

ALASKA LEGISLATURE

2702

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

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

Richard L. Block

Facsimile Cover Sheet

To: Senate Finance Committee Alaska State Senate FAX 907 465 2187	From: Christian Science Committee on Publication for the State of Alaska Richard L. Block 360 W. Benson Blvd., Suite 301 Anchorage, Alaska 99503 Tel: 907 562 5183 Ak.t. f.: 877 380 5183 Fax: 907 562 5187
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Date: 5/14/03 **Time:** 1730 **Pages:** 2

Message:

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

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

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

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

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

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

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

We suggest that the following language be included:

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

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

We very much appreciate your consideration.

Yours cordially,


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

May 14, 2003

Alaska State Legislature

Re: HB 293 State Sales Tax

Dear Legislators,

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

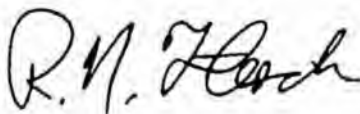
As a small business owner, I have built my small charter business slowly over the last 20 years. We do 7 to 10 day trips with up to 6 people on board. A few years ago, I was booked to capacity for the following summer by January.

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

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

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

Sincerely,



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

CITY OF UNALASKA

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



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

RE: SB 220

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

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

Again, thank you for the opportunity to testify.

WRITTEN TESTIMONY OF BROOKS CHANDLER

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

ON SB 220

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

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

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

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

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

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

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

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

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

first example] 95%.

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

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

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

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

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

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

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

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

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

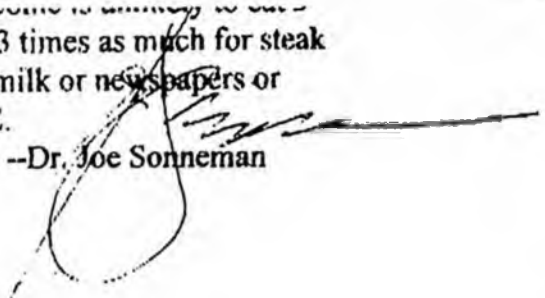
Rich Boy buys jeans, \$30, pays \$1.50 tax. Tax is .0005% of \$300,000 income.

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

--Dr. Joe Sonneman

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--Dr. Joe Sonneman



A sales tax is the wrong way to go

By P.J. HILL

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

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

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

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



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

for sales tax states.

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

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

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

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

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

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

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

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



Alaska State Legislature

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

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

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

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

Signed: Darrell and Wanda Kincaid
Testifier

Representing (optional)

38710 Highcrest Court/ Sterling, Alaska/ 99672
Address

907-262-1535
Phone number

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

May 15, 2003

Senate Finance Committee
Senator Gary Wilken, Chair

Re: Sales Tax Bill
SB 202

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

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

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

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

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

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

Subject: SB 220 - State Sales & Use Tax

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

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

To: Senator_Gary_Wilken@legis.state.ak.us

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ALASKA TRAVEL INDUSTRY ASSOCIATION

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

SB 220

Sec. 43.44. ____ . Disposition of sales tax proceeds from sales of tourism related goods and

