

ALASKA LEGISLATURE

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HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Alaska State Legislature

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May 13, 2003

Kathryn Kertz
Legislative Legal
Terry Miller Building
Juneau, Alaska 99801

Re: HB 293

Dear Kathryn:

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

Sincerely,

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

Cc: Rep. Whittaker
Rep. Hawker
Deputy Commissioner Persily

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MEMORANDUM

May 12, 2003

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

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

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

FROM: Kathryn L. Kurtz *KLK*
Legislative Counsel

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

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

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

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

KLK:lmb
03-200.lmb

Enclosure

Alaska State Legislature

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HB 293 State Sales Tax

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

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

Committee Members:

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

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

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

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

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

Committee Members:

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

Comparison of State and Local Retail Sales Taxes

January, 2003

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

[1] Food purchased for consumption off-premises.

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

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

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

** Food taxed at lower rate.

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

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

Statewide Sales Tax

What Do Other States Charge?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

How Much Would the State Raise from a Sales Tax?

The Department of Revenue estimates the state would collect approximately:

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

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

Is a Seasonal Sales Tax a Good Idea?

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

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

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

Who Would Pay the Tax?

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

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

What is the Nationwide Streamlined Sales and Use Tax Agreement?

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

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

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

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

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

What Other Issues Should be Considered?

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

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

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

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

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

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

Sales and Use Taxes
The Building Blocks

Policy Issues

What is the nature of a sales and use tax?

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

What is important in a good sales and use tax?

- Certainty.
- Simplicity.
- Fairness.

Why is it important?

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

What makes a good sales tax?

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

Technical Issues

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

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

2. To what extent are business inputs taxed?

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

3. What issues arise with common exemptions?

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

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

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

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

6. How will special sale situations be handled?

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

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

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

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

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



Streamlined Sales Tax Project

Executive Summary

March 2003

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

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 Kimmitt
Pennsylvania

Charlotte Quarles
Kentucky

Marshall Stranburg
Florida

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

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

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

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

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

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

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

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

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

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

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

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

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

The project website is www.streamlinedsalestax.org.

	NATIONAL CONFERENCE of STATE LEGISLATURES	Home	Members Log-in
		Press Room Contact/Ask NCSL Search Site map	

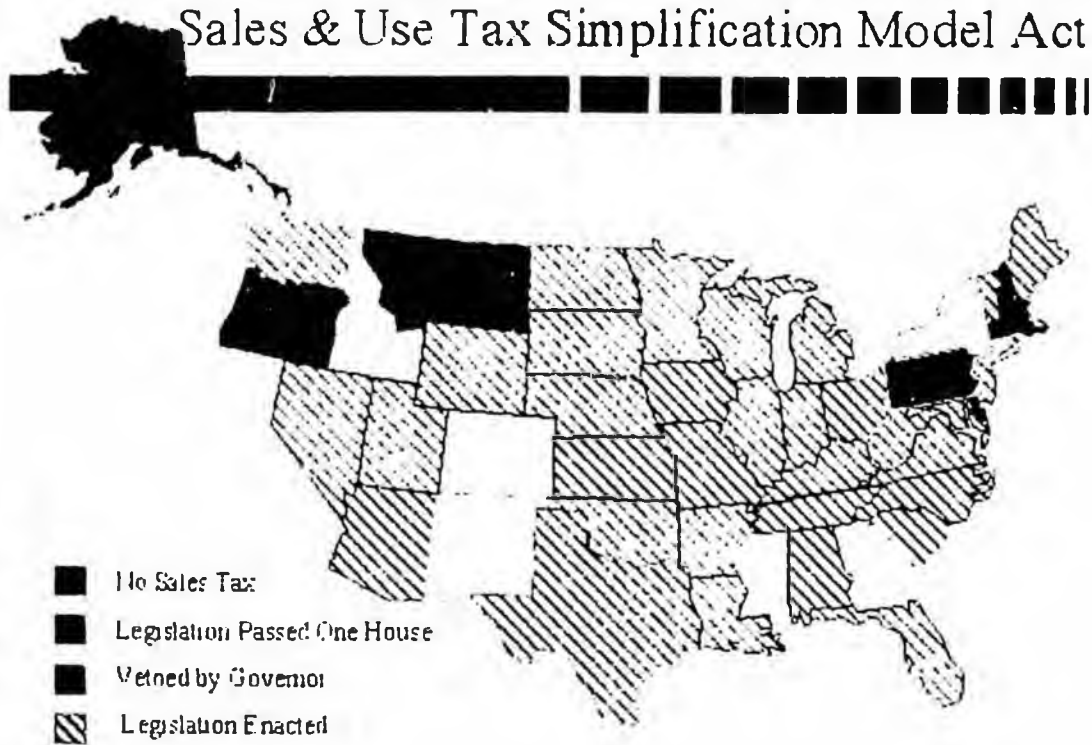
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Commerce and Communications Committee

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

HB

295

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 295
(H) Publish Date: 5/1/03

Revision Date/Time (Note if correction): _____ Dept. Affected: All
Title An Act relating to public notices BRU _____
Component _____
Sponsor Rules Committee
Requester Governor Component No. _____

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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

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

FUND SOURCE (Thousands of Dollars)

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

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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would result in savings from increased use of online public notices instead of newspaper advertisements. The amount of this savings is currently being researched and will be included in a revised fiscal note.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
Division OMB Date/Time 4/23/03 1:10 PM
Approved by: Cheryl Frasca, Director Date 4/23/2003
Agency OMB

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 295(STA)
 (H) Publish Date: 5/14/03

Revision Date/Time (Note if correction): 5/6/03 Dept. Affected: All
 Title An Act relating to the publishing and BRU
furnishing of certain public notices Component _____
 Sponsor Rules Committee
 Requester Governor Component No. _____

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						
Travel						
Contractual	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
 Division Office of Management and Budget Date/Time 5/6/03 10:53 AM
 Approved by: Jay Hogan, Deputy Director Date 5/6/2003
 Agency Office of Management and Budget

5-15-03
Amended 3-6

NEW
AMENDMENT

OFFERED IN HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE BERKOWITZ

TO: HB 295 (STA)

line 9 delete "the requirement" §
Page 1, lines 10 through 12 (Section 1)
Delete all material.

Page 4, lines 10 through 22 (Section 7)
Delete all material.

19
Page 5, lines 10 through ~~15~~ (Section ~~10~~ § 11)
Delete all material.

27
Page 6, line 21 through Page 7, line ~~23~~ (Section 16)
Delete all material.

23
Page 8, lines 13 through ~~17~~ (Section 19)
Delete all material.

Page 8, lines 25 through 29, (Section 20)
Delete all material.

Page 12, lines 23 through 28 (Section 26)
Delete all material.

Page 12, line 29 through Page 13, line 5 (Section 27)
Delete all material.

AMENDMENT

OFFERED IN HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE BERKOWITZ

TO: HB 295 (STA)

Page 1, lines 10 through 12 (Section 1)
Delete all material.

Page 4, lines 10 through 22 (Section 7)
Delete all material.

Page 5, lines 10 through 15 (Section 10)
Delete all material.

Page 6, line 21 through Page 7, line 13 (Section 16)
Delete all material.

Page 8, lines 13 through 23 (Section 19)
Delete all material.

Page 8, lines 25 through 29, (Section 20)
Delete all material.

Page 12, lines 23 through 28 (Section 26)
Delete all material.

Page 12, line 29 through Page 13, line 5 (Section 27)
Delete all material.

