute for SB 220, which we understand duplicates CSHB 293 (W & M) includes an exemption for the provision of health care (proposed section 43.44.220) and that 501 (c)(3) corporations are all exempt.

We believe that such exemptions are appropriate, however, in fairness, the exemption should include Christian Science Practitioners. We ask that you introduce and support an amendment to reflect that accommodation.

I am the Christian Science Committee on Publication for Alaska and, as such, am interested in any legislation that would affect those who seek healing of illness solely through spiritual means, through prayer. There is a growing number of people, not just Christian Scientists, who are finding that sole reliance on scientific prayer is efficacious in healing all manner of sickness and examples of those healings are becoming more widely known and publicized.

Practicing Christian Scientists have been healing through prayer for many years and there are tens of thousands of documented healings recorded in the monthly and weekly periodicals of the Christian Science Church.

Often times Christian Scientists, but also many who are not Christian Scientists, find it helpful to have the assistance in their prayer of a Christian Science Practitioner, one who dedicates their whole life to being available to offer healing solely through prayer. Christian Science Practitioners do charge for their healing work.

It appears clear from other exemptions provided in the bill, that the work of churches and other social service agencies not be subject to sales tax. See proposed section AS 43.44.095 which exempts sales or use to or by 501 (c)(3) corporations. Christian Science practitioners are engaged in a spiritual endeavor, however, because they are individuals, do not have 501 (c)(3) status.

It seems only fair that, if those who are listed under proposed AS 43.44.220, including physicians, nurses, midwives, naturopaths, psychologists and many other health care providers are exempt, certainly Christian Science Practitioners should be exempt. The methods of healing used are, of course, vastly different, but the purpose is the same; to heal sickness. It would be inequitable for a person who seeks the care of one of the licensed health care professions to be free of sales tax, but the person seeking healing through prayer must pay the tax.

We suggest that the following language be included:

Amend sec. 43.44.220 (p 20 l. 30 of the bill) by adding a new subsection, as follows:

"(3) healing services provided solely through spiritual means."

We very much appreciate your consideration.

Yours cordially,


Richard L. Block
Christian Science Committee on Publication
For the State of Alaska

May 14, 2003

Alaska State Legislature

Re: HB 293 State Sales Tax

Dear Legislators,

I am writing to express my opposition to the proposed 3% state sales tax.

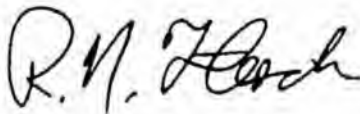
As a small business owner, I have built my small charter business slowly over the last 20 years. We do 7 to 10 day trips with up to 6 people on board. A few years ago, I was booked to capacity for the following summer by January.

After 9/11, bookings fell off drastically. Last year my business was down 20% and this year will be down substantially below that. Everyone I talk to in the industry is experiencing the same decline in business.

The last thing I need right now is a 3% increase in the cost of my trips to further discourage people from using my services. I also understand that the cruise ships are going to be exempt from the tax. Why should small local operators have to pay the tax when the cruise lines, owned and operated mostly by foreign or out of Alaska companies be exempt from this tax? I would hope our legislators would try to help and encourage local small business owners.

Thank you for your consideration and feel free to call me if you would like to discuss this with me.

Sincerely,



Rick Fleischman
Owner/Operator
Sound Sailing
1802 B Alder Way
Sitka, AK 99835
(907) 747-7473
Rick@soundsailing.com

CITY OF UNALASKA

P.O. BOX 610
UNALASKA, ALASKA 99685-0610
(907) 581-1251 FAX (907) 581-1417



Written Testimony of Chris Hladick,
City of Unalaska
P.O. Box 610
Unalaska, AK 99685
WK 581-7733
HM 581-6563

RE: SB 220

Mr. Chairman, I appreciate the opportunity to speak before you and the rest of the committee today. For the record my name is Chris Hladick and I am the City Manager for the City of Unalaska. I have been a city manager in Alaska for fourteen years. There are many issues that I have with this bill but in the interest of time I would like to concentrate on the most important issue for Unalaska. There will be a significant loss of revenues to the City of Unalaska with the passage of this bill.

The City of Unalaska City Council has major heartburn over the bill as written with regard to exempting Marine Fuel from the application of sales tax. Currently the City of Unalaska imposes a 3% sales tax and collects taxes on the sale of Marine Fuel. In the City of Unalaska and Dutch Harbor over 71 million gallons of Marine Fuel are sold yearly. As you may know we are the number one commercial fishing port in the nation. The gallons sold represents 61% of all Marine Fuel sold in the State of Alaska. If the current bill passes the City of Unalaska will see a loss in revenues of approximately \$3 million dollars per year. This represents over 10% of our general fund revenues. I would like to believe that the authors of this bill did not intend to collect revenues for the State while hurting revenues for the City Unalaska. It is our hope that an amendment could be made to allow Marine Fuel to be taxed.

Again, thank you for the opportunity to testify.

WRITTEN TESTIMONY OF BROOKS CHANDLER

P.O. BOX 263
GIRDWOOD, ALASKA 99587
(W) 272-8401
(H) 783-2643

ON SB 220

This is submitted in addition to my oral testimony of May 14.

I am an attorney in private practice with an emphasis on providing service to cities throughout Alaska. Currently I serve as the City Attorney for the cities of Nome, Dillingham, Unalaska, Soldotna and Sand Point. All of these cities have a local sales tax. My services over the 20 years I have been in practice include revising or comprehensive reviews of sales tax ordinances of all of these cities. The City of Unalaska asked me to review SB 220 and HB 293. This legislation raises the following concerns:

