

**ALASKA LEGISLATURE**

**2746**

**HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004**

312

## MEMORANDUM

April 14, 2002

**SUBJECT:** Changes to SB 365

**TO:** Senator Gary Wilken, Senator Lyda Green  
Co-Chairs, Senate Finance Committee

**FROM:** Senator Con Bunde  
Nancy Lovering, M.S., CCC-SLP  
Patricia Olmstead, MCSD, CCC-SLP  
Laura Young Campbell, M.S., CCC-SLP  
c/o Alaska Speech-Language Hearing Association

We have proposed the following changes to SB 365 (CS Version Q) in order to have all sections of the bill be in conformance with ASHA (American Speech Language Hearing Association) preferred practice patterns for speech-language pathology. It was recommended by Ms. Susan Pilch, Director, State Legislative and Regulatory Advocacy, ASHA, that the following changes be made to this bill to make it even stronger. Ms. Pilch reminded us that while SLPAs may perform feeding and swallowing treatment under the supervision of a certified Speech-Language Pathologist, they may not conduct feeding and swallowing screenings.

In order to have these specific changes be clear throughout all sections of SB 365, the following were necessary so that our intent to prohibit feeding and swallowing screenings by SLPAs would be achieved.

Sec. 08.11.042 (b) page 2, line 26 "direct screening" was deleted.

Sec. 08.11.042 (c) page 2, line 31 "new" was deleted from the former phrase "new screening."

Sec. 08.11.042 (e) page 4, line 9 deals with what registered SLPAs are not permitted to do, that the following be added, "perform screening of feeding or swallowing functions."

Sec. 08.11.200 (11) page 10, line 12 clarifies the definition of screening.

The new amended version reads,

"screening" means a procedure in which a client is identified by either "pass" or "fail" for purposes of necessitating further evaluation of speech, language or hearing.

**These changes to SB 365 clarify that feeding and swallowing screenings should not be performed by SLPAs.**

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## SENATOR CON BUNDE

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### Sponsor Statement SB365 Speech-Language Pathology Assistants

SB365 establishes registration of speech-language pathology assistants through the department of occupational licensing regardless of employment setting. Currently, speech-language pathology assistants (SLPA), in Alaska, are not licensed or regulated like the similar professions of physical and occupational therapy assistants. SB365 outlines the qualifications and training required to be an SLPA, their scope of practice, supervision and continuing education requirements.

Due to shortages in the number of qualified speech-language pathologists, many Alaskans are not receiving the consistency and appropriate amount of services they require. An SLPA will be able to assist the speech-language pathologists in clerical duties, charting progress, developing materials and assisting in other therapy services within their scope of practice. SLPAs will not be allowed to work independently of a speech-language pathologist or be given the sole responsibility of their own case/workload. SLPAs will be under the direction and supervision of a qualified and licensed Speech-Language Pathologist.

It is not the intent of SB365 to hire an SLPA in lieu of a qualified speech-language pathologist. SLPAs are to enhance the services provided.

All regions of Alaska will benefit from the use SLPAs. SLPAs will be able to enhance services in schools, private clinics, the underserved rural/remote areas, and in hospital settings. Having an assistant will allow the speech-language pathologist additional time to assess an individual's progress, write treatment plans, confer with medical and other professionals, attend meetings and complete other administrative duties as required. The recipients of speech-language pathology services will benefit the most, as they will have consistent services from appropriately trained individuals, which will decrease the length of treatment and thereby decreasing costs. Since many recipients of speech-language services receive assistance through Medicaid/Medicare, that cost savings is then passed on to the citizens of Alaska.

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## MEMORANDUM

March 31, 2004

**SUBJECT:** Speech- Language Pathologist Assistants SB 365  
(Work Order No. 23-LS0504H)

**TO:** Senator Con Bunde  
Attn: Jane Alberts

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Authorizes a temporary speech-language pathology license for persons who are in the process of completing supervised clinical experience.

**Section 2.** Adds reference to registration of speech-language pathologist assistants to lapsed license provision.

**Section 3.** Adds reference to registration of speech-language pathologist assistants to suspended license provision.

**Section 4.** Adds new sections pertaining to the activities, qualifications, and supervision of registered speech-language pathologist assistants. Authorizes the Department of Community of Economic Development to regulate speech-language pathologist assistants.

**Section 5.** Adds speech-language pathologist assistant registration application and renewal to list of fees that must be set by the Department of Community and Economic Development.

**Section 6.** Adds a new section relating to grounds for imposition, after a hearing, of disciplinary sanctions on a speech-language pathologist assistant.

**Section 7.** Adds references to speech-language pathologist assistants for purposes of imposition of disciplinary sanctions by the Department of Community and Economic

Development.

**Section 8.** Adds a reference to speech-language pathologist assistant registrants to summary suspension provision.

**Section 9.** Adds a reference to speech-language pathologist assistant registrants to reinstatement provision.

**Section 10.** Adds a reference to speech-language pathologist assistant registrants to provision allowing for reinstatement after revocation of a registration in certain circumstances.

**Section 11.** Adds a new subsection authorizing the Department of Community and Economic Development to place a registered speech-language pathologist on probation in certain circumstances.

**Section 12.** Defines different types of "supervision" and defines "screening" as used in this Act.

**Section 13.** Establishes a July 1, 2004 effective date for the Act.

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# Frequently Asked Questions

## Speech-Language Pathology Assistants

(Updated 2/25/04)

The American Speech-Language-Hearing Association (ASHA) has a position statement and guidelines on the training, use, and supervision of speech-language pathology assistants. ASHA also has resources for supervisors of assistants and continues to support the appropriate training, use, and supervision of speech-language pathology assistants by ASHA-certified speech-language pathologists. Speech-language pathology assistants are to be used only to supplement--not supplant--the services provided by ASHA-certified speech-language pathologists. Speech-language pathology assistants are not trained for independent practice.

**NOTE:** ASHA's position statement and guidelines on the training, use, and supervision of speech-language pathology assistants have been revised and are currently undergoing peer review, with comments due by March 5, 2004.

### A. Defining Speech-Language Pathology Assistants

1. Who are speech-language pathology assistants? Answer
2. Are there other forms of support personnel? Answer
3. Is the use of speech-language pathology assistants new? Answer
4. Will speech-language pathology assistants be used to replace ASHA-certified speech-language pathologists? Answer
5. Is there a need for speech-language pathology assistants? Answer
6. What is the demand for speech-language pathology assistants? Answer
7. What are the advantages to the ASHA-certified speech-language pathologist in using speech-language pathology assistants in his or her practice? Answer

### B. Using Speech-Language Pathology Assistants

1. What may speech-language pathology assistants do? Answer
2. What is outside a speech-language pathology assistant's scope of responsibilities? Answer
3. What is the average salary for speech-language pathology assistants? Answer
4. How will this program affect the culturally and linguistically diverse professional population? Answer
5. Who is responsible for services provided by a speech-language pathology assistant? Answer
6. Will caseloads expand when assistants are used? Answer

### C. Supervising Speech-Language Pathology Assistants

1. Who can supervise speech-language pathology assistants? Answer
2. Is the speech-language pathologist supervising a speech-language pathology assistant required to have a course in supervision? Answer
3. What resources on supervision does ASHA have available? Answer
4. If an ASHA-certified speech-language pathologist with less than two years' experience joins a program with an experienced speech-language pathology assistant, should the assistant be terminated to meet ASHA's 1995 guidelines? Answer
5. How much supervision is recommended? Answer