HB

295

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 09 2004
SENATE FINANCE
COMMITTEE

DATE: 5/18/03

FURTHER:

DATE TURNED IN TO OFFICE: 9 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 295(STA) am

HB 295 REGULATIONS: NOTICE AND DISTRIBUTION

"An Act relating to the publishing, furnishing, and contents of certain notices regarding regulations or rules of certain state agencies and entities; relating to distribution of the Alaska Administrative Code, Alaska Administrative Register, and supplements to the code or register; and providing for an effective date."

and recommends:

- be replaced with S CS CS HB 295 (FIN)
- adopt previous CS CS forthcoming ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
fiscal note forthcoming				

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>		✓		
<i>[Signature]</i>		✓		
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			

Draft - Prepared on draft CS

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCSCSHB 295(Fin)
 () Publish Date: _____

Revision Date/Time (Note if correction): 4/28/04 Correction Dept. Affected: All
 Title An Act relating to the publishing and BRU _____
furnishing of certain public notices Component _____
 Sponsor Rules Committee
 Requester Senate Finance Committee Component No. _____

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						
Travel						
Contractual	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)

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

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

FUND SOURCE (Thousands of Dollars)

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

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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases. Estimated savings are lower than in the original version of HB 295 because agencies have reduced their public notice expenditures in the last year, and because of changes in the current version of the bill.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
 Division Office of Management and Budget Date/Time 4/28/04 8:12 AM
 Approved by: Cheryl Frasca, Director Date 4/28/2004
 Agency Office of Management and Budget

23-GH1145V
Bannister
4/1/04

SENATE CS FOR CS FOR HOUSE BILL NO. 295(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to the publishing, furnishing, and contents of certain notices regarding
2 regulations or rules of certain state agencies and entities; relating to distribution of the
3 Alaska Administrative Code, Alaska Administrative Register, and supplements to the
4 code or register; and providing for an effective date."

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

6 * Section 1. AS 06.26.900(2) is amended to read:
7 (2) in addition to other authority in this chapter to adopt regulations,
8 adopt regulations necessary to interpret and implement this chapter, including
9 regulations providing for the retention and preservation of records; the requirement
10 of AS 44.62.190(a)(7) for newspaper or other publication of a notice of proposed
11 action does not apply to a notice for regulations proposed to be adopted under
12 this chapter;

13 * Sec. 2. AS 09.25.510 is amended by adding a new subsection to read:
14 (d) The requirement of AS 44.62.190(a)(7) for newspaper publication of a

1 notice of proposed action does not apply to a notice for regulations proposed to be
2 adopted by the lieutenant governor or a state agency under this section.

3 * Sec. 3. AS 14.25.022(c) is amended to read:

4 (c) At least 30 days before the adoption, amendment, or repeal of a regulation
5 under this chapter, the Alaska Teachers' Retirement Board shall provide notice of the
6 action that is being considered. The notice shall be

7 (1) posted in public buildings throughout the state;

8 (2) published in a newspaper [ONE OR MORE NEWSPAPERS] of
9 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

10 (3) furnished [MAILED] to each person or group that has filed a
11 request for notice of proposed action with the Alaska Teachers' Retirement Board; and

12 (4) furnished to each member of the legislature and to the Legislative
13 Affairs Agency.

14 * Sec. 4. AS 14.25.022(d) is amended to read:

15 (d) Notwithstanding (c)(3) of this section, if a person who is to receive a
16 notice under (c) of this section requests that the Alaska Teachers' Retirement
17 Board mail the notice, the Alaska Teachers' Retirement Board shall furnish the
18 notice to the person by mail. Failure to furnish [MAIL] notice to a person as
19 required under this subsection or (c)(3) of this section does not invalidate an action
20 taken by the Alaska Teachers' Retirement Board.

21 * Sec. 5. AS 14.40.871(d) is amended to read:

22 (d) Except as provided in (e) of this section, at least 15 days before the
23 adoption of a regulation, the corporation shall give public notice of the proposed
24 action by publishing the notice in [AT LEAST] three newspapers of general
25 circulation in the state and by furnishing [MAILING] a copy of the notice to every
26 person who has filed a request for notice of proposed regulations with the corporation.
27 If a person who is to receive a notice under this subsection requests that the
28 corporation mail the notice, the corporation shall furnish the notice to the person
29 by mail. The public notice must include a statement of the time, place, and nature of
30 the proceedings for the adoption of the regulation, a brief general description [AND
31 MUST INCLUDE AN INFORMATIVE SUMMARY] of the subject of the proposed

1 action, and a statement of how more detailed information can be obtained. On the
2 date and at the time and place designated in the notice, the corporation shall give each
3 interested person or an authorized representative of the person, or both, the
4 opportunity to present statements, arguments, or contentions orally or in writing and
5 shall give members of the public an opportunity to present oral statements, arguments,
6 or contentions for a total period of at least one hour. The corporation shall consider all
7 relevant matter presented to it before taking the proposed action on the regulation. At
8 a hearing under this subsection, the corporation may continue or postpone the hearing
9 to a time and place determined by the corporation and announced at the hearing before
10 taking the action to continue or postpone the hearing. A regulation adopted by the
11 corporation may vary from the brief general description [INFORMATIVE
12 SUMMARY] specified in this subsection if the subject matter of the action taken on
13 the regulation remains the same and if the original notice of the proposed action was
14 written so as to assure that members of the public are reasonably notified of the
15 subject matter of the proposed action in order for them to determine whether their
16 interests could be affected by the corporation's proposed action on that subject.

17 * Sec. 6. AS 18.56.088(d) is amended to read:

18 (d) Except as provided in (e) of this section, at least 15 days before the
19 adoption, amendment, or repeal of a regulation on a subject specified in (c)(1) - (4) of
20 this section, the board shall give public notice of the proposed action by publishing the
21 notice in [AT LEAST] three newspapers of general circulation in the state and by
22 furnishing [MAILING] a copy of the notice to every person who has filed a request
23 for notice of proposed regulations with the board or the corporation. If a person who
24 is to receive a notice under this subsection requests that the board mail the
25 notice, the board shall furnish the notice to the person by mail. The public notice
26 must include a statement of the time, place, and nature of the proceedings for the
27 adoption, amendment, or repeal of the regulation, a brief general description [AND
28 MUST INCLUDE AN INFORMATIVE SUMMARY] of the proposed subject of the
29 regulation, and a statement of how more detailed information can be obtained.
30 On the date and at the time and place designated in the notice, the board shall give
31 each interested person or an authorized representative, or both, the opportunity to

1 present statements, arguments, or contentions in writing, and shall give members of
2 the public an opportunity to present oral statements, arguments, or contentions for a
3 total period of at least one hour. The board shall consider all relevant matter presented
4 to it before adopting, amending, or repealing a regulation. At a hearing under this
5 subsection, the board may continue or postpone the hearing to a time and place that it
6 determines. A regulation that is adopted, or its amendment or repeal, may vary in
7 content from the **brief general description** [INFORMATIVE SUMMARY] specified
8 in this subsection if the subject matter of the regulation, or its amendment or repeal,
9 remains the same and the original notice was written so as to assure that members of
10 the public are reasonably notified of the proposed subject of the board's action in order
11 for them to determine whether their interests could be affected by the board's action on
12 that subject.

13 * Sec. 7. AS 21.06.090(a) is amended to read:

14 (a) The director may adopt reasonable regulations to effectuate this title. **The**
15 **requirement of AS 44.62.190(a)(7) for newspaper or other publication of a notice**
16 **of proposed action does not apply to a notice for regulations proposed to be**
17 **adopted under this title.** A regulation may not extend, modify, or conflict with any
18 law of this state or the reasonable implications thereof. Except for regulations adopted
19 under AS 21.06.250, a regulation affecting a person or matter other than the personnel
20 or the internal affairs of the director's office shall be adopted or amended only after a
21 hearing, of which notice was given as required by AS 21.06.200. If reasonably
22 possible, the director shall set out the proposed regulation or amendment in or with the
23 notice of hearing. A regulation or amendment as to which a hearing is required is not
24 effective until it has been on file as a public record in the director's office for at least
25 10 days.