1. Rush to Legislate- When we have revised sales tax codes for our clients the process is very careful and very deliberate typically taking between 6 months and a year to accomplish. There are a number of issues such legislation raises which require significant thought and cannot possibly be digested in the remaining days of this session. A special session devoted solely to this topic will be of greater service to state residents than the hurried effort currently underway.
2. Number of Exemptions- I have consistently advised city councils to have as few exemptions as possible. Every optional exemption included in a sales tax code increases the administrative expenses associated with enforcement. It is far better to exempt nothing but the bare minimum and tax at a lower rate. The purpose of a sales tax is to raise revenue not to make social statements about favored types of activity. The following exemptions present significant enforcement issues:
 - a. Sale for Resale (AS 44.44.160, 43.44.170)- In my experience this is a nightmare to enforce particularly where, as here, the exemption is limited to items which when resold will be subject to tax. Consider a business that buys a case of paper towel to resell one roll at a time. That business has no way of knowing if one of the customers that will show up to buy a roll of paper towel is an exempt 501(c)(3) organization or not. Therefore, they have no way of knowing if they qualify for the sale for resale exemption up front.
 - b. Mining and Manufacturing (AS 43.44.180). Another enforcement nightmare. The phrase "incorporates the property as an ingredient or component part of the product" will breed disputes between taxpayers and the state.
 - c. Seller based exemptions- It makes little sense to exempt 501(c)(3) corporations from collecting tax from a consumer. The amount and size of such entities and the items they sell cover a huge range of commercial activity.
3. Impact to Municipalities- because the bill requires that municipalities exempt the same items exempted by the state local revenues will be reduced. In particular, the exemption from tax for motor fuel, marine fuel and aviation fuel will reduce local government tax revenues literally by

millions of dollars. The 6 cents per gallon "subject to appropriation" provision for local road maintenance does not balance out this loss of revenue. For one thing, sales of marine fuel are not included in the calculation. Local coastal communities rely on these types of revenues to maintain marine infrastructure.

There are many more technical problems with this legislation. I anticipate providing the committee suggested language on some or all of these issues. Hopefully, this can be done in a way that allows reasonable examination of the full range of the impacts and implications of this bill.

I am Nancy Berg from Petersburg, speaking as Vice President of the Petersburg Chamber of Commerce, and owner of a small business in the visitor industry. We are opposed to SB220, which would have a very negative effect on the community here. Petersburg is now taxing our citizens at 6 percent and the proposal for the adjustments over the term of this bill would result in a loss to the City of over ~~1,000,000.00~~. This would equate to a significant loss of services and jobs in our community. ^{100% OF REVENUE} There is a high degree of volunteerism here in our Fire department, EMT's and many other community activities. A cut in jobs would be very disheartening to the volunteers, who make these services in our community work.

Small businesses struggling to make ends meet in these rough economic times would have even more difficulty competing with internet sales of outside companies not subject to local sales tax or the proposed state sales tax. This will result in loss of jobs and sales in our local community .

Thirdly, this would add one more paperwork task to small businesses already snowed under with paperwork.

The chamber of commerce is opposed to this bill and would support a fair graduated income tax.

first example] 95%.

Now let's take a person earning \$100,000 per year. They live in much nicer surroundings, eat steak and roast chicken and fancy salads, dine out now and then, have excellent health insurance [still subject to tax], attend a health club [\$1,000 annual membership which, let's say, you exempted from sales tax], invest in the stock market [not subject to sales tax], take two out of state \$5,000 vacations [paying \$1,000 in taxable airfare each time], and still can afford to save 17% of income, \$17,000 not subject to sales tax, even though they pay much more in Federal income tax, let's say, \$20,000 per year, also not taxed. How's that work out? Let's see: income tax \$20,000, savings, \$17,000, out of state vacations \$8,000 not taxed, health club \$1,000, stock market \$20,000. So their untaxed part of income is in this example \$64,000, leaving just \$36,000 taxed in-state spending. [Note that even if you did not grant a health club exemption, the numbers change only by \$1,000].

So here for the \$100,000 income person the sales tax is a tax on just 36% of income, while for the \$25,000 income person it was a tax on 71% of income and for the \$6,000 income person it was a tax on 95% of income.

The exact numbers may of course vary, but the general principle is clear--the sales tax affects most those at the lower income levels, because it taxes much more of their income. So the sales tax is a REGRESSIVE tax, hurting most those Alaskans at lower income levels.

2. An internet source [which I credit for the phrase 'soak the poor'] also explains numerically why sales tax hurts low-income Alaskans most. <http://www.psnw.com/~bashford/taxation.html>
The site explains as follows:

Imagine two frugal traveling salesmen. One makes \$20,000 per year, the other \$300,000. Each has to buy a new car every 4 years--they are *traveling* salesmen, right? Assume a 5% sales tax.

Poor Boy buys a \$20,000 car, pays \$1,000 in sales tax, tax is 5% of his income.

Rich Boy buys a \$60,000 car, pays \$3,000 in sales tax, tax is 1% of his income.

The site suggests trying the number if each buys a \$30 pair of Levi jeans. OK. Let's try it.

Poor Boy buys jeans, \$30, pays \$1.50 tax. Tax is .0075% of \$20,000 income.

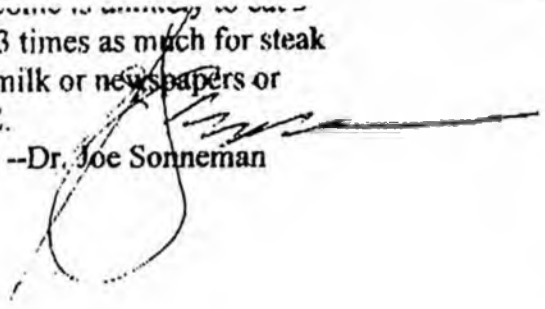
Rich Boy buys jeans, \$30, pays \$1.50 tax. Tax is .0005% of \$300,000 income.

The site also suggests that if the sales tax only taxes sales and not services, Rich Boy can also live better and pay less sales taxes by hiring someone to do yard work, hiring a cook, hiring a chauffeur, and so on. The site also notes the truism that spending on basics such as groceries does NOT usually rise as fast as income--a person with a \$300,000 income is unlikely to eat 3 steaks at each dinner, for example, and probably will NOT be paying 3 times as much for steak as a person with a \$100,000 income, nor 9 times as much for eggs or milk or newspapers or jeans as a person earning \$33,333. So the sales tax is REGRESSIVE.

--Dr. Joe Sonneman

DOES NOT usually rise as fast as income—a person with a \$500,000 income is unlikely to eat
steaks at each dinner, for example, and probably will NOT be paying 3 times as much for steak
as a person with a \$100,000 income, nor 9 times as much for eggs or milk or newspapers or
jeans as a person earning \$33,333. So the sales tax is **REGRESSIVE**.