### D. Credentialing Speech-Language Pathology Assistants

1. Does ASHA credential speech-language pathology assistants? Answer

## Speech-Language Pathology Assistant FAQs

Page 2 of 11

2. How does one become a speech-language pathology assistant? Answer
  3. Is continuing education required for a speech-language pathology assistant? Answer
  4. Is the use of speech-language pathology assistants permitted in every state? Answer
- E. Training Speech-Language Pathology Assistants
1. Is this a career ladder? Answer
  2. What information is available to help a training institution start a speech-language pathology assistant training program? Answer
  3. Can an institution establish a speech-language pathology assistant training program in a state that prohibits the use of speech-language pathology assistants? Answer
  4. How can I find qualified speech-language pathology assistants? Answer
  5. How many training programs are there for speech-language pathology assistants? Answer
- F. Reimbursing Speech-Language Pathology Assistant Services
1. Who makes the determination of what constitutes a "skilled" versus a "non-skilled" activity, in terms of rate of reimbursement for speech-language pathology (SLP) and speech-language pathology assistant (SLPA) services? Answer
  2. Since there is no clear definition of supervision in Medicare regulations, how should facilities approach the intermediary for a ruling? Answer
  3. What is being done to assure Medicare coverage of services rendered by a credentialed SLPA? Answer
- G. Fieldwork for Speech-Language Pathology Assistant Student Trainees
1. Must the fieldwork hours completed by SLPA students be performed at specific types of settings or distributed across specific age groups or disorders? Answer
  2. Does the minimum of 100 clock hours of fieldwork include observation hours? Answer
  3. When SLPA students are engaged in patient/client contact, does ASHA require that they receive direct supervision or indirect supervision for the specified minimum of 50% of the time? Answer
  4. When SLPA students are placed in fieldwork settings, can they be supervised by more than one SLP? Answer
  5. Must the supervisor of an SLPA student in an external fieldwork placement hold a current Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) from ASHA, or can he/she hold state licensure only? Answer
  6. How many years experience does the supervisor need to have to supervise an SLPA student who wishes to apply for ASHA registration? Answer

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## A. Defining Speech-Language Pathology Assistants

### 1. Who are speech-language pathology assistants?

Speech-language pathology assistants (SLPAs) are support personnel who, following academic and/or on-the-job training, perform tasks prescribed, directed, and supervised by ASHA-certified speech-language pathologists.

### 2. Are there other forms of support personnel?

There are typically two levels of support personnel – aides and assistants. Based on level of training, these support personnel may have a different scope of responsibilities in the work setting. Aides, for example, have a different, usually narrower, training base and a more limited scope of responsibilities than speech-language pathology assistants. States may use different terminology to refer to support personnel in speech-language pathology (e.g., communication aides, paraprofessionals, service extenders).

### **3. Is the use of speech-language pathology assistants new?**

Speech-language pathology assistants have been used and regulated by many states since the 1970s. ASHA has had guidelines for the use of support personnel since 1969. Attention to the use of assistants has increased as professionals seek mechanisms for expanding services and containing costs. In November 2000, ASHA began development of an approval process for associate degree SLPA training programs and a registration process for SLPAs. The approval process was effective January 2002, and the registration process was effective January 2003. However, at its Spring 2003 meeting, ASHA's Legislative Council voted to discontinue both the registration program for SLPAs and the approval process for SLPA training programs as of December 31, 2003, due to financial reasons.

### **4. Will speech-language pathology assistants be used to replace speech-language pathologists?**

No. Assistants cannot replace qualified speech-language pathologists. Rather, they can support clinical services provided by speech-language pathologists. ASHA guidelines were developed to ensure that speech-language pathology services provided to the public are of the highest quality and that speech-language pathologists continue to be responsible for maintaining this quality of service. According to ASHA guidelines and state licensure laws, no one can employ a speech-language pathology assistant without a speech-language pathologist as supervisor. ASHA guidelines and most state laws limit the number of speech-language pathology assistants a speech-language pathologist may supervise and define boundaries for how assistants are used.

### **5. Is there a need for speech-language pathology assistants?**

To serve a growing and more diverse client base and an expanding scope of practice, more service providers are needed. In an era of heightened demand for cost efficiency, some tasks may be more appropriate for support personnel than for professional-level providers. The use of assistants may allow ASHA-certified speech-language pathologists to focus more on professional-level clinical services (i.e., those that require ongoing clinical judgment) rather than on routine day-to-day operational activities. For further information on the U.S. Bureau of Labor Statistics national job outlook for the professions visit [www.bls.gov/oco/ocos085.htm#outlook](http://www.bls.gov/oco/ocos085.htm#outlook). For information on state occupational projections visit <http://almis.dws.state.ut.us/occ/projhome.asp>.

### **6. What is the demand for speech-language pathology assistants?**

ASHA does not have specific data on the demand for speech-language pathology assistants; however, 16.4% of ASHA certified speech-language pathologists reported that at least one speech-language pathology assistant was employed in their facilities (2003 ASHA Omnibus Survey). School-based speech-language pathologists reported a greater use of speech-language pathology assistants than did speech-language pathologists in health care facilities. In the school-based setting, 25.4% of ASHA-certified SLPs indicated that their facilities employed one or more SLPAs (2000 ASHA Schools Survey). The demand for speech-language pathology assistants is likely to grow as the population base for speech-language pathology services continues to increase.

### **7. What are the advantages to the speech-language pathologist in using speech-language pathology assistants in his/her practice?**

## Speech-Language Pathology Assistant FAQs

Page 4 of 11

The ASHA-certified SLP may extend services (i.e., increase the frequency and intensity of services to patients or clients on his/her caseload), focus more on professional-level tasks, increase client access to the program, and achieve more efficient/effective use of time and resources. According to the ASHA 2000 Schools Survey, 47.3% of respondents indicated that the use of SLPAs led to "more time for direct service," while 23.1% reported that the use of SLPAs led to "more time for planning/consultation with teachers."

[Return to top of page](#)

## B. Using Speech-Language Pathology Assistants

### 1. What may speech-language pathology assistants do?

According to ASHA's Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants, which apply across all practice settings, a speech-language pathology assistant may conduct the following tasks under the supervision of a speech-language pathologist:

- Conduct speech-language and hearing screenings (without interpretation) following specified screening protocols developed by the supervising speech-language pathologist
- Provide direct treatment assistance to patients/clients identified by the supervising speech-language pathologist
- Follow documented treatment plans or protocols developed by the supervising speech-language pathologist
- Document patient/client progress toward meeting established objectives as stated in the treatment plan, and report this information to the supervising speech-language pathologist
- Assist the speech-language pathologist during assessment of patients/clients, such as those who are difficult to test
- Assist with informal documentation (e.g., tallying notes for the speech-language pathologist to use), prepare materials, and assist with other clerical duties as directed by the speech-language pathologist
- Schedule activities, prepare charts, records, graphs, or otherwise display data
- Perform checks and maintenance of equipment
- Participate with the speech-language pathologist in research projects, in-service training, and public relations programs

State laws vary and may differ from ASHA guidelines. Check specific state regulations to determine the tasks permitted by assistants in a particular state. Some states do not permit the use of support personnel.

### 2. What is outside of speech-language pathology assistants' scope of responsibilities?

According to ASHA's Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants, a speech-language pathology assistant **may not** perform the following tasks.

- May not perform standardized or nonstandardized diagnostic tests, conduct formal or informal evaluations, or interpret test results

- May not participate in parent conferences, case conferences, or any interdisciplinary team meeting without the presence of the supervising speech-language pathologist or other ASHA-certified speech-language pathologist designated by the supervising speech-language pathologist
- May not provide patient/client or family counseling
- May not write, develop, or modify a patient/client's individualized treatment plan in any way
- May not assist with patients/clients without following the individualized treatment plan prepared by the speech-language pathologist or without access to supervision
- May not sign any formal documents (e.g., treatment plans, reimbursement forms, or reports; the assistant should sign or initial informal treatment notes for review and co-signature by the supervising professional)
- May not select patients/clients for service
- May not discharge a patient/client from services
- May not disclose clinical or confidential information either orally or in writing to anyone not designated by the supervising speech-language pathologist
- May not make referrals for additional services
- May not communicate with the patient/client, family, or others regarding the patient/client status or service without the specific consent of the supervising speech-language pathologist
- May not represent himself or herself as a speech-language pathologist

State laws vary and may differ from ASHA guidelines. Check specific state regulations to determine which tasks are outside the scope of responsibilities for assistants in a particular state.