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

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

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

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

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

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

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Summer resort hotels Tourist Lodges			
721191	Bed & Breakfast Inns This U.S. industry comprises establishments primarily engaged in providing short-term lodging in facilities known as bed-and-breakfast inns. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. Bed-and-breakfast inns are characterized by a highly personalized service and inclusion of a full breakfast in a room rate. Bed and breakfast Inns. Inns, bed and breakfast	\$4,930,000	\$6,341,626	$\$4,930,000 \times 1.107 \times 1.162 = \$6,341,626$ The Alaska Bed & Breakfast Association has 200 members. They have no data on the number of B&Bs in the State, and the Licensing Category of the State includes many other types of establishments. The President of the Association has heard that there are as many as 2,000 in the State. This number seems excessive. Average room rate for Association members is \$95 per room per night. If this was the average rate for all B&Bs, then \$6.3 million equals 66,753 room nights. If there were actually 1,000 active B&Bs during the 120 day summer season, this would represent about one rented room every other day for each B&B.
721214	Recreational and Vacation Camps(except campgrounds) 130 listed establishments. This U.S. industry comprises establishments primarily engaged in operating overnight recreational camps, such as children's camps, family vacation camps, hunting and fishing camps, and outdoor adventure retreats that offer trail riding, white-water rafting, hiking, and similar activities. These establishments provide accommodation facilities, such as cabins and fixed campsites, and other amenities, such as food services, recreational facilities and equipment, and organized recreational activities. Boys' camps (except day, instructional) Camps (except day, instructional) Children's camps (except day, instructional) Dude ranches Fishing camps with accommodation facilities Girls' camps (except day, instructional) Guest ranches with accommodation facilities Hunting camps with accommodation facilities	\$31,813,000	\$32,737,713	The following are exempt from the tax: Boy's Camps, Camps, Children's Camps, Girl's Camps. Assume 20% of revenues are from exempt camps. $\$25,450,400 \times 1.107 \times 1.162 = \$32,737,713$

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

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

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

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

Taxable Activity	Estimated Expenditures	1% Tax	1.5% Tax	2% Tax
Scenic & Sightseeing Transportation - Land, Water, Other	\$217,107,760	\$2,171,078	\$3,256,616	\$4,342,155
Passenger Car & RV Rental	\$11,179,776	\$111,798	\$167,697	\$223,524
Hotels and Motels	\$373,485,250	\$3,734,853	\$5,602,279	\$7,469,701
Bed & Breakfast Inns	\$6,341,626	\$63,416	\$95,124	\$126,833
Recreational and Vacation Camps(except campgrounds)	\$32,737,713	\$327,377	\$491,066	\$654,754
Recreational Vehicle Parks and Campgrounds	\$5,725,858	\$57,259	\$85,808	\$114,517
Alaska Marina Highway Passenger Fares	\$38,700,000	\$387,000	\$580,500	\$774,000
Alaska Railroad Passenger Fares & Passenger Car Towing	\$14,000,000	\$140,000	\$210,000	\$280,000
Alaska Native Arts & Crafts	\$105,115,830	\$1,051,158	\$1,576,737	\$2,102,317
"Seasonal" Retail Shops (exclusive of Native Arts & Crafts)	\$117,400,000	\$1,174,000	\$1,761,000	\$2,348,000
Salmon Bakes	\$2,500,000	\$25,000	\$37,500	\$50,000
Total	\$924,293,813	\$9,242,938	\$13,864,407	\$18,485,876

3%

\$27 million

Visitor Expenditures by Cruise Ship, Cruisetour & Tour Visitors

Estimated Expenditures

Land, Water & Other Scenic & Sightseeing Transportation	Sampled Cruise & Cruisetour Group	Sampled Group as a Percent*	Total Cruise & Cruisetour		Total Tour Group 169,444 pax
			Group (1) pax	Percent of Total Tour	
Shore Excursion Expenditures (cruise pax)	\$107,900,000	84%	\$128,452,381	100%	\$128,452,381
Land Tours	\$11,600,000	84%	\$13,809,524	85%	\$16,246,499
Motorcoach transportation	\$25,100,000	84%	\$29,880,952	85%	\$35,154,062
Railroad transportation	\$22,200,000	84%	\$26,428,571	85%	\$31,092,437
Attractions (2 major)	\$4,400,000	84%	\$5,238,095	85%	\$6,162,465
Total of Land, Water & Other Scenic & Sightseeing Transportation			\$203,809,524	85%	\$217,107,843
Hotel Revenues	\$60,700,000	100%	\$60,700,000	85%	\$71,411,765
Retail Shop Expenditures (by tour pax)	\$9,800,000	84%	\$11,666,667	85%	\$13,725,490
Retail Shop Expenditures (by cruise pax)	\$66,900,000	84%	\$103,452,301	100%	\$103,452,381
Total Cruise-related land-side Visitor Expenditures			\$379,628,572		
Total Taxable Expenditures			\$924,293,813		
Cruise-related taxable expenditures as a percent of total taxable expenditures			41.1%		