--Dr. Joe Sonneman



A sales tax is the wrong way to go

By P.J. HILL

There are numerous reasons to oppose a sales tax. First, it is regressive; lower-income citizens pay proportionately more of their income in the form of tax than upper-income groups. This well documented regression is reduced, but not eliminated, by exempting food and medicines.

The tax will have an extremely heavy impact in Bush communities with their higher costs of living. Residents of Kwillingook will pay the state nearly double the tax on a gallon of milk or a loaf of bread than their counterparts living in Anchorage. A sales tax will be a tremendous burden on those communities that already rely on sales taxes, as state government usurps this revenue source.

While the term "general sales tax" is used, it is more a selective excise tax. Not all consumption expenditures are taxed. Services, which make up a larger proportion of high-income expenditures, have been more difficult to tax. Taxing of professional services in Florida was met with burning the governor in effigy. Will food be taxed, but cosmetic surgery, which is more likely to be purchased by upper-income groups, go untaxed? These problems tend to make the tax even more regressive.

With the development of the Internet and globalization, a sales tax will lead to tax avoidance by taxpayers making purchases in other jurisdictions. It will make it difficult for local firms to compete when consumers can make purchases elsewhere. A sales tax will put Alaska bookstores at a competitive disadvantage compared to Amazon.com. Taxing airline tickets will push consumers to purchase from Orbitz. This narrowing of the tax base has become a serious problem



A sales tax places a much higher burden for the cost of government on the backs of those least able to afford it.

for sales tax states.

One of the main arguments in support of a state income tax is that it is deductible for federal income tax purposes, while sales taxes are not. Considering a sales tax and an income tax that each collect \$300 million, the income tax would cost Alaska taxpayers only \$200 million, with the other \$100 million coming from reduced federal income taxes. Many Alaskans will pay less with an income tax, compared to an equal revenue sales tax because of this federal tax preference.

The main theoretical objection to income taxes is that it hurts incentives to produce income, but sales and consumption taxes are not without those same disincentives for income production. Virtually all taxes reduce income and hurt work incentives.

Judging from the governor's article ("State income taxes are no panacea," May 9), the major objections to an income tax seems to be that of "progressivity." This is a red herring. An income tax doesn't have to be progressive, it could be proportional (everyone paying the same percentage) with respect to income. The opponents of an income tax seem to suggest that while taking taxes out of income is unacceptable, taxes on goods bought with income are OK. In fact, almost all taxes are paid from in-

come, and exactly how those taxes relate to income is a policy variable.

The current winter-summer tax proposal is being sold as a way of exporting Alaska's taxes to nonresidents. However, an income tax would collect revenue from those nonresidents who work in the state. There is no reason to suggest that tax exporting with a sales tax will be greater than with an income tax; in fact, anecdotal evidence suggests the opposite.

One last objection to a sales tax has to do with the administrative costs. A recent study by the state of Washington suggests that business' additional compliance, labor, training, computer and audit costs associated with the sales tax can be as high as 6.47% of the cost of doing business.

The sales tax proposal is a bad idea. Some suggest that it is better than nothing. However, once a sales tax becomes part of the fiscal landscape, it will be very difficult to change. A sales tax places a much higher burden for the cost of government on the backs of those least able to afford it. Better to continue with the debate until people understand that an income tax will prove to be a fairer and less burdensome solution to our fiscal problems.

■ P.J. Hill is an associated professor of economics at the University of Alaska Anchorage.



Alaska State Legislature

Please enter into the record my testimony to the Senate Finance Committee
committee name

Committee on SB 202 State Sales & Use Tax, dated 5-14-03
bill # / subject public hearing date

Please reconsider your support for the statewide sales tax. Individuals and businesses are struggling to maintain the status quo right now. Three percent doesn't sound like much...but, it appears that the historical data suggests that such a tax will be regressive and a very real dampening factor on the already shaky economy of the State of Alaska.

We all realize the situation of the budget gap...and we sent you to Juneau in good faith to do something about it. What you have done to date is to discuss ways of exacting more money from the proverbial turnip. What we need you to do is to make real cuts...not just reduce increases. Don't keep threatening us with education and public safety cuts. There is a great deal of "fat" that can be eliminated from our diet. You, as our leadership must find these cuts and have the courage to make the cuts.

Signed: Darrell and Wanda Kincaid
Testifier

Representing (optional)

38710 Highcrest Court/ Sterling, Alaska/ 99672
Address

907-262-1535
Phone number

Dr. Joe Sonneman [Ph.D., Government--Public Finance]
324 Willoughby, Juneau AK 99801

May 15, 2003

Senate Finance Committee
Senator Gary Wilken, Chair

Re: Sales Tax Bill
SB 202

THANK YOU for the opportunity to testify last night in person, and today by fax. While I was listening, I heard most people OBJECT to a sales tax, so please represent the majority here and Please **DO NOT PASS** a sales tax. Sales taxes are REGRESSIVE.

SOAKS THE POOR. As a website notes, one sometimes hears that an income tax may 'soak the rich,' but we rarely hear--though it is true--that a sales tax 'soaks the poor.' Here are some of the reasons why sales taxes are regressive [hurt low-income Alaskans most]:

1. Low income folks spend more of their income, so more of their income is subject to tax

A sales/use tax is a tax on spending. Income which is saved is not taxed. Low income folks generally have to spend almost all of their income just in order to live. They cannot afford to save much of their income. So almost all of their income is subject to the sales/spending tax. A person who earns \$50,000, \$100,000, or more, often has the ability to SAVE a substantial part of that income. Not all do save, of course, but in general, more saving occurs at higher income levels than at lower income levels, because after basic living needs are met, what is left is 'disposable income' which can--but NEED NOT--be 'disposed' of. That money CAN be saved, without injury to basic living costs.