### **3. What is the average salary for speech-language pathology assistants?**

At this time, ASHA collects salary data only on ASHA-certified speech-language pathologists and audiologists. Occupational and physical therapy data show that assistants in those fields make about 60% to 75% of professional-level salaries.

### **4. How will this program affect the culturally and linguistically diverse professional population?**

ASHA places great emphasis on attracting individuals from culturally and linguistically diverse backgrounds into the speech-language pathology/audiology professions. In related professions that use assistants, the proportions of minorities to non-minorities in both the assistant and the professional levels are similar.

### **5. Who is responsible for services provided by a speech-language pathology assistant?**

The fully qualified, ASHA-certified supervising speech-language pathologist is responsible for the services provided by assistants. In states that regulate speech-language pathology assistants, speech-language pathologists who hold full, unrestricted licenses assume these responsibilities for persons working under their direction.

### **6. Will caseloads expand when assistants are used?**

As has always been the case, caseload size of ASHA-certified speech-language pathologists may or may not increase depending on client needs and the nature of the services provided.

If speech-language pathology assistants are used appropriately, and if they are adequately supervised, ASHA certified speech-language pathologists' caseloads may decrease to permit sufficient time to supervise staff working under their direction. Speech-language pathology assistants do not carry their own caseloads. Assistants help to provide services as directed for the caseloads of speech-language pathologists.

[Return to top of page](#)

### **C. Supervising Speech-Language Pathology Assistants**

#### **1. Who can supervise speech-language pathology assistants?**

ASHA's 1995 guidelines define a supervisor as a speech-language pathologist certified by ASHA and licensed by the state (where applicable) who has been practicing for at least 2 years following ASHA certification and has completed at least one pre-service course or continuing education unit in supervision.

#### **2. Is the speech-language pathologist supervising an SLPA required to have a course in supervision?**

Yes, according to ASHA's 1995 guidelines (see above).

#### **3. What resources on supervision does ASHA have available?**

Refer to the [Knowledge and Skills for Supervisors of Speech-Language Pathology Assistants](#) (also available through the ASHA Action Center at 1-800-498-2071. Additional resource items are available online at [www.asha.org/shop/buy\\_online](http://www.asha.org/shop/buy_online) (or by calling 888-498-6699), including "Practical Tools and Forms for Supervising Speech-Language Pathology Assistants" and "Working with SLP Assistants in School Settings." Finally, professional development opportunities in supervision are periodically offered as education programs through ASHA teleseminars and conferences listed at [www.asha.org/Continuing-Ed](http://www.asha.org/Continuing-Ed).

#### **4. If an ASHA-certified speech-language pathologist with less than two years experience joins a program with an experienced speech-language pathology assistant, should the assistant be terminated to meet ASHA's 1995 guidelines?**

No. However, there should be documentation of the attempt to hire a qualified speech-language pathologist as supervisor (i.e., with more than two years experience post-ASHA certification). In addition, an alternate plan of supervision should be developed.

#### **5. How much supervision is recommended?**

The amount and type of supervision required should be based on the skills and experience of the speech-language pathology assistant, the needs of patients/clients served, the service setting, the tasks assigned, and other factors. ASHA's [Code of Ethics](#) requires certificate holders to provide "appropriate supervision." In ASHA's 1995 speech-language pathology assistant guidelines, the minimum amount of supervision suggested is 30% weekly (at least 20% direct) for the first 90 workdays and 20% (at least 10% direct) after the initial work period. Direct supervision means on-site, in-view observation and guidance by a speech-language pathologist while an assigned activity is performed by support personnel. The

guidelines also recommend that a speech-language pathologist supervise no more than three speech-language pathology assistants. State laws vary and may differ from ASHA guidelines. Check specific state regulations to determine amount of supervision required and qualifications for supervisors' of assistants in a particular state.

[Return to top of page](#)

#### **D. Credentialing Speech-Language Pathology Assistants**

##### **1. Does ASHA credential speech-language pathology assistants?**

Not at this time. ASHA had started a voluntary registration program for speech-language pathology assistants (SLPAs) in 2003, of which one criterion for such registration required an associate degree in SLPA from a technical training program for speech-language pathology assistants. At its Spring 2003 meeting, ASHA's Legislative Council passed a resolution to discontinue the registration program for speech-language pathology assistants and the approval process for SLPA technical training programs as of December 31, 2003, due to financial reasons.

ASHA no longer has a recognition process for associate degree technical training programs for SLPAs nor a registration process for SLPAs. ASHA will continue to disseminate the Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants, which have been revised and are available for peer review through March 5, 2004. The revised Guidelines include recommended curriculum for training programs and a checklist for supervisors of SLPAs that can assist in the verification of technical proficiency of the assistant.

##### **2. How does one become a speech-language pathology assistant?**

ASHA's recommends completion of an associate's degree from a technical training program with a program of study designed to prepare the student to be a speech-language pathology assistant. Because the requirements for speech-language pathology support personnel vary across the country, persons interested in serving as speech-language pathology assistants should check with the state of intended employment for that state's specific requirements. State agencies (licensure boards) currently regulating support personnel have training requirements that range from a high school diploma to a baccalaureate degree + graduate credit hours, as well as a variety of differing requirements for those supervising these individuals. In addition to state regulatory agencies, state education agencies may credential support personnel to work solely in schools to support service delivery provided by a qualified speech-language pathologist. ASHA's Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants are national in scope and can serve to promote greater uniformity in the terms used to identify speech-language pathology support personnel, training and educational requirements, and job responsibilities.

##### **3. Is continuing education required for a speech-language pathology assistant?**

Currently, ASHA does not have a continuing education requirement for speech-language pathology assistants. State laws may vary from ASHA's requirements, so check with the state of intended employment, as several states do require annual continuing education for assistants.

#### **4. Is the use of speech-language pathology assistants permitted in every state?**

No. Some states that regulate speech-language pathology do not permit the use of speech-language pathology support personnel. As of July 2003, statutes in 37 states recognize support personnel, but not all of these states actually regulate support personnel. In addition, state departments of education may credential speech-language pathology support personnel. Some school districts hire assistants under the classification of teacher assistants. If a state regulates speech-language pathology support personnel (i.e., under the term of assistant, aide, paraprofessional, apprentice, etc.), then individuals who wish to become employed in that state must meet the state requirements for practice under a licensed and ASHA-certified speech-language pathologist. Call the state licensure board or department of education for specific state regulations. Addresses and phone numbers can be obtained at [www.asha.org/about/legislation-advocacy/state/associations](http://www.asha.org/about/legislation-advocacy/state/associations).

[Return to top of page](#)

### **E. Training Speech-Language Pathology Assistants**

#### **1. Is this a career ladder?**

It could be, but it is not specifically intended as such because the associated coursework and fieldwork experiences required in the speech-language pathology assistant program typically differ from those at the bachelor's, pre-professional, or master's professional levels. Anyone interested in pursuing academic coursework and fieldwork as an assistant prior to entering the field of speech-language pathology, may want to check with bachelor's degree programs and master's degree programs in speech-language pathology to determine if any courses taken in the associate degree SLPA program will be credited for future studies.

#### **2. What information is available to help a training institution start a speech-language pathology assistant training program?**

The revised *Guidelines for Training, Use, and Supervision of Speech-Language Pathology Assistants*, currently under peer review include curriculum content for training of SLPAs. (See Section G below for more information.)

#### **3. Can an institution establish a speech-language pathology assistant training program in a state that prohibits the use of speech-language pathology assistants?**

Such decisions are under the purview of state agencies that have degree-granting authority and that regulate the professions. Consult with the appropriate state entity that performs such oversight to determine if starting such a program is permissible under postsecondary requirements in place and whether the program would be at variance with state law and regulations for the profession.