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

Sampled Cruiselines (84% of Total berths/ports)

Holland America
Princess
Royal Caribbean
Radisson Seven Seas
Carnival
Celebrity
Crystal

Unsampled Cruiselines (16% of berths/ports)

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

Sampled Tour Companies

(85% of tour packages)

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

Unsampled Tour

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

**CITY OF PETERSBURG**

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

May 14, 2003

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

RE: HB 293 State Sales Tax

Dear House Finance Committee Members,

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

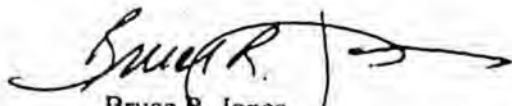
A sales tax of three percent is equal to a \$1,145,000 of Petersburg's revenues. That is 16% of our projected revenues for FY04. Sixteen percent doesn't seem like much, but it is equal to 25 employees or one-half of our effective work-force. The loss of one-half of our workforce will seriously impact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

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

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

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

Sincerely,



Bruce R. Jones
City Manager



CITY OF PETERSBURG

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

May 14, 2003

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

RE: SB 220 State Sales Tax

Dear Senate Finance Committee Members,

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

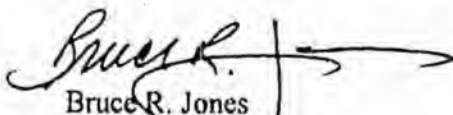
A sales tax of three percent is equal to a \$1,145,000 of Petersburg's revenues. That is 16% of our projected revenues for FY04. Sixteen percent doesn't seem like much, but it is equal to 25 employees or one-half of our effective work-force. The loss of one-half of our workforce will seriously impact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

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

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

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

Sincerely,


Bruce R. Jones
City Manager

Alaska State Legislature

Please enter into the record my testimony to the

Senate Finance Committee
committee name

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

5-14-03
public hearing date

My name is Debra Holle.

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

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

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

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

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

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

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

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

Signed: Debra Holle
Testifier



Representing (optional)

P.O. Box 592 Kaslof, Alaska 99610
Address

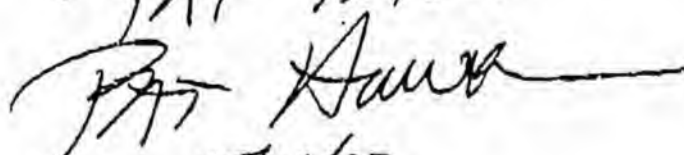
(907) 262-4551
Phone number

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

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

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

Respectfully,

PAT HAWKINS

5/14/03

2003

ALASKA

Plugging part of the fiscal gap



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

43 - States with a personal income tax.

45 - States with a state sales tax.

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

1980

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

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

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

2003

2003



M/V 'HERON'

Alaska Passages, Inc.

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

MAY 13, 2003

Dear Members of the Finance Committee;

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

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

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

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

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



M/V 'HERON'

Alaska Passages, Inc.

P.O. Box 213

Petersburg, Alaska 99833

(907) 772-3967

www.alaska.net/~akpassag/

voice & fax

Email: akpassag@alaska.net

- 2 -

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

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

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

Thank you for your time,

Sincerely,

Julie Hursey

Alaska Passages Adventure Cruises

Alaska Oil and Gas Association



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

May 12, 2003

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

Dear Committee Member:

In conjunction with this letter, the Alaska Oil and Gas Association (AOGA) is submitting detailed comments on HB 293 (Version 23-LS1064VD), which would enact a new state sales and use tax. The purpose of this letter is to draw your attention to the key points in those comments.

HB 293 must have transitional provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Very truly yours,

Judith M. Brady
Executive Director

JMB:tw

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

Alaska Oil and Gas Association



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

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

May 12, 2003

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

² *Id.*, p. 38, Table 17.

³ *Id.*, p. 25, Table 11.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the movement of that oil by the tanker carrying it from Valdez, there is not a "single contract" for the transportation of that oil and hence the transportation of that oil falls outside this exemption under AS 43.44.220.