26 * Sec. 8. AS 22.25.027(c) is amended to read:

27 (c) At least 30 days before the adoption, amendment, or repeal of a regulation
28 under this chapter, the commissioner of administration shall provide notice of the
29 action that is being considered. The notice shall be

30 (1) posted in public buildings throughout the state;

31 (2) published in **a newspaper** [ONE OR MORE NEWSPAPERS] of

1 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

2 (3) furnished [MAILED] to each person or group that has filed a
3 request for notice of proposed action with the commissioner of administration; and

4 (4) furnished to each member of the legislature and to the Legislative
5 Affairs Agency.

6 * Sec. 9. AS 22.25.027(d) is amended to read:

7 (d) Notwithstanding (c)(3) of this section, if a person who is to receive a
8 notice under (c)(3) of this section requests that the commissioner of
9 administration mail the notice, the commissioner of administration shall furnish
10 the notice to the person by mail. Failure to furnish [MAIL] notice to a person as
11 required under this subsection or (c)(3) of this section does not invalidate an action
12 taken by the commissioner of administration.

13 * Sec. 10. AS 31.05.030(c) is amended to read:

14 (c) The commission shall adopt regulations and orders and take other
15 appropriate action to carry out the purposes of this chapter. The requirement of
16 AS 44.62.190(a)(7) for newspaper or other publication of a notice of proposed
17 action does not apply to a notice for regulations proposed to be adopted under
18 this chapter, including regulations under AS 31.05.040.

19 * Sec. 11. AS 39.25.140(c) is amended to read:

20 (c) At least 30 days before the adoption, amendment, or repeal of a personnel
21 rule, the secretary to the personnel board shall provide notice that the personnel board
22 has the proposed action under consideration. The notice shall be

23 (1) posted in public buildings throughout the state;

24 (2) posted on the Alaska Online Public Notice System
25 (AS 44.62.175) [PUBLISHED IN ONE OR MORE NEWSPAPERS OF GENERAL
26 CIRCULATION THROUGHOUT THE STATE];

27 (3) furnished [MAILED] to each person or group that filed a request
28 for notice of proposed action with the secretary to the personnel board;

29 (4) furnished to each member of the legislature and to the Legislative
30 Affairs Agency.

31 * Sec. 12. AS 39.25.140(f) is amended to read:

1 (f) Failure to furnish [MAIL] notice to a person as required in this section
2 does not invalidate an action taken by the personnel board.

3 * Sec. 13. AS 39.35.042(c) is amended to read:

4 (c) At least 30 days before the adoption, amendment, or repeal of a regulation
5 under this chapter, the board shall provide notice of the action that is being considered.

6 The notice shall be

7 (1) posted in public buildings throughout the state;

8 (2) published in a newspaper [ONE OR MORE NEWSPAPERS] of
9 general circulation in [EACH JUDICIAL DISTRICT OF] the state;

10 (3) furnished [MAILED] to each person or group that has filed a
11 request for notice of proposed action with the board; and

12 (4) furnished to each member of the legislature and to the Legislative
13 Affairs Agency.

14 * Sec. 14. AS 39.35.042(d) is amended to read:

15 (d) Notwithstanding (c)(3) of this section, if a person who is to receive a
16 notice under (c)(3) of this section requests that the board mail the notice, the
17 board shall furnish the notice to the person by mail. Failure to furnish [MAIL]
18 notice to a person as required under this subsection or (c)(3) of this section does not
19 invalidate an action taken by the board.

20 * Sec. 15. AS 42.06.140(a) is amended to read:

21 (a) The commission

22 (1) shall regulate pipelines and pipeline carriers in the state;

23 (2) may investigate upon complaint or its own motion, the rates,
24 classifications, rules, regulations, prices, services, practices, and facilities of pipeline
25 carriers, and the performance of obligations under and compliance with the terms of
26 leases issued by the state;

27 (3) may make, prescribe, or require just, fair, and reasonable rates,
28 classifications, regulations, practices, services, and facilities for pipeline carriers;

29 (4) may require pipeline carriers and affiliated interests to file with the
30 commission reports and other information and data required or permitted to be
31 required by other provisions of this chapter;

1 (5) may adopt regulations that are necessary and proper to the
2 performance of its duties under this chapter, including regulations governing practices
3 and procedures of the commission; the regulations may not be inconsistent with state
4 law; the requirement of AS 44.62.190(a)(7) for newspaper or other publication of
5 a notice of proposed action does not apply to a notice for regulations proposed to
6 be adopted under this chapter;

7 (6) shall, during normal business hours, have access to and may
8 designate any of its employees, agents, or consultants to inspect and examine the
9 accounts, financial and property records, books, maps, inventories, appraisals,
10 valuations, and related reports kept by a pipeline carrier, or kept for it by others, that
11 directly affect the interests of the state and directly relate to pipelines located in the
12 state;

13 (7) may initiate, intervene in, and appear personally or by counsel and
14 offer evidence in and participate in, any proceedings involving a pipeline carrier, and
15 affecting the interests of the state, before any officer, department, board, commission,
16 or court of this state;

17 (8) shall require permits for the construction, enlargement in size or
18 operating capacity, extension, connection and interconnection, operation, or
19 abandonment of any oil or gas pipeline facility or facilities, subject to necessary and
20 reasonable terms, conditions, and limitations;

21 (9) may prescribe the system of accounts and regulate the service of an
22 oil or gas pipeline facility;

23 (10) shall provide all reasonable assistance to the Department of Law
24 in intervening in, offering evidence in, and participating in proceedings involving a
25 pipeline carrier or affiliated interest and affecting the interests of the state, before an
26 officer, department, board, commission, or court of another state or the United States.

27 * Sec. 16. AS 42.40.180(a) is amended to read:

28 (a) The board shall adopt rules to carry out its functions and the purposes of
29 this chapter, including rules to safeguard property owned, managed, or transported by
30 the corporation and to protect employees and persons using the corporation's property
31 or services. At least 15 days before the adoption of a rule, the board shall give public

1 notice of the proposed action by publishing a notice in [AT LEAST] three newspapers
2 of general circulation in the state and by furnishing [MAILING] a copy of the notice
3 to each person who has requested notice of proposed changes to rules. The notice
4 must include a statement of [STATE] the time, place, and nature of the proceedings,
5 [AND MUST CONTAIN] a brief general description [SUMMARY] of the subject
6 of the proposed rule, and a statement of how more detailed information can be
7 obtained.

8 * Sec. 17. AS 42.40.180(c) is amended to read:

9 (c) The board shall consider all relevant matters presented to it before
10 adopting a rule. The board may take action on a rule that varies in content from the
11 brief general description specified in (a) of this section [SUMMARY PROVIDED
12 WITH THE NOTICE OF THE PROPOSED RULE] if the subject of the rule was
13 reflected in the brief general description [SUMMARY] and the brief general
14 description [IT] provided reasonable notice to members of the public as to whether
15 their interests could be affected by the board's action on that subject.

16 * Sec. 18. AS 42.40.200(a) is amended to read:

17 (a) If a person who is to receive a notice under AS 42.40.180(a) or
18 42.40.190(a) requests that the board mail the notice, the board shall furnish the
19 notice to the person by mail. Failure to furnish [MAIL] notice to a person under
20 this subsection. AS 42.40.180(a)₂ or 42.40.190(a) does not invalidate an action taken
21 by the board.