#### **4. How can I find qualified speech-language pathology assistants?**

Call states that regulate them. Addresses and phone numbers of state licensure boards and regulatory agencies can be obtained from ASHA's Web site at <http://www.asha.org/about/legislation-advocacy/state/associations>. Another option is to call

## Speech-Language Pathology Assistant FAQs

Page 9 of 11

associate degree programs and institutions that train and graduate speech-language pathology assistants. For a list of self-identified training programs for SLPAs, contact [actioncenter@asha.org](mailto:actioncenter@asha.org).

**5. How many training programs are there for speech-language pathology assistants?**

As of September 2003, ASHA is aware of 27 operational associate degree programs for speech-language pathology assistants and 73 institutions that are considering and/or developing programs. Some of these programs are exploring training opportunities through distance learning and collaborations between community colleges and institutions of higher education. For a self-identified list of SLPA training programs, contact [actioncenter@asha.org](mailto:actioncenter@asha.org).

[Return to top of page](#)

**F. Reimbursing Speech-Language Pathology Assistant Services****1. Who makes the determination of what constitutes a "skilled" versus a "non-skilled" activity, in terms of rate of reimbursement for speech-language pathology (SLP) and speech-language pathology assistant (SLPA) services?**

Medicare (as well as private insurers) does not provide a different rate of reimbursement for services provided by a speech-language pathologist as opposed to an SLPA. Services provided by a speech-language pathologist and an SLPA are considered skilled services, as the SLPA is implementing the treatment devised by the speech-language pathologist. Medicare and most private insurers do not cover non-skilled speech-language services. There are some clear definitions of what type of activity constitutes a skilled service in the ASHA compilation that includes "[Medicare Medical Review Guidelines for SLPs](#)." Excerpts are reproduced below, although one should refer to the entire document for guidance.

"The services must be of such a level of complexity and sophistication, or the patient's condition must be such that the services required can be safely and effectively performed only by or under the supervision of a qualified speech pathologist. (*Medicare Intermediary Manual*, section 3101.10A.2)

Non-skilled activities include:

Non-diagnostic, non-therapeutic, routine, and repetitive and reinforced procedures . . . which may effectively be carried out with the patient by any nonprofessional (e.g., family member, restorative nursing aide) after instruction and training is completed. (*Medicare Program Integrity Manual*, section 6.6.5.B.)

**2. Since there is no clear definition of supervision in Medicare regulations, how should facilities approach the intermediary for a ruling?**

If there are any questions regarding supervision, ASHA's 1995 Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants will address them. If the services provided by the SLPA under the supervision of the speech-language pathologist constitute skilled care and the facility follows ASHA supervision guidelines, then that should be an adequate basis for Medicare coverage.

Some intermediaries (i.e., claims processing organizations) are not certain of their role in determining the adequacy of supervision. The following excerpt from the *Medicare Intermediary Manual* (section 3101.10A.2) can be cited:

(When you [the claims reviewer] determine the services furnished were of a type that could have been safely and effectively performed only by qualified speech pathologists or under the supervision of a qualified speech pathologist, presume that such services were properly supervised. However, this assumption is rebuttable and, if in the course of processing claims you find that speech pathology services are not being furnished under proper supervision, deny the claim and bring this matter to the attention of the Division of Health Standards and Quality of the RO [CMS Regional Office]). . .

If your Medicare intermediary insists that SLPAs are not covered, request from ASHA a 1996 letter from HCFA (now the Centers for Medicare and Medicaid Services [CMS]) regarding coverage of speech-language pathology support personnel. It states that "it is the intermediary's responsibility to determine whether the type or degree of supervision...is adequate for coverage of speech-language pathology services." The letter can be obtained from Mark Kander at [Mkander@asha.org](mailto:Mkander@asha.org).

### 3. What is being done to ensure Medicare coverage of services rendered by a credentialed SLPA?

Facilities that use SLPAs are encouraged to contact their intermediaries to confirm that services furnished by an SLPA are covered skilled services and appropriately supervised; hence they should be reimbursed. The ASHA Governmental Relations and Public Policy Board and the Health Care Economics Committee are currently studying the ramifications of revised regulations that would recognize SLPAs who meet ASHA criteria.

[Return to top of page](#)

## G. Fieldwork for Speech-Language Pathology Assistant Student Trainees

### INTRODUCTION

The questions and answers below are provided to assist associate degree technical training programs for speech-language pathology assistants (SLPAs) in establishing fieldwork arrangements that provide SLPA students with the technical skills necessary for supervisors to verify their technical proficiency. This information is consistent with the criteria established by ASHA in 2001 (effective through December 31, 2003) for the approval of SLPA training programs, as included in the Criteria and Implementation for the Approval of Associate Degree Technical Training Programs for Speech-Language Pathology Assistants. This section is applicable to SLPA student trainees, not necessarily assistants in the employment setting.

#### 1. Must the fieldwork hours completed by SLPA students be performed at specific types of settings or distributed across specific age groups or disorders?

ASHA does not specify types of settings for fieldwork or distribution of hours, as long as the fieldwork provides SLPA students with a variety of experiences with individuals with communication disorders. The intent is to allow training programs flexibility in arranging their fieldwork, and to ensure that SLPA students have experience with both children and adults in more than one setting; however, ASHA policies do not mandate a specific distribution.

**2. Does the minimum of 100 clock hours of fieldwork include observation hours?**

No. ASHA guidelines recommend a minimum of 100 clock hours of fieldwork that includes direct and indirect client contact activities covering all of the job responsibilities of an SLPA, but not observation hours. Those should be undertaken before starting the 100 fieldwork hours. It is up to the training program to set the appropriate number of observation hours.

**3. When SLPA students are engaged in patient/client contact, does ASHA require that they receive direct supervision or indirect supervision for the specified minimum of 50% of the time?**

When engaged in patient/client contact, ASHA guidelines indicate that the SLPA student be supervised a minimum of 50% of the time. The patient/client contact refers to direct supervision of the SLPA student, which is defined as on-site, in-view observation and guidance.

**4. When SLPA students are placed in fieldwork settings, can they be supervised by more than one SLP?**

Yes, as long as each SLP supervising the student is willing and able to complete a technical proficiency or skills competency checklist (or whatever specific format your institution uses for fieldwork assessments) for that particular student.

**5. Must the supervisor of an SLPA student in an external fieldwork placement hold a current Certificate of Clinical Competence in Speech-Language Pathology (CCC-SLP) from ASHA, or can he/she hold state licensure only?**

For the 100 clock hours of fieldwork defined in ASHA guidelines for each SLPA student, the supervisor must hold a current ASHA CCC-SLP. Any fieldwork hours completed that are above the minimums indicated by ASHA can be under the supervision of a qualified speech-language pathologist who is either state-licensed or ASHA-certified.

**6. How many years experience does the supervisor need to have to supervise an SLPA student?**

The Guidelines for the Training, Credentialing, Use, and Supervision of Speech-Language Pathology Assistants (1995) specifies that "the SLPA must be supervised by an SLP who has practiced speech language pathology for at least 2 years following ASHA certification."

[Return to top of page](#)

This page was updated on: 2/25/2004.

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Alaska  
Speech &  
Language  
Depot INC.

1731 S. Bragaw St., Anchorage, AK 99508

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Fax (907) 279-0331

www.alaskaspeech.com

April 9, 2004

**SB365** "An act relating to the regulation of speech-language pathology assistants; and providing for an effective date."

This letter is in support of SB365. This bill will be heard in Senate Finance on Friday, April 16. Please consider the following points:

The State of Alaska currently has a shortage of certified Speech-Language Pathologists, in all work settings. Presently, there are students participating in long-distance education programs to obtain their master's degree in this field, to help alleviate this shortage. Alaska does not have a degree program for Speech-Language Pathology so residents have to choose whether to reside in Alaska and participate in a distance-learning program or spend their education dollars Outside. SB365 will allow these students to complete their supervised practicum and Clinical Fellowship, which are required for certification from the American Speech-Language Hearing Association and to be licensed in Alaska. Without SB365 these students would have an extremely difficult time fulfilling the requirements for their degrees while residing in Alaska.