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

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

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

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

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

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

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

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

* Sec. . AS 43.55.017 is amended to read:

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

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

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

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

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

- (1) producing oil or gas leases;
- (2) [OIL OR GAS PRODUCED OR EXTRACTED IN THE STATE;
- (3)] the value of intangible drilling and exploration expenses.

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

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

* Sec. . AS 43.56.030 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Technical and drafting issues.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 43.44.235. Nontaxability – Intercorporate Services. (a)

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

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

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

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

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

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

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

On p. 16, line 3, immediately following the definition of "manufacturing" there should be inserted a definition of "mining". Proposed AS 43.44.180 (p. 6, lines 16-28) would exempt certain sales to "mining or manufacturing" businesses. Having just defined the one, it is appropriate for the Bill to define the other. This is especially so since the reference to "production of [a] mineral from a mine or wellhead" on p. 6, line 27 promises to create an issue about whether "mining" includes oil and gas production. If our proposed Bill

sections to amend AS 43.55.017 and AS 43.56.030 are not adopted, then "mining" should be defined to include oil and gas production since it is a similar extractive industry involving a nonrenewable resource. Conversely, if AS 43.55.017 and AS 43.56.030 are amended as we suggest, then "mining" should be defined here in the sales and use tax law to exclude oil and gas production.¹⁹

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

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

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

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

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



Alaska State Legislature

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

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

No to NEW TAXES!

RATHER

1) cut none essential Gov positions

2) Reduce wages of 7 or 10 % of all Gov employees -

3) Prevent lengthy leg sessions from going more than 60 days, by making a law with restrictions (lengthy sessions in Juneau that up tax payers money what are needed for A - schools B - long term program C Rehab & alcoholism + drug programs D, housing + food for the needy)

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

Signed: Eileen O. Johnson
Testifier

CITIZENS OF ALASKA
Representing (Optional)

501 KIM GOOSEBAY Rd
Address

WASILLA ALASKA

Phone number
907-373-1139

CITY OF HOMER
HOMER, ALASKA

City Manager
City Clerk

RESOLUTION 03-71

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

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

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

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

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

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

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

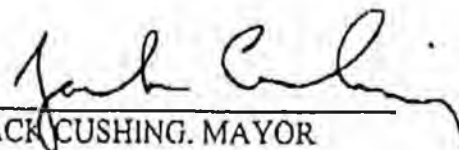
BE IT FURTHER RESOLVED, that copies of this resolution will be sent to Governor
Murkowski, Lt Governor Lemmon, Senator Stevens, Representative Seaton, the State House Finance
Committee, State House Ways and Means Committee and the Alaska Municipal League.

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

CITY OF HOMER

ATTEST:


MARY L. CALHOUN, CMC, CITY CLERK


JACK CUSHING, MAYOR

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

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

Senator Green, Senator Wilken, Committee Members

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

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

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

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

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

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

pl - Reichlin

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

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

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

Respectively,

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

Rebecca Reichlin

p2-Reichlin

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

Date: May 13, 2003

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

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

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

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

JJ



ALASKA MINERS ASSOCIATION, INC.

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

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

May 14, 2003

Dear Committee Member:

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

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

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

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

Sincerely yours

Steven C. Borell, P.E.
Executive Director

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

enclosures

COMMENTS AND RECOMMENDATIONS OF THE Alaska Miners Association

ON Sales and Use Tax in CSIB-293

May 14, 2003

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

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

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

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

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

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

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

Intent of Section 43.44.155

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

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

We urge this interpretation.