22 * Sec. 19. AS 43.20.160(c) is amended to read:

23 (c) The department shall prescribe and furnish all necessary forms, and adopt
24 and publish all necessary regulations in plain and concise language conformable with
25 this chapter for the assessment and collection of the taxes imposed by this chapter.
26 The department shall apply as far as practicable the administrative and judicial
27 interpretations of the federal income tax law. The department shall also prepare a
28 concise statement of the contents of the code sections referred to in this chapter for the
29 information of the taxpayer and make them available to the taxpayer making a return.
30 The requirement of AS 44.62.190(a)(7) for newspaper or other publication of a
31 notice of proposed action does not apply to a notice for regulations proposed to

1 be adopted to administer AS 43.20.072.

2 * Sec. 20. AS 43.56.200 is amended to read:

3 Sec. 43.56.200. Regulations. The board and the department may adopt
4 regulations under AS 44.62 (Administrative Procedure Act) as appropriate to carry out
5 their respective duties under this chapter. The requirement of AS 44.62.190(a)(7)
6 for newspaper or other publication of a notice of proposed action does not apply
7 to a notice for regulations proposed to be adopted under this section.

8 * Sec. 21. AS 44.62.140 is amended to read:

9 Sec. 44.62.140. Distribution of code and register. Upon the request of the
10 clerk of a local government unit for a paper or an electronic copy of [THE
11 LIEUTENANT GOVERNOR SHALL SUPPLY] a complete set of the Alaska
12 Administrative Code, and of the Alaska Administrative Register, and of each
13 supplement to the code or register, and payment of the costs described in (b) of this
14 section, the lieutenant governor shall supply the requested copy to the clerk of the
15 [EACH] local government unit, or, if the authority to accept filings is delegated, to the
16 person to whom this authority is delegated.

17 * Sec. 22. AS 44.62.140 is amended by adding a new subsection to read:

18 (b) Upon receipt of a request under (a) of this section, the lieutenant governor
19 shall inform the requesting clerk of the costs, including mailing costs, of complying
20 with the local government unit's request.

21 * Sec. 23. AS 44.62.190(a) is amended to read:

22 (a) At least 30 days before the adoption, amendment, or repeal of a regulation,
23 a state agency

24 (1) shall post a notice of the proposed action [SHALL BE (1)
25 PUBLISHED IN THE NEWSPAPER OF GENERAL CIRCULATION OR TRADE
26 OR INDUSTRY PUBLICATION THAT THE STATE AGENCY PRESCRIBES
27 AND POSTED] on the Alaska Online Public Notice System; [IN THE DISCRETION
28 OF THE STATE AGENCY GIVING THE NOTICE, THE REQUIREMENT OF
29 PUBLICATION IN A NEWSPAPER OR TRADE OR INDUSTRY PUBLICATION
30 MAY BE SATISFIED BY USING A COMBINATION OF PUBLICATION AND
31 BROADCASTING; WHEN BROADCASTING THE NOTICE, AN AGENCY MAY

1 USE AN ABBREVIATED FORM OF THE NOTICE IF THE BROADCAST
2 PROVIDES THE NAME AND DATE OF THE NEWSPAPER OR TRADE OR
3 INDUSTRY JOURNAL AND THE INTERNET ADDRESS OF THE ALASKA
4 ONLINE PUBLIC NOTICE SYSTEM WHERE THE FULL TEXT OF THE
5 NOTICE CAN BE FOUND;]

6 (2) shall furnish the notice of the proposed action [FURNISHED] to
7 every person who has filed a request for notice of proposed action with the state
8 agency;

9 (3) shall, if the agency is within a department, furnish the notice of
10 the proposed action [FURNISHED] to the commissioner of the department;

11 (4) shall, when appropriate in the judgment of the agency,

12 (A) furnish the notice of the proposed action [FURNISHED]
13 to a person or group of persons whom the agency believes is interested in the
14 proposed action; and

15 (B) publish the notice of the proposed action [PUBLISHED]
16 in the additional form and manner the state agency prescribes;

17 (5) shall furnish the notice of the proposed action [FURNISHED] to
18 the Department of Law together with a copy of the proposed regulation, amendment,
19 or order of repeal for the department's use in preparing the opinion required after
20 adoption and before filing by AS 44.62.060;

21 (6) shall furnish the notice of the proposed action [FURNISHED]
22 by electronic format, if the state agency has the technological capability, to all
23 incumbent State of Alaska legislators, and furnish the notice [FURNISHED] to the
24 Legislative Affairs Agency; if the state agency does not have the technological
25 capability to furnish the notice by electronic format to the legislators, the state agency
26 shall furnish the notice to the legislators by other means;

27 (7) shall publish an abbreviated form of the notice of the proposed
28 action in a newspaper of general circulation or trade or industry publication that
29 the state agency giving the notice prescribes; and

30 (8) may broadcast an abbreviated form of the notice of the
31 proposed action.

1 * **Sec. 24.** AS 44.62.200 is repealed and reenacted to read:

2 **Sec. 44.62.200. Contents of notice.** (a) The notice of proposed adoption,
3 amendment, or repeal of a regulation that is posted on the Alaska Online Public Notice
4 System and that is furnished under AS 44.62.190(a)(2) - (6) must include

5 (1) a statement of the time, place, and nature of proceedings for
6 adoption, amendment, or repeal of the regulation;

7 (2) reference to the authority under which the regulation is proposed
8 and a reference to the particular code section or other provisions of law that are being
9 implemented, interpreted, or made specific;

10 (3) an informative summary of the proposed subject of agency action;

11 (4) other matters prescribed by a statute applicable to the specific
12 agency or to the specific regulation or class of regulations; and

13 (5) a summary of the fiscal information required to be prepared under
14 AS 44.62.195.

15 (b) The abbreviated form of the notice of proposed action that is published in a
16 newspaper of general circulation or trade or industry publication, or that is broadcast,
17 under AS 44.62.190(a)(7) or (8) must include

18 (1) a statement of the time, place, and nature of the proceedings for
19 adoption, amendment, or repeal of the regulation;

20 (2) a reference to the particular code section or other provisions of law
21 that are being implemented, interpreted, or made specific;

22 (3) a brief general description of the proposed subject of agency
23 action; and

24 (4) a statement of how more detailed information may be obtained,
25 including

26 (A) the Internet address of the Alaska Online Public Notice
27 System where the full text of the notice of proposed action can be found; and

28 (B) the name, telephone number, and electronic and mailing
29 addresses of the contact person for the state agency through whom a person
30 may request a copy of the full text of the notice of, or submit comments on, the
31 proposed action.

1 (c) A regulation that is adopted, amended, or repealed may vary in content
2 from the summary specified in (a)(3) of this section, or the brief general description
3 specified in (b)(3) of this section, if the subject matter of the regulation remains the
4 same and the original notice was written so as to assure that members of the public are
5 reasonably notified of the proposed subject of agency action in order for them to
6 determine whether their interests could be affected by agency action on that subject.