SB365 will allow for qualified and appropriately trained assistants in the field of Speech-Language Pathology. These assistants will enhance the services currently provided in Alaska. Each assistant will be supervised by a certified & licensed Speech-Language Pathologist.

Alaska needs SB365 to be passed. Please support this bill.

Sincerely,

Cheryl Campbell, M.A., CCC  
Speech-Language Pathologist / President

Support



AMERICAN  
SPEECH-LANGUAGE-  
HEARING  
ASSOCIATION

March 31, 2004

Alaska Speech-Language Hearing Association  
Nancy Lovering, President  
4325 Laurel Street- Suite 100  
Anchorage, AK 99508

Dear Ms. Lovering:

The American Speech-Language-Hearing Association (ASHA) would like to formally express our support for Alaska S.B. 365. ASHA is the professional, credentialing and scientific organization that represents more than 114,000 audiologists; speech-language pathologists; and speech, language and hearing scientists nationwide.

We have examined the text of S.B. 365 and would like to focus our comments on the topic of speech-language pathology assistants. S.B. 365 is well written, comprehensive and generally consistent with ASHA policy and guidelines on the use of speech-language pathology support personnel. The bill does an excellent job of clearly delineating the tasks that are allowed and prohibited to be performed by speech-language pathology assistants.

With the passage of this legislation, Alaska would be joining 31 other states that currently regulate the use of speech-language pathology support personnel. Of these 31 states, 22 states regulate through registration, similar to the proposed Alaska bill. In addition, the sections of S.B. 365 that pertain to education/experience required, title, continuing education and supervision all fall within the spectrum of other state requirements ensuring that speech-language pathology assistants in Alaska would be comparable to assistants in other states.

We feel that the bill could be made even stronger by making some minor changes and we have detailed suggested amendment language for you in the attached e-mail. If you have any questions or concerns, please contact me at [spilch@asha.org](mailto:spilch@asha.org) or at (301) 897-5700, ext. 4284.

Sincerely,

Susan Pilch  
Director, State Legislative and Regulatory Advocacy



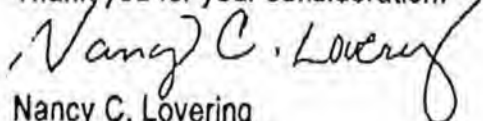
Senator Con Bunde  
State Capitol  
Juneau, AK 99801-1182

Senator Bunde;

I am writing in support of SB 365 and encourage your support. This bill will assist in the regulation of speech-language pathology assistants working with Alaskan children and adults with communication impairments. Nationwide there is a shortage of certified speech-language pathologists and in Alaska there is also such a shortage. Many of our remote areas rely on instructional assistants to implement services when the speech-language pathologist cannot be there. Additionally, speech-language pathologists in other work settings (i.e. hospitals, urban schools, clinics) are finding the need for qualified service delivery personnel to assist in implementing services.

Speech-language pathology assistants would be highly trained in their field with an AA or BA degree and a minimum of 100 hours supervised clinical practicum by a certified speech-language pathologist. In addition, these qualifications will satisfy the requirements for No Child Left Behind. The importance of trained speech-language pathology assistants cannot be ignored. The consistency and quality of services to people in need would be greatly enhanced.

Thank you for your consideration.



Nancy C. Lovering  
President- Alaska Speech and Hearing Association  
4325 Laurel St., Suite 100  
Anchorage, AK 99508  
907-562-8262

**Cara Leckwold, M.A. CCC-SLP**  
**4325 Laurel St. #100**  
**Anchorage, AK, 99508**  
**(907)561-8775**

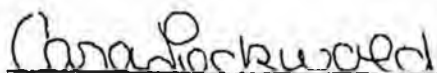
Senator Con Bunde  
Staten Capitol  
Juneau, AK 99801-1182

Dear Senator Bunde:

I am writing in support of SB 365 and to encourage your support. This bill will assist in the regulation of speech-language assistants working with children and adults with communication impairments. As I am sure you are aware, there is a national shortage of certified speech-language pathologists, and this has had a tremendous impact on the availability of services to people in Alaska with speech and language disorders. As a result of this shortage, many of our remote and undeserved areas must rely on assistants to implement services when a certified speech-language pathologist is not available.

Speech-language pathology assistants would be required to be highly trained in their field, have an Associate or Bachelor degree, and a minimum of 100 hours of clinical practicum supervised by a certified speech-language pathologist. These requirements of qualification would satisfy the requirements for the No Child Left Behind Act. The importance of having trained speech-language assistants cannot be ignored. The consistency and quality of services to people with communication disorders would be greatly enhanced by the implementation of this bill.

Thank you for your consideration.



\_\_\_\_\_  
Cara Leckwold, M.A. CCC SLP  
Speech Language Pathologist  
ASHA #: 01083614  
AK Lic. # 10



**Southwest  
Region  
School  
District**

*P.O. Box 90  
574 Kenny Wren Road  
Dillingham, AK 99576*

*(907) 842-5287 • Phone  
(907) 842-5428 • Fax*

To Whom It May Concern:

I am writing in support of the bill that will create regulations for SLP Assistants. As a rural speech pathologist serving nine villages, I have to rely on instructional assistants and special education teachers to deliver services when I'm not in the village. I can only visit my villages twice a month so that leaves a significant amount of time that these people are delivering services for me. Even though I have given them training, it is not the same as having someone who has graduated from a college program specifically designed for the purpose of delivering speech/language services. These assistants will be highly qualified which will satisfy the NCLB requirements.

Having a SLP Assistant deliver services under my supervision will allow me the time I don't have now to consult with teachers, medical personnel and others as well as give me the opportunity to train staff, attend meetings and complete the mountain of paperwork I have. The quality and consistency of services provided to my students will be greatly improved. Although the assistants will be highly qualified, they still need guidelines to work within. This bill will provide that.

*Aleknagik*

*Clark's Point*

*Ekvok*

*Koliganek*

*Manokotak*

*New Stuyahok*

*Portage Creek*

*Togiak*

*Twin Hills*

Sincerely,

Tina Clumpner M.S., CCC-SLP  
Speech-Language Pathologist  
Southwest Region Schools

**Subject:** SLP Assistants

**Date:** Mon, 29 Mar 2004 13:46:13 -0900

**From:** "mary@ptialaska.net" <marylang@ptialaska.net>

**To:** <Jane\_Alberts@legis.state.ak.us>

**CC:** <campbell@alaska.net>

I would like to encourage the passing of SB 365 " An Act relating to the regulation of speech-language pathology assistants; and providing for an effective date." Certified, licensed Speech/Language Pathologists are in short supply in Alaska. Programs have been in effect to educate Assistants in field appropriately to work under the supervision of licensed personnel. Their scope of practice is limited to skills developed during the acquisition of the AA or the BA. They would enhance the services available at present, offered through the SLP. Having these personnel available will allow the SLP time to consult with medical personnel and other service providers, attend meetings, evaluate, and complete other administrative duties as required. There are a number of these people available in the state at present, having gone through the AA program through Prince William Sound. Implementing them will be a tremendous help to both private therapists and school personnel increasing the frequency of service throughout the system.

Mary J. Toutonghi, MS, CCC-SLP-L



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Language  
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Fax (907) 279-0331

www.alaskaspeech.com

March 29, 2004

**SB365** "An act relating to the regulation of speech-language pathology assistants; and providing for an effective date."

This letter is in support of SB365. Please consider the following points:

The State of Alaska currently has a shortage of certified Speech-Language Pathologists, in all work settings. Presently, there are students participating in long-distance education programs to obtain their master's degree in this field, to help alleviate this shortage. Alaska does not have a degree program for Speech-Language Pathology so residents have to choose whether to reside in Alaska and participate in a distance-learning program or spend their education dollars Outside. SB365 will allow these students to complete their supervised practicum and Clinical Fellowship, which are required for certification from the American Speech-Language Hearing Association and to be licensed in Alaska. Without SB365 these students would have an extremely difficult time fulfilling the requirements for their degrees while residing in Alaska.