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

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

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

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

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

The underlined section is offered for consideration as an amendment:

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

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

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

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

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

SB

224

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 224 (STA)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title "An Act relating to lowering the legal BRU Legal & Advocacy Services
level of intoxication Component Public Defender Agency
 Sponsor Senator Cowdery
 Requester House Finance Committee Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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 (FY2004) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: _____ Phone 465-3424
Rep. Williams, Co-Chair *[Signature]* Date/Time 5/10/04 11:57 AM
Rep. Harris, Co-Chair *[Signature]* Date 5/10/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/28/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title Minors operating veh. after consuming alcohol RDU Alaska State Troopers
Component AST Detachments
Sponsor Sen. Cowdery
Requester (S) State Affairs Component No. 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

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

This proposed legislation will enhance the penalties for minors operating a vehicle after having consumed alcohol, refusal of a breath test, or operating a vehicle within 24 hours after being cited for minor operating a vehicle after consuming alcohol. The offenses under AS 28.35.280, AS 28.35.285, and AS 28.35.290 respectively, will remain infractions. Under current statute, a fine of not more than \$1000 can be assessed. With the proposed legislation, mandatory minimum fines will be established. The amount of the fine will be increased for each subsequent offense.

It is not anticipated that this legislation will have a fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Allen Storey
Division: Alaska State Troopers
Approved by: Commissioner William Tandeske
Agency: Department of Public Safety

Phone 907-269-4532
Date/Time 4/27/04 4:41 PM
Date 4/27/2004

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/28/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Minor operating a vehicle after BRU Alaska Court System
consuming alcohol Component Trial Courts
Sponsor Senator Cowdery
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

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

CHANGE IN REVENUES ()						
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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 (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
Committee Substitute for SB 224(STA) increases the fines and provides for mandatory community work service for the offenses of (1) minor operating a vehicle after consuming alcohol, (2) minor's refusal to submit to a chemical test and (3) driving during the 24 hours after being cited for alcohol of breath test offenses. Although these offenses remain infractions, the mandatory community work service triggers the right to appointed council and a jury trial. Because of these additional rights, passage of CSSB 224(STA) will impact the court system. At this time, however, the extent of that impact is too speculative to support a fiscal note.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
Division: Alaska Court System Date/Time 4/28/04 12:03 PM
Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 4/28/2004
Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 7
 Bill Version: CSSB 224(STA)
 (S) Publish Date: 4/28/04
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):
 Title LOWERING B.A.C. TO .02 OR THE EQUIVALENT FOR MINORS

RDU Juvenile Justice
 Component Probation Services

Sponsor COWDERY
 Requester SENATE (STA)

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____
 Mark 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)
 CS SB 224 (STA) is consistent with federal law and requirements and will not result in additional costs to the Division of Juvenile Justice.

Prepared by: Jana Heard Phone 465-1385
 Division Juvenile Justice Date/Time 03/17/2004
 Approved by: Joel S. Gilbertson, Commissioner Date 04/28/2004
 Agency Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 8
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/29/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "...minor operating a vehicle after RDU: Division of Motor Vehicles
consuming alcohol..." Component: Motor Vehicles
Sponsor: Sen. Cowdery
Requester: (S) Finance Component No.: 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

DMV does not anticipate an increase in workload. The number of arrests will remain relatively constant unless law enforcement increases their staffing dramatically. DMV has a system in place for handling these cases and an additional criminal charge will not substantially change the workload.

Prepared by: Duane Bannock Phone: 269 5008
Division: Motor Vehicles Date/Time: 4/29/04 7:08 AM
Approved by: Kevin Jardoll, Deputy Commissioner Date: 4/29/2004
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 9
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/29/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act relating to a minor operating a vehicle BRU: Legal and Advocacy Services
after consuming alcohol... Component: Office of Public Advocacy
Sponsor: Senator Cowdery
Requester: (S) State Affairs Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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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)						
	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

This bill will have a fiscal impact on the operations of the Office of Public Advocacy, though the impact will be indeterminate. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See *Auliye v. State*, 57 P3d 711 (Alaska App. 2002); *Booth v. State*, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned public counsel for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
Division: Office of Public Advocac, Date/Time 4/28/04 12:00 AM
Approved by: Kevin Jardell, Deputy Commissioner Date 4/29/2004
Agency: Administration

zeroed out

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 10
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/29/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act relating to lowering the legal level of intoxication BRU: Legal and Advocacy Services
Sponsor: Senator Cowdery Component: Public Defender Agency
Requester: (S) State Affairs Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	97.4	97.4	97.4	97.4	97.4	97.4
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	23.1	23.1	23.1	23.1	23.1	23.1
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	134.7	128.7	128.7	128.7	128.7	128.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	134.7	128.7	128.7	128.7	128.7	128.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	134.7	128.7	128.7	128.7	128.7	128.7