For example: Suppose basic living in Alaska costs at least \$500 per month--for rent, food, clothes, heat and housing, and minimum medical needs. Pretty hard to do even those basics on \$500 a month! So someone earning \$6,000 per year [including PFD] spends it ALL on basics. A sales tax will be a tax on all but the basic medical [\$300 per year?], because that's exempt. So at \$6,000 per year, the sales tax is a tax on, let's say, 95% of income. Actually, the tax will be nearly \$180 per year, cutting into the \$500 per month basic costs, leaving only \$485 available per month. Uh-oh: that person now does NOT even have enough to live on!!

For someone earning \$25,000 a year [including PFD], they may spend \$1,000 a month on basic living--a fancier apartment or house, maybe some health insurance [still subject to tax], hamburger instead of macaroni, oil or gas heat instead of wood stove, electricity, maybe a phone and even internet connection, perhaps cable TV or perhaps not, maybe a cheap car, even. They might have \$13,000 disposable income, less of course \$3-4,000 in Federal income tax, maybe \$9,000. Let's say they take a two-week vacation, \$1500, and save 10%, \$2500, and car expenses [payments, gas, oil, insurance, repairs, parking tickets, etc.] use up most of the remaining \$5,000 [that's only \$415 per month or so] OK, of their \$25,000, \$4,000 was Federal tax and \$2,500 saved, so that's \$6,500, and \$1,500 spent out of state vacation, but \$750 was for taxable airline tickets. So \$7,250 was NOT subject to Alaska sales tax, but \$17,750 of income WAS subject to the Alaska sales tax. So the sales tax was, for this person, a tax on 71% of income, not [as in the

Subject: SB 220 - State Sales & Use Tax

Date: Wed, 14 May 2003 12:41:33 -0800

From: Hank or Arlene Carle <carle@gci.net>

To: Senator_Gary_Wilken@legis.state.ak.us

CC: "Suzanne M. Dotson" <phil-suzanne@ak.net>, Sharon Bond <sbond1949@aol.com>, Rick Rydell <rickrydell@hotmail.com>, Representative Con Bunde <Representative_Con_Bunde@legis.state.ak.us>, Paulette Rowe <magnum@mtaonline.net>, Linda Harter <lkharter@aol.com>, Ken & Rita Simon <krsim@prodigy.net>, karl hahn <whitepass98@yahoo.com>, Jonell <jonell@gci.net>, Homelifeak@aol.com, Holly Gerlach <h.gerl@gci.net>, Governor Frank Murkowski <frank_murkowski@gov.state.ak.us>, Don Carle <haggis@gci.net>, Dianne and Devery Prince <devery@alaska.net>, David Carle <hdcarle@ak.net>, Darlene & Mike Stier <bumstier@gci.net>, Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>, Chris Bryner <clb@gci.net>, Cathy Forsgren <cathy@pobox.alaska.net>

Senator Wilken, I am unable to testify personally because I am baby sitting two grandchildren, ages 9 and 7, while their folks are out of town. The 7 year old is diabetic and I have to be available 24/7 this week. Please enter my testimony into the record with reference to SB 220, State Sales & Use Tax.

I, and the people I know and talk to, are so terribly disappointed that the only solution the legislature can come up with to solve the fiscal gap is to initiate taxes and raise "user fees". Both have the same effect. They take money out of local economies and send it to Juneau to be spent on frivolous expenditures.

It's not that we want a "free ride". It's that we feel government has been and is irresponsible in administering the cash revenue that oil gives us. Would you like examples? When the Juneau State Employees retirement fund invested in junk bonds and the bonds went belly-up, the State "bought" the defunct bonds from the retirement account. Who lost out? The people of the State who were defrauded of the State's money. Who gained what none of us in the private sector could ever had gained in this circumstance? State employees.

Another example? Years ago, the State loaned millions of dollars to an Anchorage doctor to try dairy farming. When he couldn't make a go of it, the State forgave the loans even though the doctor was a multi-millionaire in his own right. In the private sector, you reap the benefits as well as take the risks. The State, when it loans money, lets the rewards go to the loan recipient, but the State assumes any risks of loss.

Bristol Bay fisherman have been given huge financial benefits by the State because of catastrophic commercial fishing results. One year is a catastrophe. When the State finances the industry five out of six years, it is no longer a catastrophic event, nor is it an industry.

The local newspaper recently told of how the State spent a million and a half dollars last year financing trips for foster children. The problem was, whoever paid for the trips paid full air fare (something those of us in the private sector never do), and they spent \$6,500 sending six foster kids to Disneyland. In the private sector, we use our PFD checks to send our kids on special trips and to make special purchases that we cannot otherwise afford. Apparently if the State pays the bill, you get to have your Disneyland trip and keep your PFD check also.

The legislature, itself, is a joke. Instead of going to Juneau and getting their business done, they always manage to go into extended sessions with the extra money coming out of State revenues. There is no reason that the legislature even needs to meet every year. It could meet every two years and save us a lot of money.

State employees get better benefits, and better retirement, than people in the private sector. Why should we in the private sector be taxed to continue that inequity?

The worst is the school system. The State pays \$35,000 per student per year on the Aleutian chain, and \$25,000 per student per year in the North Slope Borough, and the NEA has money to constantly run ads exhorting people to lobby the State to increase funding "for the children". The benefit goes to the teachers unions, not the students. If the legislators really wanted to do something for the children, for the students, of the State, they would insist

non-teachers, business people, control school administration, and would move to a voucher system. It's obvious the school systems can't efficiently and effectively administer the funds they are getting. The schools are going to sink the State with the blessing of State government.

The federal government pays all medical care for natives, so why is our Medicaid expenditure what it is? It just doesn't make sense. I imagine part of it is that the State pays \$10,000 per patient per month to keep 80 patients at Mary Conrad Center. The State can keep them at Pioneers Homes and save \$400,000 per month. The pioneer homes are not full. They just say they "have a waiting list". They have empty beds, but a waiting list of people who want some day to go into the pioneer homes, they are just not ready to go in now.

We sent you to Juneau to get a handle on government, not to put a hand in our pockets. I don't know when we moved from the Last Frontier to the Great Welfare State, but we did, and it's time that the legislature and the governor define what is government's responsibility and refuse to fund the rest, no matter how many whining hands are outstretched. Until that has been done, No New Taxes, No Increased User Fees.