SB365 will allow for qualified and appropriately trained assistants in the field of Speech-Language Pathology. These assistants will enhance the services currently provided in Alaska. Each assistant will be supervised by a certified & licensed Speech-Language Pathologist.

Alaska needs SB365 to be passed. Please support this bill.

Sincerely,

Cheryl Campbell, M.A., CCC  
Speech-Language Pathologist / President

**Subject:** SB365

**Date:** Fri, 26 Mar 2004 16:10:22 -0900

**From:** Bruce & Nancy Steely <bnsteely@gci.net>

**To:** Jane\_alberts@legis.state.ak.us

**CC:** campbell@alaska.net

I am writing in support of SB365. I am a practicing Speech/Language Pathologist in the Anchorage School District and have been employed in this field for over 20 years. I have seen many changes over the years, notably the extreme shortage of qualified ("highly qualified" as we now call them) Speech/Language Pathologists. I currently serve two elementary schools. I have, over the years, required the very able assistance of "speech assistants". My total caseload, this year, is such that I am again using an assistant. I am fortunate to have a person who is working on her SLPA degree. The level of professionalism and knowledge she brings to the job is superior and provides my students with the necessary follow-through of the therapy plan.

ANNE VER HOEF MA, CCC-SLP

*Speech - Language Pathologist*

5820 Yukon Road  
Anchorage, Alaska 99507  
(907) 345-4422  
Fax (907) 345-4422

**LETTER IN SUPPORT OF  
SB365**

**An Act related to regulation of speech-language pathology assistants; and providing  
an effective date**

Dear Legislators:

This letter is in support of passing SB365 and the counterpart to be sent to the House regarding the regulation of speech-language pathology assistants and speech-language pathologists in their Clinical Fellowship Year (CFY).

Speech-language pathologists in their CFY have completed their Master's Degree in Speech-Language Pathology and all requirements by our national certifying agency, ASHA, with the exception of the Clinical Fellowship Year (CFY). During this 9-12 month period, the CFY candidate may be working as a Speech-Language Pathologist in various settings but is still supervised (more of a mentoring) by a certified and licensed SLP. SB365 would allow a SLP-CFY to obtain a temporary license, which is only appropriate for the scope of work the person is doing. They are providing professional services and this will help to clarify their status with various employment sites and reimbursement entities.

With regard to speech-language pathology assistants (SPL-A), SB365 will clarify the scope of practice, qualified personnel and increase the quality of services provided to Alaskans with impairments of communication, cognition and swallowing. The services provided by a SPL-A are under the direct guidance and supervision of a qualified speech-language pathologist and may occur in such varied settings as schools, hospitals, long-term care facilities and in the home. There is a critical shortage of service providers in a state with the geographical challenges of Alaska; but even in Anchorage certified speech-language pathologists are unable to cover the needs of those requesting and requiring services. This bill will help to ensure that qualified assistants may provide supportive services and Alaskan will benefit from obtaining medically necessary or educationally mandated services.

Thank you for your time and consideration in this matter.



Anne Ver Hoef, M.A., CCC-L-SLP  
Speech-Language Pathologist, Certified, Licensed

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 3/17/04

FURTHER: Finance

Date of 5-Day Notice: 3/25/04  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/1/04

Labor and Commerce Committee considered SENATE BILL NO. 365

**SB 365 SPEECH-LANGUAGE PATHOLOGIST ASSISTANTS**

"An Act relating to the regulation of speech-language pathologist assistants; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title
	SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DCED	3/23/04	✓			1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Z.	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Seekins	<i>Joseph Seekins</i>	✓			
Davis	<i>Bethye Davis</i>	X			
French	<i>[Signature]</i>			X	
Burde	CHAIR: <i>[Signature]</i>	✓			







**SB**

**366**

**SFIN**

**FILE**

**SENATE FINANCE COMMITTEE REPORT**  
**First Committee of Referral**

REPORTED OUT
MAY 07 2004
SENATE FINANCE COMMITTEE

DATE: 3/17/04

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
 (in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 7 May 2004

Finance Committee considered

SENATE BILL NO. 366

SB 366 STATE SALES TAX

"An Act relating to the levy and collection of sales and use taxes, to the levy and collection of municipal sales and use taxes, and to municipal sales and use taxes on alcoholic beverages; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS CS SB 366 (FIN)
- adopt previous \_\_\_\_\_ CS CS forthcoming
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<b>House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	Indet.	FN#
	F/n				
	forthcoming				

Department	Date	Fiscal	Zero	Indet.	FN#

APPROPRIATION - no fiscal note

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

MAY 07 2004

SENATE FINANCE  
COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: CSSB 366(FIN)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title State Sales Tax RDU Revenue Programs & Services  
Component Tax Division  
Sponsor Senate Finance Committee  
Requester Senate Finance Committee Component No. 2476

**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						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>	*					
-----------------------------	---	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	*	*	*	*	*	*
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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)						
<b>TOTAL</b>	*	*	*	*	*	*

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	*	*	*	*	*	*
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

\* See page 2 and 3

Prepared by: Chuck Harlamert & Brett Fried Phone 465-2320  
Division Tax Division Date/Time 5/7/04 4:33 PM  
Approved by: Steve Porter, Deputy Commissioner Date 5/7/2004  
Agency Department of Revenue

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## FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSSB 366(FIN)

### ANALYSIS CONTINUATION

#### Cost Discussion

We estimate that there will be approximately 50,000 taxpayers under the bill generating just under 500,000 returns each year. We estimate ongoing operational costs of \$5.9 million per fiscal year. The projected staffing is 79 full time employees. We have not developed cost estimates for specific fiscal years that reflect program start-up and maturity. Based on this estimate, and our analysis of other broad based tax proposals, we expect that operational costs for FY05 will be between \$2.0 and \$3.0 million after which operating costs are expected to peak during the second year of the program then decline and stabilize at the \$5.9 million estimate as the program matures. Capital investment in information systems and specialized equipment are estimated at \$7.5 million.

These operational and capital cost estimates assume that the \$60 tax cap under the bill is a \$60 cap on the state tax and an independent \$60 cap on each municipal tax that may apply to a transaction. This is how we interpret the bill as written. If however, the cap is intended to be a limit of \$60 on state and municipal taxes combined, then detailed reporting of individual transactions would be necessary to determine the portion of the \$60 attributable to the state and municipal taxes. The cost of transactional reporting are significant for taxpayers and the department. If the bill is modified to impose a cap on the combined state and municipal tax, we recommend that the revenue distribution and tax sharing provisions of the bill be modified to provide for revenue sharing based on the ratio of state to municipal tax rates in order to avoid these costs and complexities.

#### Revenue Discussion

Estimating the revenue from a proposed sales tax is fraught with potential pitfalls. These include the difficulty of obtaining current and applicable data and identifying the potential effects on consumers and businesses. Besides these estimation difficulties, the maximum allowable tax per single sale and municipal share provisions in this bill make it even more difficult to develop a plausible estimate.

#### Sales

The U.S. Economic Census estimates that the total value of all sales, receipts or revenue for Alaska establishments in 1997 was over \$35 billion. However, HB 366 exempts certain goods and services, including the following:

- (1) the sale of property for resale
- (2) financial services
- (3) prescription drugs
- (4) health care services
- (5) the sale, lease or rental of real property
- (6) sale of natural gas or diesel fuel for home heating
- (7) water, sewer, electricity steam or refuse and garbage collection
- (8) transportation of passengers and tangible personal property
- (9) property and services used for the exploration, extraction and production of natural resources.
- (10) the sale, transfer or use of motor fuel taxed under AS 43.40.010;
- (11) sales, leases, or rentals made in a municipality or unincorporated community with a population of less than 500.