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill will have a fiscal impact on the operations of the Public Defender Agency. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See *Auliye v. State*, 57 P3d 711 (Alaska App. 2002); *Booth v. State*, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned to the Agency for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties. Since most of these offenses occur in Anchorage or Palmer, the Agency will need one full time attorney in one of these locations to handle this increased caseload.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
Division: Public Defender Agency Date/Time 4/28/04 12:00 AM
Approved by: Kevin Jardell, Deputy Commissioner Date _____
Agency: Administration

ALASKA STATE LEGISLATURE
SENATE DISTRICT 0

Interim:
716 West 4th Ave.
Anchorage, AK 99501
Phone: 907-269-0222
Fax: 907-269-0223
Toll Free: 1-888-269-3879



Session:
State Capitol Building
Juneau, AK 99801
Phone: 907-465-3879
Fax: 907-465-2069
Toll Free: 1-888-269-3879

John J. Cowdery
Senate Rules, Chair
Senate Transportation Committee, Chair
World Trade State & Federal Relations, Chair
State Affairs, Legislative Council

SPONSOR STATEMENT CSSB224

“An Act relating to a minor operating a vehicle after consuming alcohol, to a minor refusing to submit to chemical tests, and to driving during the 24 hours after being cited for one of those offenses; and providing for an effective date.”

The purpose of SB224 is to change Alaska's law to require stiffer penalties to apply to person under the legal drinking age drives after consuming any amount of alcohol.

Under current Alaska law, a person under 21 who drives with a BAC of below .08 will receive a charge of minor consuming and/or minor operating a vehicle after consuming, both of which are infractions.

SB224 applies mandatory fines and community service for minors to drive after consuming any amount of alcohol. A first-time offender faces a \$500 fine, which increases to \$1000 for a second offense and \$1500 for additional offenses. Community service requirements increase similarly.

Drivers between the ages of 15 and 20 years old make up roughly 7% of the total driving population. That 7% constitutes 14% of the alcohol related fatalities. Zero Tolerance laws can act as a deterrent and dramatically help change deadly behavior.

SB

224

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 04 2004

SENATE FINANCE
COMMITTEE

DATE: 04/28/04

FURTHER:

DATE TURNED IN TO OFFICE: 4 May 2004

Finance Committee considered

SENATE BILL NO. 224

SB 224 LOWER DWI FOR MINORS TO .02

"An Act relating to lowering the legal level of intoxication for operating a motor vehicle, aircraft, or watercraft to .02 percent or the equivalent for persons under 21 years of age; relating to implied consent for purposes of determining consumption of alcohol; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS SB 224 (STP)
- 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 Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	4/27/04			✓	#5
Court	4/28/04		*		#6
H&SS	4/28/04			✓	#7
Admin-DMV	4/29/04			✓	#8
Admin-OPPA	4/29/04		*		#9

Admin-PDA 4/29/04 134.7 #10

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>				
<i>[Signature]</i>	X			
COCHAIR: <i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 10
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/29/04

Revision Date/Time (Note if correction):
Title: An Act relating to lowering the legal level of intoxication
Sponsor: Senator Cowdery
Requester: (S) State Affairs
Dept. Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency
Component No.: 1631

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	97.4	97.4	97.4	97.4	97.4	97.4
Travel	4.8	4.8	4.8	4.8	4.8	4.8
Contractual	23.1	23.1	23.1	23.1	23.1	23.1
Supplies	2.7	2.7	2.7	2.7	2.7	2.7
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	134.7	128.7	128.7	128.7	128.7	128.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	134.7	128.7	128.7	128.7	128.7	128.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	134.7	128.7	128.7	128.7	128.7	128.7