Arlene Carle
6600 Downey Finch Lane
Anchorage, AK. 99516-2413
(907) 345-2137

ALASKA TRAVEL INDUSTRY ASSOCIATION

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

SB 220

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, 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.

<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	

<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>
	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 66,753 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>
	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			
721110	Hotels and Motels 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 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		\$373,485,250	Expenditures include room rents only. Food & Beverage and other service charges not included. Estimated 17,875 rooms (hotels, motels, resorts, lodges) Annual 2002 occupancy = 62%. Effective room rate = \$92.33

<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 This industry comprises establishments primarily engaged in renting passenger cars without drivers, generally for short periods of time. Automobile rental Car rental Car rental agencies		\$11,179,776	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.

<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.			

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

Taxable Activity	Estimated Expenditures	1% Tax	1.5% Tax	2% Tax
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	\$223,524
Hotels and Motels	\$373,485,250	\$3,734,853	\$5,602,279	\$7,469,701
Bed & Breakfast Inns	\$6,341,626	\$63,416	\$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	\$85,808	\$114,517
Alaska Marina 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
Salmon Bakes	\$2,500,000	\$25,000	\$37,500	\$50,000
Total	\$924,293,813	\$9,242,938	\$13,864,407	\$18,485,876

3%

\$27 million

Visitor Expenditures by Cruise Ship, Cruisetour & Tour Visitors

Estimated Expenditures

Land, Water & Other Scenic & Sightseeing Transportation	Sampled Cruise & Cruisetour Group	Sampled Group as a Percent*	Total Cruise & Cruisetour		Total Tour Group 169,444 pax
			Group (1) pax	Percent of Total Tour	
Shore Excursion Expenditures (cruise pax)	\$107,900,000	84%	\$128,452,381	100%	\$128,452,381
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
Attractions (2 major)	\$4,400,000	84%	\$5,238,095	85%	\$6,162,465
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)	\$66,900,000	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 Caribbean
Radisson Seven Seas
Carnival
Celebrity
Crystal

Unsampled Cruiselines (16% of berths/ports)

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

Sampled Tour Companies

(85% of tour packages)

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"

**CITY OF PETERSBURG**

P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4511
TELECOPIER (907) 772-3759

May 14, 2003

House Finance Committee
Alaska House of Representatives
State Capital (MS3100)
Juneau, Alaska 99801-1182

RE: HB 293 State Sales Tax

Dear House Finance Committee Members,

I appreciate the opportunity to make written comments on House Bill 293. A Statewide Sales Tax of 3% would devastate the operations of the City of Petersburg.

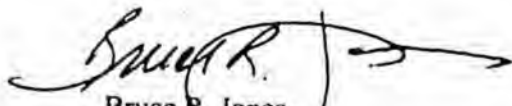
A sales tax of three percent is equal to a \$1,145,000 of Petersburg's revenues. That is 16% of our projected revenues for FY04. Sixteen percent doesn't seem like much, but it is equal to 25 employees or one-half of our effective work-force. The loss of one-half of our workforce will seriously impact the level of service the citizens of Petersburg currently receive.

There are over one hundred other communities around the State that depend on local sales and use taxes to pay for government services. These communities, like Petersburg, have been providing for their citizens through locally generated taxes and depend on those receipts to operate their local government and services. Please consider the dire consequences of this Bill before casting your vote for this Statewide Sales Tax Bill.

Please do not attempt to balance the State Budget on the backs of the communities that are impacting the State Budget the least. Instead, impose a Statewide Income Tax that will be easier to implement and will result in more revenue to the State.

If you have any questions concerning this matter, please feel free to contact me at your convenience.

Sincerely,



Bruce R. Jones
City Manager



CITY OF PETERSBURG

P.O. BOX 329 • PETERSBURG, ALASKA 99833
TELEPHONE (907) 772-4511
TELECOPIER (907) 772-3759

May 14, 2003

Senate Finance Committee
Alaska State Senate
State Capital (MS3100)
Juneau, Alaska 99801-1182

RE: SB 220 State Sales Tax

Dear Senate Finance Committee Members,

I appreciate the opportunity to make written comments on Senate Bill 220. A Statewide Sales Tax of 3% would devastate the operations of the City of Petersburg.

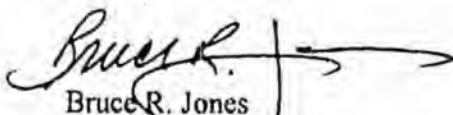
A sales tax of three percent is equal to a \$1,145,000 of Petersburg's revenues. That is 16% of our projected revenues for FY04. Sixteen percent doesn't seem like much, but it is equal to 25 employees or one-half of our effective work-force. The loss of one-half of our workforce will seriously impact the level of service the citizens of Petersburg currently receive.

There are over one hundred other communities around the State that depend on local sales and use taxes to pay for government services. These communities, like Petersburg, have been providing for their citizens through locally generated taxes and depend on those receipts to operate their local government and services. Please consider the dire consequences of this Bill before casting your vote for this Statewide Sales Tax Bill.

Please do not attempt to balance the State Budget on the backs of the communities that are impacting the State Budget the least. Instead, impose a Statewide Income Tax that will be easier to implement and will result in more revenue to the State.

If you have any questions concerning this matter, please feel free to contact me at your convenience.

Sincerely,


Bruce R. Jones
City Manager

Alaska State Legislature

Please enter into the record my testimony to the

Senate Finance Committee
committee name

Committee on SB 220 State Sales & Use Tax , dated
bill # / subject

5-14-03
public hearing date

My name is Debra Holle.

Debra Holle Box 592 Kasilof, AK. 262-4551
I am opposed to SB 220 in any form. Taxing Alaska's residents will have a negative result on our statewide economies. This nation, Alaska included, has been in recession. Neither sales tax nor a state income tax will assist family business or local economies to recover. Our President, George W. Bush is currently striving to get the US Congress to pass "economic stimulus" legislation which would, among other ways, get tax dollars back into the pockets of Americans where dollars belong, in an effort to stimulate the economy and thereby create needed jobs. Why is Alaska's Government taking the opposite approach, to "tax and fee" our people?