7 * Sec. 25. AS 44.88.085(d) is amended to read:

8 (d) Except as provided in (e) of this section, at least 15 days before the
9 adoption, amendment, or repeal of a regulation, the authority shall give public notice
10 of the proposed action by publishing the notice in [AT LEAST] three newspapers of
11 general circulation in the state and by furnishing [MAILING] a copy of the notice to
12 every person who has filed a request for notice of proposed regulations with the
13 authority. If a person who is to receive a notice under this subsection requests
14 that the authority mail the notice, the authority shall furnish the notice to the
15 person by mail. The public notice must include a statement of the time, place, and
16 nature of the proceedings for the adoption, amendment, or repeal of the regulation, a
17 brief general description [AND MUST INCLUDE AN INFORMATIVE
18 SUMMARY] of the subject of the proposed action, and a statement of how more
19 detailed information can obtained. On the date and at the time and place designated
20 in the notice, the authority shall give each interested person or an authorized
21 representative of the person, or both, the opportunity to present statements, arguments,
22 or contentions orally or in writing and shall give members of the public an opportunity
23 to present oral statements, arguments, or contentions for a total period of at least one
24 hour. The authority shall consider all relevant matter presented to it before taking the
25 proposed action on the regulation. At a hearing under this subsection, the authority
26 may continue or postpone the hearing to a time and place determined by the authority
27 and announced at the hearing before taking the action to continue or postpone the
28 hearing. A regulation adopted, amended, or repealed by the authority may vary from
29 the brief general description [INFORMATIVE SUMMARY] specified in this
30 subsection if the subject matter of the action taken on the regulation remains the same
31 and if the original notice of the proposed action was written so as to assure that

1 members of the public are reasonably notified of the subject matter of the proposed
2 action in order for them to determine whether their interests could be affected by the
3 authority's proposed action on that subject.

4 * **Sec. 26.** AS 45.55.960 is amended to read:

5 **Sec. 45.55.960. Administrative Procedure Act applies.** AS 44.62
6 (Administrative Procedure Act) applies to all regulations adopted or authorized under
7 this chapter, except that the requirement of AS 44.62.190(a)(7) for newspaper or
8 other publication of a notice of proposed action does not apply to a notice for
9 regulations proposed to be adopted under this chapter.

10 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 **APPLICABILITY.** The changes made by this Act do not apply to the adoption,
13 amendment, or repeal of an agency regulation or rule unless notice of the proposed adoption,
14 amendment, or repeal is first provided to the public in accordance with law on or after the
15 effective date of this Act.

16 * **Sec. 28.** This Act takes effect immediately under AS 01.10.070(c).



Alaska State Senate

Senate Finance Committee

Official Business

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 9 May 2004 TIME: 1:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

SCS CS HB 295 (FIN)

23-GH 1145 \ I Bennister

4/1/04

no changes ☺

Thanks

Mindy

LEGAL SERVICES

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

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

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

MEMORANDUM

April 9, 2004

SUBJECT: SCS CSHB 295(FIN) relating to state agency notices and other matters (Work Order No. 23-GH1145VI)

TO: Senator Gary Wilken
Co-Chair, Senate Finance Committee
Attn: Sheila

FROM: ^{AB} Theresa L. Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. With regard to the powers of the Department of Community and Economic Development to adopt regulations under the Revised Alaska Trust Company Act, states that an Administrative Procedure Act publication requirement doesn't apply to a notice for regulations proposed under the Act.

Section 2. With regard to electronic records and signatures, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed under the section.

Section 3. With regard to regulations adopted by the Alaska Teachers' Retirement Board, changes the newspaper publication requirement. Changes the mailing requirement to a requirement to furnish the notice.

Section 4. With regard to regulations adopted by the Alaska Teachers' Retirement Board, requires that a notice be mailed under some circumstances. Makes some conforming changes.

Section 5. With regard to regulations adopted by the Alaska Aerospace Development Corporation, changes the notice publication requirement, changes the mailing requirement to a requirement to furnish the notice, requires that a notice be mailed under some circumstances, and changes the content of the public notice.

Section 6. With regard to regulations adopted by the Alaska Housing Finance Corporation, changes the notice publication requirement, changes the mailing

requirement to a requirement to furnish the notice, requires that a notice be mailed under some circumstances, and changes the content of the public notice.

Section 7. With regard to the regulations adopted by the director of the division of insurance, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed to be adopted under AS 21, the insurance title.

Section 8. With regard to the regulations adopted by the commissioner of administration to implement the chapter on judicial retirement and death benefits, changes the newspaper publication requirement. Changes the mailing requirement to a requirement to furnish the notice.

Section 9. With regard to the regulations adopted by the commissioner of administration to implement the chapter on judicial retirement and death benefits, requires that a notice be mailed under some circumstances. Makes some conforming changes.

Section 10. With regard to the regulations adopted by the Alaska Oil and Gas Conservation Commission, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed under AS 31.05, the Alaska Oil and Gas Conservation Act.

Section 11. With regard to the adoption of personnel rules under the State Personnel Act, changes the notice publication requirement to posting on the Alaska Online Public Notice System and changes the mailing requirement to a requirement to furnish the notice.

Section 12. With regard to the adoption of personnel rules under the State Personnel Act, makes a conforming change.

Section 13. With regard to regulations adopted by the Public Employees Retirement Board, changes the newspaper publication requirement for the notice and changes the mailing requirement to a requirement to furnish the notice.

Section 14. With regard to regulations adopted by the Public Employees Retirement Board, requires that a notice be mailed under some circumstances and makes some conforming changes.

Section 15. With regard to the adoption of regulations by the Regulatory Commission of Alaska under the Pipeline Act chapter, states that an Administrative Procedure Act publication requirement doesn't apply to a regulation proposed under that chapter.

Section 16. With regard to the adoption of rules by the board of directors of the Alaska Railroad Corporation, changes the notice publication requirement, changes the mailing requirement to a requirement to furnish the notice, and changes the content of the notice.

Section 17. With regard to the adoption of rules by the board of directors of the Alaska Railroad Corporation, allows a rule to vary from the description in the notice if the subject was reflected in description and the description provided reasonable notice to the public.

Section 18. With regard to the adoption of rules by the board of directors of the Alaska Railroad Corporation, requires that a notice be mailed under some circumstances and makes some conforming changes.

Section 19. With regard to the adoption of regulations by the Department of Revenue under the Alaska Net Income Tax Act, as that act relates to oil and gas producers and pipelines, states that an Administrative Procedure Act publication requirement doesn't apply to notices for the proposed regulations.

Section 20. With regard to regulations adopted by the State Assessment Review Board and the Department of Revenue to carry out their duties under the chapter on oil and gas exploration, production, and pipeline transportation property taxes, states that an Administrative Procedure Act publication requirement doesn't apply to a notice for proposed regulations.

Section 21. In the Administrative Procedure Act, directs the lieutenant governor to provide, upon request and payment of certain costs, a set of the Alaska Administrative Code and the Alaska Administrative Register (and supplements) to local government units.

Section 22. In the Administrative Procedure Act, directs the lieutenant governor, upon request, to inform the requesting local government clerk of the costs of complying with a request for a copy of the Alaska Administrative Code and the Alaska Administrative Register.

Section 23. With regard to the adoption of regulations under the Administrative Procedure Act, directs a state agency to post a notice of the proposed action on the Alaska Online Public Notice System and makes various changes to the other notice requirements.

Section 24. Establishes what a notice of the proposed adoption, amendment, or repeal of a regulation posted on the Alaska Online Public Notice System and furnished under certain provisions, must contain. Establishes what the abbreviated form of a published or broadcast notice must contain. Allows a final regulation action to vary from the required summary or brief general description if the subject matter remains the same and there was reasonable notice to the public

Section 25. With regard to regulations adopted by the Alaska Industrial Development and Export Authority, changes the notice publication requirement, changes the mailing

Senator Gary Wilken
April 9, 2004
Page 4

requirement to a requirement to furnish the notice, requires that a notice be mailed under some circumstances, and changes the content of the public notice.

Section 26. With regard to regulations adopted under the Alaska Securities Act, states that an Administrative Procedure Act publication requirement doesn't apply to a notice for a regulation proposed under that Act.

Section 27. Provides a transition section. Indicates to which regulations and rules this Act applies.