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill will have a fiscal impact on the operations of the Public Defender Agency. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See *Aulive v. State*, 57 P3d 711 (Alaska App. 2002); *Booth v. State*, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned to the Agency for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties. Since most of these offenses occur in Anchorage or Palmer, the Agency will need one full time attorney in one of these locations to handle this increased caseload.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
Division: Public Defender Agency Date/Time 4/28/04 12:00 AM
Approved by: Kevin Jardell, Deputy Commissioner Date _____
Agency: Administration

MAY 04 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 9
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/29/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to a minor operating a vehicle BRU Legal and Advocacy Services
after consuming alcohol... Component Office of Public Advocacy
Sponsor Senator Cowdery
Requester (S) State Affairs Component No. 43

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures						
Grants & Claims						
Miscellaneous						*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES						
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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)						
	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

This bill will have a fiscal impact on the operations of the Office of Public Advocacy, though the impact will be indeterminate. Amending the minor operating a vehicle after consuming alcohol(MOVAC) offense and related refusal and driving 24 hours after citation offenses to further increase the penalties by setting mandatory fines and mandatory minimum community work service for 1st, 2nd, and multiple offenders will increase the caseload and workload of the Agency. Minors charged with these offenses will be entitled to a jury trial and court-appointed counsel. See *Auliye v. State*, 57 P3d 711 (Alaska App. 2002); *Booth v. State*, 903 P.2d 1079, 1087-88 (Alaska App. 1995). More cases involving juveniles charged with these offense will be assigned to the Agency. There were approximately 387 minors in FY03 who had their licenses administratively revoked for driving after consuming alcohol. Of that number approximately 155 were charged with DUI for over .08 alcohol content. As a result, it is conservatively anticipated that there will be over 200 more cases a year assigned public counsel for these offenses because of the increased penalties. The workload on these cases will also increase because of the more severe penalties.

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
Division Office of Public Advocacy Date/Time 4/29/04 12:00 AM
Approved by: Kevin Jardell, Deputy Commissioner Date 4/29/2004
Agency Administration

MAY 04 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 8
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/29/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "...minor operating a vehicle after RDU: Division of Motor Vehicles
consuming alcohol..." Component: Motor Vehicles
Sponsor: Sen. Cowdery
Requester: (S) Finance Component No.: 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
DMV does not anticipate an increase in workload. The number of arrests will remain relatively constant unless law enforcement increases their staffing dramatically. DMV has a system in place for handling these cases and an additional criminal charge will not substantially change the workload.

Prepared by: Duane Bannock Phone: 269 5008
Division: Motor Vehicles Date/Time: 4/29/04 7:08 AM
Approved by: Kevin Jardell, Deputy Commissioner Date: 4/29/2004
Agency: Department of Administration

COMMITTEE COPY

MAY 04 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 7
 Bill Version: CSSB 224(STA)
 (S) Publish Date: 4/28/04
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):
 Title LOWERING B.A.C. TO .02 OR THE
EQUIVALENT FOR MINORS

RDU Juvenile Justice
 Component Probation Services

Sponsor COWDERY
 Requester SENATE (STA)

Component No. 2134

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES (0)						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: _____

Mark 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)

CS SB 224 (STA) is consistent with federal law and requirements and will not result in additional costs to the Division of Juvenile Justice.

Prepared by: Jana Heard
 Division Juvenile Justice
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-1385
 Date/Time 03/17/2004
 Date 04/28/2004

MAY 04 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 6
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/28/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Minor operating a vehicle after BRU Alaska Court System
consuming alcohol Component Tria Courts
Sponsor Senator Cowdery
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Committee Substitute for SB 224(STA) increases the fines and provides for mandatory community work service for the offenses of (1) minor operating a vehicle after consuming alcohol, (2) minor's refusal to submit to a chemical test and (3) driving during the 24 hours after being cited for alcohol or breath test offenses. Although these offenses remain in _____, the mandatory community work service triggers the right to appointed council and a jury trial. Because of these additional rights, passage of CSSB 224(STA) will impact the _____ system. At this time, however, the extent of that impact is too speculative to support a fiscal note.