Governor Murkowski has encouraged the legislature to make certain cuts. This is good. Nearly \$189 million dollars worth of cuts have been made recently. But the "actual, realized" savings to state government after normal formula increases and other forms of increases take place, will result in only \$50 million dollars worth of cuts. This is not enough reduction in government spending.

I am asking this legislature to reform the bureaucracy in our state government. We do not need 24,000 state employees drawing \$1.5 Billion dollars of wages and benefits. The state money belongs to the people. I do not believe the people would like to be taxed to pay for this government waste.

The state of Alaska has 19 separate departments. Please consolidate these departments. Sell our state land. Sell State of Alaska assets.

For example, sell the fish plant in Anchorage. The Alaska Seafood International facility should be sold to private enterprise or a co-op of fish buyers. Alaska Seafood International has publicly stated they intend to buy and process foreign, farm raised salmon if they are not able to get enough wild, Alaska fish to meet their needs. This is bad news for Alaska. We should not finance a company with state dollars or assets to compete with our wild Alaska salmon markets.

Focus all of the legislature's time and efforts on legislation to promote resource development.

Spend as much of the Constitutional Budget Reserve account as necessary this year and avoid passing sales tax or income tax or other revenue development strategies calling for user fees.

Governor Murkowski is not leading Alaskans in the right direction with his tax and fee plan.

Signed: Debra Holle
Testifier



Representing (optional)

P.O. Box 592 Kasilof, Alaska 99610
Address

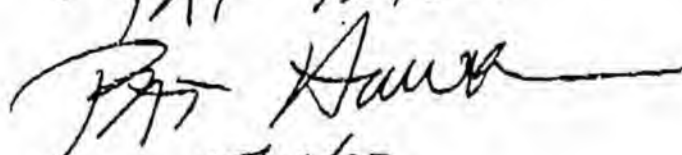
(907) 262-4551
Phone number

To the Senate Finance Committee
From Pat Hawkins
36115 Pioneer Drive
Soldotna, AK 99669

We do not need a state sales tax. If you want to tax me and my family, institute an income tax. If you put in the 1980 income tax it would raise \$750 million immediately (see attached). You could phase this in over 3 years if you like. An income tax is the only fair tax. It would hit everybody and also all the people who live outside that work here and do not pay for the state services. Mind you, I'm willing to pay for my state services. Another thing we need to look at is a gradual downsizing of state government, not the cut and slash that has been taken that affects our low income, senior citizens, disabled and people needing state services. Another item we need to discuss is cashing out the permanent fund. Take 12.5 billion on a one-time pay out to Alaskans then take the 12.5 billion left to cover state expenses.

Thank you for your time and please make the decision on no sales tax for us.

Respectfully,

PAT HAWKINS

5/14/03

2003

ALASKA

Plugging part of the fiscal gap



\$1 billion - Appropriate amount in state services paid for each year from savings accounts that will run dry in two to three years.

43 - States with a personal income tax.

45 - States with a state sales tax.

0 - State decides Alaska and no personal income tax and no state sales tax.

1980

\$210 million - Greatest amount Alaska ever collected in a year from the personal income tax (1970).

\$350 million - Greatest amount Alaska would collect in one year from any of the personal income taxes proposed in Juneau.

\$750 million - Amount Alaska would pay today if a personal income tax covered the same rates as in 1980.

2003

2003



M/V 'HERON'

Alaska Passages, Inc.

P.O. Box 213 Petersburg, Alaska 99833 (907) 772-3967
 www.alaska.net/~akpassag/ voice & fax
 Email: akpassag@alaska.net

MAY 13, 2003

Dear Members of the Finance Committee;

I am very concerned that the proposed statewide sales tax could threaten my small business. I am a charterboat operator who runs weeklong boat trips out of Petersburg.

If a family had to pay 3% sales tax on a weeklong trip for six people on my boat, the extra cost would be almost \$500. That would be added on top of the local sales tax my guests pay to the City of Petersburg, and suddenly they are paying nearly \$600 in taxes! This year, that is what the big cruise ships from Outside are charging for one of their weeklong trips. They have the capacity to discount trips. We do not.

The big cruise ships also would not be liable to pay the tax according to the bill. If the point of this is to get seasonal visitors to pay more, why exempt the big ships? There must be another way that is more equitable. Even a \$5 head tax would be an affordable and acceptable way to raise funds.

It is unfair that we local businesses would carry the burden of the sales tax, which would make us less competitive with businesses from Outside. In the present economy, tourists are price shopping. We will lose business as a result. Our business was down last year because of September 11th and this year our bookings are down 30% as a result of SARS, the economy, and the war in Iraq. It may take some time for tourism to rebound. Adding a burden of the sales tax will be a hardship for my small Alaskan business.

Yes, the State does need to generate income. I believe that tourism does contribute to the economy of Alaska now in bringing visitors to the State to spend money. My business also pays corporate income tax. I personally would prefer to see a state income tax to a sales tax. It would cost me money, but it would not cost me business. I think the State needs to support the tourism industry not hinder it with more taxes. The oil industry is getting breaks to encourage their investments and production in the State. Why can't Alaska recognize the importance of tourism, and try to encourage the health of the industry instead of trying to penalize us with taxes?



M/V 'HERON'

Alaska Passages, Inc.

P.O. Box 213

Petersburg, Alaska 99833

(907) 772-3967

www.alaska.net/~akpassag/

voice & fax

Email: akpassag@alaska.net

- 2 -

I think the statewide sales tax is also unfair to municipalities that already pay sales tax. Petersburg would jump from 6% to 8% while Anchorage would jump from 0 to 3%. That is not fair and can have harmful effects on our local economy.

Perhaps the impact of a 3% sales tax is not large when you are talking about a tee shirt purchase, but when you are taxing larger ticket items or services, it is a sizeable amount. In Petersburg we have a tax cap so that the purchaser does not pay on more than the first \$1200. That keeps local business competitive. The \$5000 cap I heard mentioned in discussions of the statewide sales tax is still too high to be helpful.

My concern is that in rushing this bill through in the last days of the Legislative session that the concerns of small business are going to be overlooked. Please do not pass this bill this session. It could have harmful effects to local businesses and small communities like mine,

Thank you for your time,

Sincerely,

A handwritten signature in cursive script that reads "Julie Hursey".