We tried as much as possible to match goods and service classified as exempt in the Bill to census definitions so that we could exclude them from the estimated tax base. We then updated the tax base by sector using personal income statistics. The result is a tax base of about \$12.5 billion. If we ignore for the time being the municipal share, allowable maximum tax and exemption for sales made in small communities provisions in the Bill, then the total estimated revenue at three percent would be about \$375 million. Additionally, at no point in this analysis do we estimate how any of the provisions in this bill will change behavior.

#### The Cap

We are not aware of any direct method to estimate the reduction in revenue as a result of the exclusion of single sales, leases or rentals that exceed the tax cap of \$60. There is no statewide estimate of the volume of sales or the amount of each sale that would exceed the cap. A community that defines its maximum tax per sale in a similar fashion to HB 366 is the Kenai Peninsula Borough. The Kenai Peninsula Borough allows the tax to be applied "only to the first \$500 of each separate sale, rent or service transaction with some exceptions."

## FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSSB 366(FIN)

These exceptions include a provision that defines room rentals on a per room per night basis. This is to prevent a person from bundling rooms together over time and using the bundled transaction as a single sale. There is no such provision in this Bill.

The Kenai Peninsula Borough used a random sampling of their 1999 returns to do an analysis of their tax cap. The result of their analysis shows that the cap lowers the Kenai Peninsula Borough's taxable sales by approximately 35 percent. Although this percentage seems very high when applied to the state there would be a large incentive to bundle goods and services and to invoice as infrequently as possible. This will be particularly true of services which account for almost 50 percent of the total estimated revenue from this tax. Unlike the Kenai Peninsula Borough, this bill also does not have any restrictions such as the "per room per night" restriction in the Borough ordinance. In 1999, this ordinance also specified that a single sale of a service could not be invoiced over more than 30 days. This provision was recently repealed. Using the Kenai Peninsula Borough's experience the cap could reduce the statewide sales tax base to \$8.1 billion. Our very rough revenue estimate at the three percent tax rate would then be about \$243 million.

### Communities with less than 500 individuals

We estimate that approximately three percent of the population lives in cities with less than 500 people. Although these individuals may have completely different spending habits than other individuals in the state, as a very rough estimate we could reduce the tax base by three percent. The tax base would then be about \$7.9 billion and our very rough estimate at the three percent tax rate would be \$235 million.

### The Municipal Share

It is not possible to estimate how many municipalities (cities and boroughs) would choose to impose sales taxes or change their rates as a result of HB 366. However, we do know that approximately 70 municipalities in Alaska already have sales tax rates equal to or higher than three percent. If we use population as a proxy for sales and adjust for cities that currently have population less than 500 and levy sales taxes, then at a minimum, 19 percent of one percent of the tax base would go to cities, or about \$15 million using the above rough estimate. The maximum municipal share, if all communities with populations greater than 500 adopted a three percent or higher tax rate, would be about \$79 million using the above estimate. The rough estimate of revenue to the state would then be somewhere between \$156 to \$220 million at the 3 percent rate.

### Intersection of Tax Cap and Municipal Share

The Bill says that if a borough levies a "general" sales tax then a "borough must conform exactly to the statewide sales and use tax." In addition, "a city may levy sales and use taxes in the manner provided for boroughs." We interpret this to be that the \$60 tax cap would apply separately at the borough, city and statewide level. That is, the total effective tax cap for sales made in a city with a sales tax within a Borough with a sales tax, would be \$180. If, however, the total tax cap on the sale is \$60 and it is shared back to municipalities and boroughs with sales taxes then the revenue estimate would be lower.

### Other Assumptions or Exclusions

We did not include any adjustments for consumers or businesses lowering their tax burden by changing their behavior. Also, we did not include estimates for use taxes collected from buyers and out-of-state sellers. Additionally, we did not exclude the sales of services by or to the state or a political subdivision of the state.



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

RUSH

Scheduled

FAX COVER SHEET

for 10:00 am  
floor

DATE: 7 May 2004 TIME: 10:05 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

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

NOTES: CS SB 366 (FIN)

23-LS1051\Z

Kurtz 5/6/04

no changes

Thx

Mindy

ADOPTED

WORK DRAFT

WORK DRAFT

WORK DRAFT

23-LS1051VZ  
Kurtz  
5/6/04

**CS FOR SENATE BILL NO. 366( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE FINANCE COMMITTEE BY REQUEST**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the levy and collection of sales and use taxes, and to the levy,**  
2 **collection, and expenditure of municipal taxes; and providing for an effective date."**

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

4 **\* Section 1.** AS 29.05.210(b) is amended to read:

5 (b) The department shall provide assistance to each borough and unified  
6 municipality incorporated after December 31, 1985, in

7 (1) establishing the initial sales and use tax assessment [AND  
8 COLLECTION DEPARTMENT] if the borough or unified municipality has adopted a  
9 sales or use tax;

10 (2) determining the initial property tax assessment roll if the borough  
11 or unified municipality has adopted a property tax, including contracting for appraisals  
12 of property needed to complete the initial assessment.

13 **\* Sec. 2.** AS 29.05.210(b) is amended to read:

14 (b) The department shall provide assistance to each borough and unified

1 municipality incorporated after December 31, 1985, in

2 (1) establishing the initial sales and use tax assessment and collection  
3 department if the borough or unified municipality has adopted a sales or use tax;

4 (2) determining the initial property tax assessment roll if the borough  
5 or unified municipality has adopted a property tax, including contracting for appraisals  
6 of property needed to complete the initial assessment.

7 \* Sec. 3. AS 29.10.200(41) is amended to read:

8 (41) AS 29.35.170 [AS 29.35.170(b)] (assessment and collection of  
9 taxes);

10 \* Sec. 4. AS 29.10.200(41) is amended to read:

11 (41) AS 29.35.170(b) [AS 29.35.170] (assessment and collection of  
12 taxes);

13 \* Sec. 5. AS 29.10.200(51) is amended to read:

14 (51) AS 29.45.650 [AS 29.45.650(c), (d), (e), (f), (i), AND (j)]  
15 (general sales and use tax);

16 \* Sec. 6. AS 29.10.200(51) is amended to read:

17 (51) AS 29.45.650(c), (d), (e), (f), (h), and (i) [AS 29.45.650]  
18 ([GENERAL] sales and use tax);

19 \* Sec. 7. AS 29.10.200(52) is amended to read:

20 (52) AS 29.45.700 [AS 29.45.700(d) AND (e)] (general sales and use  
21 tax);

22 \* Sec. 8. AS 29.10.200(52) is amended to read:

23 (52) AS 29.45.700(d) and (e) [AS 29.45.700] ([GENERAL] sales and  
24 use tax);

25 \* Sec. 9. AS 29.10.200 is amended by adding new paragraphs to read:

26 (64) AS 29.35.110(a) (expenditure of borough revenues);

27 (65) AS 29.45.660 (notice of sales and use tax);

28 (66) AS 29.45.670 (referendum on adoption, and modification of sales  
29 and use tax).

30 \* Sec. 10. AS 29.35.110(a) is amended to read:

31 (a) Borough revenues received through taxes levied [COLLECTED] on an

1 areawide basis by the borough may be expended on general administrative costs and  
2 on areawide functions only. Borough revenues received through taxes levied  
3 [COLLECTED] on a nonareawide basis may be expended on general administrative  
4 costs and functions that render service only to the area outside all cities in the  
5 borough. This subsection applies to home rule and general law municipalities.

6 \* **Sec. 11.** AS 29.35.110(a) is amended to read:

7 (a) Borough revenues received through taxes collected [LEVIED] on an  
8 areawide basis by the borough may be expended on general administrative costs and  
9 on areawide functions only. Borough revenues received through taxes collected  
10 [LEVIED] on a nonareawide basis may be expended on general administrative costs  
11 and functions that render service only to the area outside all cities in the borough.  
12 [THIS SUBSECTION APPLIES TO HOME RULE AND GENERAL LAW  
13 MUNICIPALITIES.]