Section 28. Gives this Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:mdr
04-145.mdr

Draft - Prepared on draft CS

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCSCSHB 295(Fin)
() Publish Date: _____

Revision Date/Time (Note if correction): 4/28/04 Correction Dept. Affected: All
Title An Act relating to the publishing and BRU _____
furnishing of certain public notices Component _____
Sponsor Rules Committee
Requester Senate Finance Committee Component No. _____

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						
Travel						
Contractual	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)	(123.1)

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

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

FUND SOURCE (Thousands of Dollars)

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

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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases. Estimated savings are lower than in the original version of HB 295 because agencies have reduced their public notice expenditures in the last year, and because of changes in the current version of the bill.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
Division: Office of Management and Budget Date/Time 4/28/04 8:12 AM
Approved by: Cheryl Frasca, Director Date 4/28/2004
Agency: Office of Management and Budget

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 295(STA)
 (H) Publish Date: 5/14/03

Revision Date/Time (Note if correction): 5/6/03 Dept. Affected: All
 Title An Act relating to the publishing and BRU _____
furnishing of certain public notices Component _____
 Sponsor Rules Committee Component No. _____
 Requester Governor

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPEND. JRES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)	(258.0)

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

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

FUND SOURCE (Thousands of Dollars)

100? Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would result in reduced costs for newspaper advertising by state agencies for public notices related to state regulations. The savings shown above are an approximate estimate for all state agencies, and are comprised of a mix of general funds and other fund sources. These savings will be utilized by agencies to absorb various budget reductions and cost increases.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
 Division: Office of Management and Budget Date/Time 5/6/03 10:53 AM
 Approved by: Jay Hogan, Deputy Director Date 5/6/2003
 Agency: Office of Management and Budget

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 295
 (H) Publish Date: 5/1/03

Revision Date/Time (Note if correction): _____ Dept. Affected: All
 Title An Act relating to public notices BRU _____
 Component _____
 Sponsor Rules Committee
 Requester Governor Component No. _____

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						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

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

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

FUND SOURCE (Thousands of Dollars)

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

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						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would result in savings from increased use of online public notices instead of newspaper advertisements. The amount of this savings is currently being researched and will be included in a revised fiscal note.

Prepared by: Jack Kreinheder, Senior Analyst Phone 465-4676
 Division: OMB Date/Time 4/23/03 1:10 PM
 Approved by: Cheryl Frasca, Director Date 4/23/2003
 Agency: OMB

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB295
P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

April 30, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott: *Pete*

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to change the Alaska Administrative Procedure Act and make other statutory improvements to provide for better and more cost-effective notice of regulatory changes.

First, the bill would allow certain state agencies to publish, in a newspaper or other publication, an abbreviated notice of proposed regulatory changes that clearly describes the changes and how an interested person may obtain more detailed information through the Internet or in written form. Second, the bill also would amend a variety of state statutes to allow agencies the flexibility of sending out individual notices by means other than regular mail. This change would make these newspaper publication requirements consistent with the provision in the Administrative Procedure Act, that notice need be published in only one newspaper of general circulation in the state.

Under the Administrative Procedure Act, public notice of changes to regulations must be published in a newspaper of general circulation or other specified type of publication. This notice is to include an informative summary of the changes, which has been interpreted to require a comprehensive description. In practice this results in lengthy notices, usually in the classified advertisement section of the newspapers, that are expensive and often difficult to understand.

This bill would change this practice to allow for a more abbreviated notice in newspapers or other publications, clearly describing the subject matter of the changes and directing interested persons to more detailed information sources. Recognizing the utility and efficiency of the Internet, the bill requires detailed information on the changes to be available on the Alaska Online Public Notice System. Also, recognizing that the Internet is not available to all citizens, the bill would provide that detailed information be

made available to interested persons by other means, if requested. Thus, the bill would allow state agencies to use the Internet to improve communications regarding regulatory changes, while still providing notice for those who do not yet have the access or ability to use the Internet.

The bill also would change statutory notice provisions for specific government entities to allow for the flexibility to use methods of communication other than regular mail in providing public notice of regulation or rule changes. There is a provision that notices shall be delivered by mail, upon request. This flexible approach was put into place in 2000 for regulations under the Administrative Procedure Act, and has proven effective. The changes in this bill would simply extend that flexibility to certain named state agencies. In addition, the bill would amend the statutes relating to publication of newspaper notices to make it consistent with the requirement in the Administrative Procedure Act that notice be published in a single newspaper of general circulation. The governmental entities affected by these changes include the Alaska Teachers' Retirement Board, Alaska Aerospace Development Corporation, Alaska Railroad Corporation, Alaska Housing Finance Corporation, Department of Administration, Public Employees' Retirement Board, and the Alaska Industrial Development and Export Authority.

This bill also excludes specific government entities from having to publish an abbreviated notice in a newspaper or other publication relating to topics of concern to larger institutions and groups that have the ability to or already regularly communicate with the state through electronic means. These statutes include such areas as the Alaska Securities Act, the Alaska Trust Company Act, oil and gas leasing, state personnel rules, certifying authority for an electronic signature, Medicaid rate setting for facilities, and the Pipeline Act. When adopting regulations or rules under these specific statutes, the government agencies would continue to post the notice on the Alaska Online Public Notice System and furnish the notice to interested parties and other government entities, but would not be required to publish the abbreviated notice. The government entities affected by these changes include the lieutenant governor, Department of Administration, Department of Revenue, Department of Health and Social Services, State Assessment Review Board, Alaska Oil and Gas Conservation Commission, Department of Natural Resources, Department of Community and Economic Development, and the Regulatory Commission of Alaska.

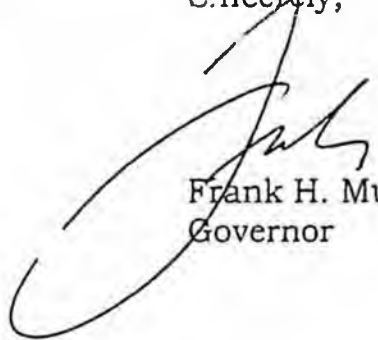
The changes to public notice procedures made by the bill would be applicable to public notices issued on or after the effective date of the Act.

The Honorable Pete Kott
April 30, 2003
Page 3

Lastly, this bill would amend the requirement for the lieutenant governor, at state expense, to supply a complete set of the Alaska Administrative Code, the Alaska Administrative Register, and each supplement to the code or register to the clerk of each local government unit. This bill allows local government units' clerks to request a paper or electronic copy of the publications, and would require payment for the requested copy. Because electronic access to the Alaska Administrative Code is currently available through the legislature's website, and through links to that website found on various state agency websites, local governments still would have a "no-cost" option for access to the information.

I urge your prompt consideration and passage of this bill.

Sincerely,



Frank H. Murkowski
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 295-REGULATIONS: NOTICE AND DISTRIBUTION

NAME: JACK KREINHEDER Subject/Bill No: _____
Co./Dept./Title: OMB Phone: X 4676
Address: _____ Zip: _____
Do you wish to testify? ___Yes ___No Respond To Questions Fiscal Note

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

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

HB

296

HFIN

FILE

- HB 296 : ANGDA

- Sponsor Substitute HB 296 • Croft

- Amendment (DOR)

* makes an appropriation GF : \$ 2,150,000

Heard and
held 3/4/04

Projected Gas Budget for FY '04 and FY '05

I. Stranded Gas Negotiations

A. Producers (subject to \$1.5 million reimbursement agreement)

FY '04

Fiscal terms	\$250,000
Tariff/access	\$200,000
Engineering	\$50,000
Legal	\$150,000
Petrochemicals	\$50,000
Social impact	\$50,000
In-state gas	\$50,000
Markets/valuation	\$50,000

\$850,000

(incl. \$270,000 spent)

FY '05

Fiscal terms	\$300,000
Tariff/access	\$300,000
Engineering	\$200,000
Legal	\$300,000
Petrochemicals	\$300,000
Social impact	\$50,000
In-state gas	\$50,000
Markets/valuation	\$200,000