Julie Hursey

Alaska Passages Adventure Cruises

Alaska Oil and Gas Association



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

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-LS1064VD), 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 operations. 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 43.44.220.

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 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 through 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 services". 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 – p. 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 a phone 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 as well.

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, 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

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!

RATHER

1) cut none 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 restrictions (lengthy sessions in Juneau that up tax payers money what are needed for A - schools B - long term program C Rehab & alcoholism + drug programs D, housing + food for the needy)

No to proposed SALES TAX - We already have one in Wasilla - No to ALASKA STATE TAX - Don't need such Murkowski to fulfill his promise by using Alaskan income from oil, gas, fish, mining tourism etc - This WAS HIS (Gov MURKOWSKI) promise?

Signed: Eileen O. Johnson
Testifier

CITIZENS OF ALASKA
Representing (Optional)

501 KIM GOOSEBAY Rd
Address

WASILLA ALASKA

Phone number
907-373-1139

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.

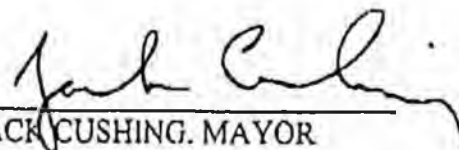
BE IT FURTHER RESOLVED, that copies of this resolution will be sent to Governor
Murkowski, Lt Governor Lemmon, Senator Stevens, Representative Seaton, the State House Finance
Committee, State House Ways and Means Committee and the Alaska Municipal League.

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.

Testimony for the Senate Finance Committee
Tue. Day, May 13, 2003

Senator Green, Senator Wilken, Committee Members

Thank you for the opportunity to speak on behalf of Community Education across the state of Alaska. As a volunteer for the Alaska Association for Community Education I urge you not to pass HB165 and repeal the Community Schools legislation.

Just what is Community Education? It begins during the school day and continues after the school staff leave in the evenings and on weekends. Community Education is a synergy that includes:

- lifelong learning,
- community assessment and development,
- building citizens,
- volunteerism,
- enrichment and enhancement,
- extended use of the school and other community facilities,
- service to others,
- after school and evening classes for all ages,
- tutoring,
- support for educational benchmarks and standards,
- family nurturing,
- citywide youth events,
- collaborations with other agencies and non profits, and
- cultural awareness and development

Throughout the state Community Education looks different in each local. Why? Resources - both financial and personnel, staff training, community needs, facilities, and access to so many other things. Each district meets the needs of their communities. The programs and activities are tailor made to provide what will benefit each community. Community Schools are centers of learning.

Each school district receives state grant moneys to support their community education program. These moneys validate the programs and provide leverage to write grants, match funds from cities or municipalities and seek donations from all sectors. We are able to build upon the state funding to create a statewide network of activity.

On Saturday, May 17th the Anchorage Community Schools will host its 12th annual Salmon Run. Last year over 700 youth, adults and seniors walked or ran in this 2, 5 or 10K fun run. It is an incredible citywide family race with over 100 volunteers providing community service that day. Also, the Salmon Run is a true collaboration between sponsors such as KASH Country Radio, Wells Fargo of Alaska, Stellar Designs, Skinny Raven Sports, Anchorage School District and volunteers including 50 Hoby Youth attending their Leadership Conference, several Girl Scout Troupes, Dimond High Zee

pl - Reichlin

Club, Service High ROTC, and many adults. If you were to see the smiles on the children's faces as they run hand in hand with parents, or the joy expressed as runners cross the finish line, you would understand a small part of what Community Education is about... in this case, promoting healthy family fun.

Whether you argue the intent of the legislation to be the initial establishment of Community Schools or the maintenance and operation of Community Education, it is clear Community Schools is vital to the growth and development of Alaskan citizens. Life long learners engaged in healthy activities in safe environments raise the quality of everyone's life. Let us be proactive to strengthen the community/school network in our communities not tear it down. Allow the legislation to remain. State funding may ebb and flow, but please do not remove the legitimacy for Community Schools to exist.

I challenge you to find out more about Community Schools in your own districts. If you can not visit sites then make a phone call and see for yourself what is going on and how vital it is to the well being of your communities.

Respectively,

Rebecca Reichlin
P.O. Box 1009
Girdwood, AK 99587
907-783-2374
907-783-1209 fax

Rebecca Reichlin

p2-Reichlin

To: Senate Finance Committee
Re: SB 121 - Community Schools
HB 165

Date: May 13, 2003

From: Julie Jonas *Julie Jonas*
P.O. Box 772
Girdwood, AK 99587
783-2656
jonas@alaska.net

I am for Community Schools and **opposed to SB 121**. I thank Representative Mike Hawker for voting against the House companion bill, HB 165. I would hope that our district's senator, Senator Bunde will do the same, as well as the other senators on this committee. I was disappointed that Senator Bunde did not participate in the teleconference held during the April Girdwood Board of Supervisors (GBOS) meeting, as he would have heard from many people who spoke in opposition to this legislation.

Through our Community School, we tutor students who need a bit of an extra push to get them past the Benchmarks (let's think exit exams). Our curriculum is enhanced by Science Camp, after school math, computer, reading and other classes. In Girdwood, kids do not have easy access to the Cook Inlet Soccer League, so the Community School has sponsored a soccer club in which now 75 of the 100 2nd-6th graders take part. Community School sponsors the Girdwood Junior Nordic club, because driving to Anch in the dark winter for a 45 min ski program is not practical. Kids have an alternative to hanging out on the streets. We offer service learning opportunities. We do not have a community center in Girdwood, thanks to voters in the greater Anchorage municipality who have not supported GO bonds. So we use our school as the community's hub for almost everything including but not limited to: public meetings, physical recreation, and educational classes for all ages. Community School staff coordinate the programs and staff the building. The Community School office is a central place where newcomers come to get information and are welcomed in to the community, like I was 14 years ago. The beating of Girdwood's heart would stop if you repeal the legislation (AS14.36). Community Schools are NOT just open gym programs. For our community, it is a vital and integral part of what keeps Girdwood connected. As the former chair of the GBOS, I know all about contentious issues. I also know what has held, and can hold the community together. I'm sure it must be like this in other communities throughout Alaska.