Prepared by: Doug Wooliver Administrative Attorney
Division: Alaska Court System
Approved by: Stephanie Cole Administrative Director by Doug Wooliver
Agency: Alaska Court System

Phone 463-4750
Date/Time 4/28/04 12:03 PM
Date 4/28/2004

MAY 04 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSSB 224(STA)
(S) Publish Date: 4/28/04

Revision Date/Time (Note if correction):

Dept. Affected: Public Safety

Title Minors operating veh. after consuming alcohol

RDU Alaska State Troopers

Component AST Detachments

Sponsor Sen. Cowdery

Requester (S) State Affairs

Component No. 2325

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This proposed legislation will enhance the penalties for minors operating a vehicle after having consumed alcohol, refusal of a breath test, or operating a vehicle within 24 hours after being cited for minor operating a vehicle after consuming alcohol. The offenses under AS 28.35.280, AS 28.35.285, and AS 28.35.290 respectively, will remain infractions. Under current statute, a fine of not more than \$1000 can be assessed. With the proposed legislation, mandatory minimum fines will be established. The amount of the fine will be increased for each subsequent offense.

It is not anticipated that this legislation will have a fiscal impact on the Alaska State Troopers.

Prepared by: Lt. Allen Storey

Phone 907-269-4532

Division Alaska State Troopers

Date/Time 4/27/04 4:41 PM

Approved by: Commissioner William Tandeske

Date 4/27/2004

Agency Department of Public Safety

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: SB 224
(S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
Title "Act Lowering the Limits for DUI for those under 21 years of age....." RDU Administration & Operations
Component: Institution Director's Office
Sponsor Senator Cowdery
Requester _____ Component No. 1.91

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel	*	*	*	*	*	*
Contractual	*	*	*	*	*	*
Supplies	*	*	*	*	*	*
Equipment	*	*	*	*	*	*
Land & Structures	*	*	*	*	*	*
Grants & Claims	*	*	*	*	*	*
Miscellaneous	*	*	*	*	*	*
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES	*	*	*	*	*	*
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CHANGE IN REVENUES ()						
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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 (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This legislation if passed would amend AS 28.35.030 making it a criminal offense to drive under the influence if the person is under 21 years of age, and has a blood alcohol content of .02 or more.

The fiscal impact to the Department of Corrections is indeterminate at this time for several reasons:

Based on data provided to the Department of Public Safety by DMV, there were approximately 82 individuals who may have been subjected to the provisions of this bill had it been law in 2003. It is not known how many of those 82 individuals would have been convicted and sentenced as adults.

Prepared by: Jerry D. Burnett, Director
Division: Administrative Services
Approved by: Portia C.K. Parker, Deputy Commissioner
Agency: Department of Corrections

Phone (907) 465-3339
Date/Time 2/24/04 10:04 AM
Date 2/24/2004

ANALYSIS CONTINUATION

DMV's data also reports that there were about 144 other individuals contacted by law enforcement officers, but the officer determined that there was insufficient probable cause to arrest them and obtain a blood alcohol sample. It could be assumed that some of these persons would have had a blood alcohol level of .02 to .079.

The number of convictions is unknown therefore the fiscal impact to the Department of Corrections is indeterminate.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 224
(S) Publish Date: 2/25/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to lowering the legal level c RDU CRIMINAL
intoxication for operating a motor vehicle, aircraft, or watercraft to .02 Component Criminal Justice Litigation
Sponsor Senator Cowdery
Requester Senate Transportation Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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 (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
This bill changes the Driver's License Act by including as an offense of operating a vehicle or aircraft while under the influence of an alcoholic beverage, inhalant or controlled substance, a person with a blood alcohol content of .02 who is less than 21 years of age.

Passage of this legislation will have a fiscal impact on the Department of Law as it will, if enforced, result in a much larger number of DUI charges filed. How many of those will be referred to the state for prosecution is not determinable. It is also likely to result in more legal challenges to driver's license revocations, but we are similarly unable to quantify the impact.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 2/23/04 4:48 PM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/23/2004
Agency Department of Law