\$1,750,000

\$2,600,000

B. MidAmerican

(assumes completion of negotiations in '04)

FY '04

Fiscal terms	\$100,000
Tariff/access	\$100,000
Engineering	\$50,000
Legal	\$100,000
Social impact	\$50,000
In-state gas	\$50,000

\$450,000

(incl. \$170,000 spent)

C. Port Authority

(Subject to approval of application)

If approved:

FY '05

Fiscal terms	\$100,000	
Tariffs Access	\$100,000	
Engineering	\$100,000	
Legal	\$100,000	
Petrochemicals	\$100,000	
Social impacts	\$100,000	
Markets/valuation	\$100,000	
		\$700,000

II. ANGDA

FY '04

Finance ¹	\$100,000	
Federal tax exemption	\$50,000	
LNG Marketability	\$100,000	
		\$250,000

FY '05

Finance	\$100,000	
LNG Marketability	\$100,000	
		<u>\$200,000</u>
		\$450,000

III. Other

FY '04

Alberta inter-governmental	\$100,000	
		\$100,000

FY '05

Energy bill regulatory proceedings (if the bill passes)		
Tariffs, access	\$100,000	
Loan guarantee	\$100,000	
Alberta inter-governmental	\$100,000	
Alaska Railroad		
Tax-Exempt Financing	\$100,000	
Other proposals	\$500,000	
		<u>\$900,000</u>
		\$1,000,000

¹ Includes capital structure, cost of capital, price and reserve requirements

TOTAL	
FY '04 Subject to reimbursement	\$850,000
FY '04 Not subject to reimbursement	\$800,000
Less \$170,000 spent	(\$170,000)
Net appropriation sought	\$630,000
FY '05 Subject to reimbursement	\$650,000
FY '05 Not subject to reimbursement	\$2,850,000
NET APPROPRIATION SOUGHT	\$3,480,000



REPRESENTATIVE ERIC CROFT

HB 296 Alaska Natural Gas Development Authority Proposed Budget

Component*	Amount
Office Salaries: Executive Director, Assistant Director, 2 Secretaries Rent Travel Misc.	\$500,000
Operations Research, Contracts, and Legal Services	\$800,000
Total	\$1,300,000 <i>Increased to \$2,150,000</i>

*The components and specific amounts in this budget are simply proposals. The Executive Director will have discretion over the actual expenditures.

What is ANGDA's contribution(s)
that make it worthy of \$2.15 million of public money"

Benefits to Alaska

- Make sure that Alaskan's receive the direct and indirect benefits of Alaskan gas
- Benefit analysis model integrates analysis in a new and broader view

Business Structure

- Reduce transportation cost of gas by:
 - avoidance of income tax and
 - lower financing costs through tax-exempt bonding,thereby improving North Slope gas (public resource) marketability and well head values

Alaskan LNG Project

- Complete feasibility study of LNG export project from Valdez (with a spur line from Glennallen to the Cook Inlet area) demonstrating that it is economic (can be financed) and competitive in the Pacific Rim LNG market

What is ANGDA's biggest challenge(s) ?

Timely funding !!

- By the time the fast track supplemental funding passes there will be barely 4 month left before the statutory deadline
- Quality information is needed in the feasibility study to support the multi-billion dollar decision to proceed or to stop
- The LNG market is very dynamic, moving rapidly, and we can not compete until the Alaska government and people want to move forward



REPRESENTATIVE ERIC CROFT

Sponsor Statement HB 296 Funding the Alaska Natural Gas Development Authority

In the 2002 election, 62 percent of Alaskan voters voted to create the Alaska Natural Gas Development Authority as a public corporation of the state to facilitate the creation of an Alaskan natural gas pipeline. The Authority would have a seven-member board of directors appointed by the governor to design, construct, operate and maintain a natural gas pipeline system.

With all of the public support and political rhetoric in favor of the project, the only thing missing is the financial support. HB 296 asks the Legislature to supply the seed money to get this vital economic stimulus started. Corporate investors need to see that Alaska is willing to commit to this project, and the best way to do this is to follow the public's lead and fund the Alaska Natural Gas Development Authority.

Alaskans know how valuable a natural gas pipeline would be to the citizens of this state in terms of jobs and economic growth. With oil production declining and vast amounts of natural gas going unused for lack of a viable means of transporting it to market, a natural gas pipeline is the most direct means of increasing the state's resource revenues.

HB 296 appropriates \$1.3 million based on a draft budget for the Alaska Natural Gas Development Authority that was prepared in November 2002 by Scott Heyworth, the chief sponsor of Ballot Measure 3. The draft budget requested \$2 million, but considering Alaska's current fiscal situation and proposed budget cuts, HB 296 proposes a more slim version that would lessen the Executive Director's salary, and cut some travel and miscellaneous funds. The \$1.3 million appropriation would still provide adequate resources to research and lay the groundwork for the project.

As of the end of April, the governor has appointed no members to the board and allocated only \$150,000 to the Authority. Alaska has waited long enough for a trans-Alaska natural gas pipeline. The people have spoken loudly in favor of pursuing the project, and now is the time for the Legislature and the Governor to listen.

ANGDA supplementary funding request (\$2.15 million)

(Heirze on 2/10/04)

Covers major work areas related to:

- business structure for the lowest cost-of-service
- integrated analysis of the benefits to Alaska and Alaskans
- verification of key project design, cost, and schedule elements

Addresses all eleven elements listed in Ballot Measure 3 that must be included in the development plan

Interaction with the State's consideration of the Stranded Gas applications:

- Help with the work (ie, benefits analysis)
- Provide a lower cost-of-service business alternative that help gas marketability
- Augment sponsors ability to provide gas and benefits to Alaskans

ANGDA is working with the Administration team to define and contract for most important ANGDA and Stranded Gas work efforts. Total funding requirement seems consistent with several alternative work emphasis scenarios.

Resolution of the ANGDA Board passed unanimously on Feb 9, 2004 in support of the Administration's proposal to combine efforts of State resources working on North Slope gas issues.

"The Board of the Alaska Natural Gas Development Authority supports the appropriation of \$3,000,000. in the remainder of FY 04 to the Department of Revenue for work related to bringing North Slope gas to market."

Alaska Natural Gas Development Authority		FY 04 Funding Plan				
		Current		Added	FY 04	Development
		Spent	Pending	In FY 04	Total	Plan Element
ANGDA						
	Personal Services (Staff)	126		29	155	General
	Staff Travel	4	5	11	20	9 + General
	Board Travel	7	4	14	25	9 + General
	Office & Supply	6		19	25	General
	Report & Communication			50	50	Communication
Business Contractors						
	Benefit Analysis	50		100	150	3, 4, 5, 6, 7 & 11
	Tax Advice	25		125	150	Business Plan
	Market Insight	25		75	100	2, 9
	Financing		50	100	150	Business Plan
	Project Economics			100	100	2
Project Contractors						
	Contractor Co-ordination	15		120	135	1
	Spur Line Cost		20		20	1
	Permit Review		13	37	50	8
	LNG Plant Concepts			100	100	1, 10
	Engineering Design			750	750	1, 10
	Cost & Schedule			500	500	1, 10
	Downstream Concepts			20	20	1
TOTAL		258	92	2,150	2,500	

Required Elements in the Development Plan

Alaska Natural Gas Development Authority

Ballot Measure 3 stated that

The development plan must include:

1. Estimates of Construction Costs and Timelines
2. Gas Procurement Prices
3. Use of the State's Royalty Gas
4. Estimates of Revenue to the General Fund and the Alaska Permanent Fund
5. A Revenue Sharing Plan with Municipal Governments
6. A Plan for the Delivery and Pricing of Natural Gas to Communities Along the Pipeline Route and to South-Central Alaska through a spur line
7. A Plan for Delivery and Pricing of Natural Gas to Yukon River and Coastal Communities
8. A Payment Schedules to Companies Providing Permits or Other Valuable Assets
9. A Marketing Plan to Approach Potential Buyers
10. A Plan to Maximize Alaska hire,
Including Project Labor Agreements
11. A Plan to Ensure Meeting the Highest Environmental and Safety Standards, Including a Citizen Advisory Council

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

ANGDA Funding by Development Plan Elements			
Development Plan Element		Contract Reference	
		Contract co-ord	\$135
		Spurline cost	\$20
1	Cost & Timelines	LNG plant concepts	\$100
10	Alaska Hire	Engineering design	\$750
		Cost & schedule	\$500
		Downstream concepts	\$20
2	Gas Procurement Prices	Market insight	\$100
9	Marketing Plan	Project economics	\$100
3	State's Royalty Gas	Benefit analysis	\$150
4	GF & PF Revenue		
5	Municipal Sharing		
6	Gas to Communities		
7	LNG to Communities		
11	Environmental & Safety		
8	Value of Permits	Permit review	\$50
	General & Overhead	Staff salary & benefits	\$155
		Travel	\$45
		Office & supplies	\$25
	Communication	Report & communications	\$50
	Business Plan	Tax advice	\$150
		Financing	\$150
TOTAL			\$2,500

Alaska Natural Gas Development Authority				Alternate FY 04 Funding Strategies			
				<u>Alternative Priority Strategies</u>			
				<u>Base Case</u>	<u>Partner</u>	<u>Defer Report</u>	
				<u>FY 04</u>	<u>FY 04</u>	<u>FY 04</u>	
		<u>Spent</u>	<u>Added</u>				
ANGDA				275	375	225	
Personal Services (Staff)	126	29	155	180	155		
Staff Travel	9	11	20	45	20		
Board Travel	11	14	25	50	25		
Office & Supply	6	19	25	50	25		
Report & Communication		50	50	50	0		
Business Contractors				650	1,200	900	
Benefit Analysis	50	100	150	250	200		
Tax Advice	25	125	150	250	150		
Market Insight	25	75	100	250	150		
Financing	50	100	150	250	250		
Project Economics		100	100	200	150		
Project Contractors				1,575	925	1,105	
Contractor Co-ordination	15	120	135	185	135		
Spur Line Cost	20		20	50	30		
Permit Review	13	37	50	50	50		
LNG Plant Concepts		100	100	100	100		
Engineering Design		750	750	250	500		
Cost & Schedule		500	500	250	250		
Downstream Concepts		20	20	40	40		
TOTAL	350	2,150	2,500	2500	2230		

Alaska Natural Gas Development Authority				FY 04 Funding Plan			
		<u>Current</u>		<u>Added</u>		<u>FY 04</u>	<u>FY 04</u>
		<u>Spent</u>	<u>Pending</u>	<u>In FY 04</u>		<u>Total</u>	<u>Sub-Total</u>
ANGDA							275
	Personal Services (Staff)	126		29		155	
	Staff Travel	4	5	11		20	
	Board Travel	7	4	14		25	
	Office & Supply	6		19		25	
	Report & Communication			50		50	
Business Contractors							650
	Benefit Analysis	50		100		150	
	Tax Advice	25		125		150	
	Market Insight	25		75		100	
	Financing		50	100		150	
	Project Economics			100		100	
Project Contractors							1,555
	Contractor Co-ordination	15		120		135	
	Spur Line Cost		20			20	
	Permit Review		13	37		50	
	LNG Plant Concepts			100		100	
	Engineering Design			750		750	
	Cost & Schedule			500		500	
	Downstream Concepts			20		20	
TOTAL		258	92	2,150		2,500	

Nominal Pipeline Sizes & Capacity			
NOMINAL CAPACITY	GASLINE DIAMETER	PIPE AREA	IMPLIED RESERVES
(BSCFPD)	(Inches)	(36" = 1.)	(TCF)
1.25	24	0.44	9
2	30	0.69	15
3	36	1.00	22
4	42	1.36	30
	30 - 30	1.39	
5	36 - 30	1.69	35
	48	1.78	
6	36 - 36	2.00	45
	52	2.09	
7	54	2.25	50
	40 - 40	2.47	
8	42 - 42	2.72	60
	60	2.78	
	48 - 36	2.78	
10.5	48 - 48	3.56	75
12	72	4.00	90

Chart is illustrative for comparing North Slope gas projects - Heinze 12/03

February 12, 2004

Mr. David L. Sokol
Chairman and Chief Executive Officer
MidAmerican Energy Holdings Company
P. O. Box 657
Des Moines, IA 50303-0657

Dear Mr. Sokol:

The Board of Directors of the Alaska Natural Gas Development Authority (ANGDA) and I welcome you and your company to Alaska and your sponsor group interest in bringing North Slope gas to market. As a public corporation of the State, ANGDA's interest is in the timely delivery of Alaska gas to the market in a way that provides the maximum benefits to Alaska and Alaskans.

ANGDA was created by public initiative and directed to pursue a gasline to Valdez, LNG export, and a spur line from Glennallen to the Cook Inlet area. Obviously this project has a number of common aspects to your proposed AlCan highway gas project and we would welcome the opportunity to work with you in a mutually beneficial way.

Additionally, ANGDA has undertaken several work projects (i.e., a "benefits analysis" model) that may be of interest in your project definition and discussions with the State. We also are currently defining our business structure to assure that the leverage of being an Alaskan public agency contributes to the lowest cost-of-service possible in North Slope gas transportation.

In all of these areas we are anxious to contribute to your project's success and would welcome the earliest opportunity to interact directly in Alaska or at your headquarters.

Harold Heinze
CEO, Alaska Natural Gas Development Authority

Copied To: Mr. Robert Sluder, MEHC Alaska Gas Transmission Company, LLC
Mr. Ken Thompson, Pacific Star Energy
Mr. Carl Marrs, CIRI

February 13, 2004

To:

Mr. Joe Marushack
 Vice President
 ANS Gas Development
 ConocoPhillips Alaska

Mr. Ken Konrad
 Sr. Vice President
 Alaska Gas
 BP Exploration Alaska

Mr. R. D. Schilhab
 Vice President
 ExxonMobil Alaska
 Production

Dear Sirs:

The Board of Directors of the Alaska Natural Gas Development Authority (ANGDA) takes note of your recent application to the State of Alaska under the Stranded Gas Act.

As a public corporation of the State, ANGDA's interest is in the timely delivery of Alaska gas to the market in a way that provides the maximum benefits to Alaska and Alaskans. ANGDA was created by public initiative and directed to pursue a gasline to Valdez, LNG export, and a spur line from Glennallen to the Cook Inlet area. Obviously this project has a number of common aspects to one of your proposed gasline route alternatives following the AICan highway and we would welcome the opportunity to work with you in a mutually beneficial way. Your Beaufort Sea alternative route might become possible if North Slope gas was available to Alaskans as provided for in our project and we would also welcome the opportunity to discuss your co-operation towards that objective.

Additionally, ANGDA has undertaken several work projects (i.e., a "benefits analysis" model) that may be of interest in your project definition and discussions with the State. We also are currently defining our business structure to assure that the leverage of being an Alaskan public agency contributes to the lowest cost-of-service possible in North Slope gas transportation.

In all of these areas we are anxious to contribute positively towards your determination of an economic project and we would welcome the earliest opportunity to interact directly at a Board level.

Harold Heinze
 CEO, Alaska Natural Gas Development Authority