I understand the budget challenges. I'm not asking for more money. I don't even mind if you trim the relatively small amount of \$500K by a few dollars. But if you pass SB 121/HB 165, which repeals legislation contained in AS14.36, you will be eliminating the statutory authority that allows community school funding to be resumed in future budgets. I don't see any reason to do this at this time. Do not pass SB 121/HB 165.

JJ



ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #202, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

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

May 14, 2003

Dear Committee Member:

Accompanying this letter are detailed comments on a few sections of a sales and use tax now being considered in HB-293 and SB-20, specifically as presented in CSII-293 (version 23-I.S1064S). The Association recognizes significant fiscal problems for Alaska and that broad-based taxes may be a critical part of the solutions for these problems. We do not wish to comment on the relative merits of different types of broad-based tax. Rather we wish to address specific problem areas in legislation as drafted that would seriously affect present and projected operations.

The mining industry is both capital and labor intensive; it is also competitive in a globally set market place where Alaska must compete with jurisdictions that have minimal environmental restrictions, low labor costs, and, as in Alaska, excellent quality ore deposits. In Alaska, environmental concerns are not compromised; high wages are paid; and only rich deposits are exploited. We compete globally because of high productivity and best management practices. Cost containment is critical.

Three of our specific concerns deal with cost areas; one deals with taxes that might be incurred as a trade organization. The specific cost areas are (1) fuel tax and collections, (2) taxation of motor vehicles as broadly defined, and (3) taxation of non-transport capital and operating purchases. We also have a specific suggestion to make in regard to organization exemptions as presently addressed in 43.44.095.

It is no exaggeration to state that the health of present and future mining industry in Alaska could depend on the way that these issues are resolved, and we urge attention to our critical items.

Sincerely yours

Steven C. Borell, P.E.
Executive Director

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

enclosures

COMMENTS AND RECOMMENDATIONS OF THE Alaska Miners Association

ON Sales and Use Tax in CSIB-293

May 14, 2003

Our comments address specific items that are of concern to the Alaska Miners Association, a trade group that represents a wide spectrum of miners, from mom-and-pop-placer mines to mines of multinational corporations. They attempt to capture legislation as released in house 23-LS1064/S

Concerns with Sections general related to AS 43.40 including (010) and (030).

New section 23 addresses fuels used by a consumer and establishes a tax rate of 20 cents per gallon with specific lesser tax rates for aviation and water craft fuels. New section 25 places the proceeds of motor fuels with certain exemptions in a special highway fuel tax account in the general fund. New section 28 grants an effective 2 cent tax rate to fuels for internal combustion engine which, quote, "is [are] not used in or in conjunction with a motor vehicle licensed to be operated on public ways." Almost all of the mine-related fuel for mobile use would not be consumed on public roads; it would seem that a lesser tax rate would be appropriate for mobile equipment at mines as well as fixed engines, but the wording should be clarified if that is indeed the intent.

(Note: it is assumed that new sections 24 and 29 which project lesser tax rates are included erroneously --if not the appropriate section should be deleted.)

Two serious problems emerge with the taxation schemes for "motor fuels," and "internal combustion fuels." First is that such fuels are probably commingled at a mine site and it will constitute a major problem to account for fixed and mobile fuels if in fact they are taxed at two different rates.

A certain problem is the rebate scheme where by the full tax of 20 cents is tendered then 18 cents are rebated. As an example consider the Red Dog mine which consumes about 18,000,000 gallons of fuel per year. This fuel is all landed during the short operating season of the mine. The rebate schedule ties up several million dollars of mine working capital. A placer miner using 1000 gallons/day during his short working season would also have a serious problem on his lesser scale operation.

This problem is eliminated if the effective tax rate of 2 cents per gallon is collected when the fuel is sold. This section (28) could be eliminated if the effective rate was given in New section 23.

Intent of Section 43.44.155

This section exempts all except the first \$5000 from the sales tax for motor vehicles, watercraft, aircraft, and mobile homes.

It would appear from the broad definition of motor vehicle in AS 28.40.100 that mobile mine equipment such as haul trucks, loaders, bulldozers are motor vehicles in the sense of this legislation.

We urge this interpretation.

Concerns in regard to Section 43.44.180. Exemption for a sale to a miner or manufacturer.

As drafted, this section seems of little benefit to miners, although the intent seems to be beneficial.

Capital items such as mills and refineries can cost into the 100s of millions dollar range—the cost of fixed plant greatly exceeds that of mobile equipment that is addressed in 43.44.155. Operating supplies, including reagents, are significant annual expenditures.

A three percent tax rate applied to major capital equipment could constitute a fatal defect to a project.

The association wishes the legislature to consider amended language which would exempt both capital equipment and supplies from mining (and manufacturing) operations.

The underlined section is offered for consideration as an amendment:

... (a) The sale of property to a purchaser engaged in the business of mining or manufacturing is exempt from the sales and use tax if the purchaser uses the property in the production of a commercially valuable product or if the purchaser incorporates the property as an ingredient or component part of the product in the business of mining and manufacturing.

Concern with taxation of trade and other associations formed for educational or other beneficial purposes, as in Section 43.44.095

The association is concerned that membership fees and related items would be taxable under this tax. As drafted, the act exempts organizations formed under US Revenue Code 501 (c) (3), as amended. It is proposed to extend this exemption to organizations formed under 501 (c) (6).

There appear to be other aspects of the legislation that will negatively affect our membership, but the present pace of action may preclude recognition of specific problems. An example of a specific problem to a small part of our membership concerns the sales of precious metals for investment purposes. Traditionally mark up on precious metals, taken in possession by a buyer, is very small, a point or so above the daily price. Unless such sales were exempted from the sales tax, buyers will go elsewhere and we will lose another segment of the mining industry in this state.

Conclusion: The legislature is to be commended on engaging in the politically difficult debate on taxation. We believe that attention to our issues is important to the success of the legislation, but that if time does not permit thorough deliberation, work should be continued in a special session or in the next regular seating of the legislature.