14 \* **Sec. 12.** AS 29.35.170 is amended to read:

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

19 (b) Taxes, other than general sales and use taxes, levied by a city shall be  
20 collected by a borough and returned in full to the levying city. [THIS SUBSECTION  
21 APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

22 \* **Sec. 13.** AS 29.35.170 is amended to read:

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

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

30 \* **Sec. 14.** AS 29.35.170 is amended by adding a new subsection to read:

31 (c) This section applies to home rule and general law municipalities.

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\* **Sec. 15.** AS 29.45.650 is repealed and reenacted to read:

**Sec. 29.45.650. General sales and use tax.** (a) Except as provided in AS 29.45.750, a borough may levy a general sales and use tax. If a borough levies a general sales and use tax,

(1) the borough must conform exactly to the statewide sales and use tax levied and collected under AS 43.44, except that the municipal general sales and use tax may be levied at any rate; and

(2) the borough's use tax is levied on the privilege of using in the borough tangible personal property or services.

(b) The Department of Revenue shall collect a sales and use tax levied under this section and remit the proceeds to the municipality. The Department of Revenue may use its administrative authority under AS 43.05 and its enforcement and collection authority under AS 43.10 to collect a sales and use tax levied under this section.

\* **Sec. 16.** AS 29.45.650 is repealed and reenacted to read:

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

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

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether inside or outside the state.

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be

1 charged from the due date until paid in full. This subsection applies to home rule and  
2 general law municipalities.

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

12 (f) A borough may not levy and collect a sales tax on a purchase made with  
13 (1) food coupons, food stamps, or other type of allotment issued under 7 U.S.C. 2011 -  
14 2036 (Food Stamp Program); or (2) food instruments, food vouchers, or other type of  
15 certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for  
16 Women, Infants, and Children). For purposes of this subsection, the value of a food  
17 stamp allotment paid in the form of a wage subsidy as authorized under  
18 AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 -  
19 2036 (Food Stamp Program). This subsection applies to home rule and general law  
20 municipalities.

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

24 (1) the sale, lease, rental, storage, consumption, or distribution in this  
25 state of or the provision of services relating to an orbital space facility, space  
26 propulsion system, or space vehicle, satellite, or station of any kind possessing space  
27 flight capacity, including the components of them;

28 (2) the sale, lease, rental, storage, consumption, or use of tangible  
29 personal property placed on or used aboard an orbital space facility, space propulsion  
30 system, or space vehicle, satellite, or station of any kind, regardless of whether the  
31 tangible personal property is returned to this state for subsequent use, storage, or

1 consumption; an exemption under this paragraph is not affected by the failure of a  
2 launch to occur, or the destruction of a launch vehicle or a component of a launch  
3 vehicle.

4 (h) A borough may not levy or collect a sales or use tax on (1) the physical  
5 transfer of refined fuel, unless the transfer is made in connection with a sale or use in  
6 the borough, or (2) wholesale sales or transfers of fuel refined in the borough. A sale is  
7 in the borough if the fuel is delivered to the buyer in the borough. A use is in the  
8 borough if the fuel is consumed in the borough. This subsection applies to home rule  
9 and general law municipalities.

10 (i) The prohibitions on the levy and collection of a sales or use tax on refined  
11 fuel in (h) of this section do not apply to a borough if, on the effective date of (h) of  
12 this section, the borough is

13 (1) levying and collecting a sales or use tax on the sale, use, or transfer  
14 of refined fuel under an ordinance adopted before January 1, 2003; or

15 (2) receiving payments in lieu of a sales or use tax on the sale, use, or  
16 transfer of refined fuel under an agreement entered into before January 1, 2003.

17 \* Sec. 17. AS 29.45 is amended by adding a new section to read:

18 **Sec. 29.45.655. Specific taxes on property and services.** Unless otherwise  
19 prohibited by law, a municipality may levy and collect specific sales or excise taxes on  
20 single categories of tangible or intangible property or services, such as bed taxes, car  
21 rental taxes, and fish taxes.

22 \* Sec. 18. AS 29.45.660(a) is amended to read:

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

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

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

5 \* **Sec. 19.** AS 29.45.660(a) is amended to read:

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

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

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

19 \* **Sec. 20.** AS 29.45.660 is amended by adding a new subsection to read:

20 (c) This section applies to home rule and general law municipalities.

21 \* **Sec. 21.** AS 29.45.670 is amended to read:

22 **Sec. 29.45.670. Referendum, adoption, and modification.** A new sales and  
23 use tax or an increase in the rate of levy of a sales tax approved by ordinance does not  
24 take effect until ratified by a majority of the voters at an election. A borough may  
25 not require that a new sales and use tax or an increase in the rate of levy of a  
26 sales tax approved by ordinance be ratified by more than 50 percent plus one of  
27 the voters voting on the issue. This section applies to home rule and general law  
28 municipalities.

29 \* **Sec. 22.** AS 29.45.670 is amended to read:

30 **Sec. 29.45.670. Referendum, adoption, and modification.** A new sales and  
31 use tax or an increase in the rate of levy of a sales tax approved by ordinance does not

1 take effect until ratified by a majority of the voters at an election. [A BOROUGH  
2 MAY NOT REQUIRE THAT A NEW SALES AND USE TAX OR AN INCREASE  
3 IN THE RATE OF LEVY OF A SALES TAX APPROVED BY ORDINANCE BE  
4 RATIFIED BY MORE THAN 50 PERCENT PLUS ONE OF THE VOTERS  
5 VOTING ON THE ISSUE. THIS SECTION APPLIES TO HOME RULE AND  
6 GENERAL LAW MUNICIPALITIES.]

7 \* **Sec. 23.** AS 29.45.700 is repealed and reenacted to read:

8 **Sec. 29.45.700. Power of levy.** A city may levy sales and use taxes in the  
9 manner provided for boroughs under AS 29.45.650 and 29.45.655.

10 \* **Sec. 24.** AS 29.45.700 is repealed and reenacted to read:

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

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

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

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

30 (e) A city that levies and collects sales and use taxes may not levy and collect  
31 a sales or use tax on (1) the physical transfer of refined fuel, unless the transfer is

1 made in connection with a sale or use in the city, or (2) wholesale sales or transfers of  
2 fuel refined in the city. A sale is in the city if the fuel is delivered to the buyer in the  
3 city. A use is in the city if the fuel is consumed in the city. This subsection applies to  
4 home rule and general law municipalities.

5 (f) The prohibitions on the levy and collection of a sales or use tax on refined  
6 fuel in (e) of this section do not apply to a city if, on September 16, 2003, the city is

7 (1) levying and collecting a sales or use tax on the sale, use, or transfer  
8 of refined fuel under an ordinance adopted before January 1, 2003; or

9 (2) receiving payments in lieu of a sales or use tax on the sale, use, or  
10 transfer of refined fuel under an agreement entered into before January 1, 2003.

11 \* Sec. 25. AS 29.45.750(b) is amended to read:

12 (b) A municipality that levies [AND COLLECTS] a sales tax on mobile  
13 telecommunications services shall do so in accordance with the provisions of 4 U.S.C.  
14 116 - 126 (Mobile Telecommunications Sourcing Act).

15 \* Sec. 26. AS 29.45.750(b) is amended to read:

16 (b) A municipality that levies and collects a sales tax on mobile  
17 telecommunications services shall do so in accordance with the provisions of 4 U.S.C.  
18 116 - 126 (Mobile Telecommunications Sourcing Act).

19 \* Sec. 27. AS 29.45.810(a) is amended to read:

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

27 \* Sec. 28. AS 29.45.810(a) is amended to read:

28 (a) A party to a contract approved by the legislature as a result of submission  
29 of a proposed contract developed under AS 43.82 or as a result of acts by the  
30 legislature in implementing the purposes of AS 43.82, and the property, gas, products,  
31 and activities associated with the approved qualified project that is subject to the

1 contract, are exempt, as specified in the contract, from all taxes identified in the  
2 contract that would be levied and collected by a municipality under state law as a  
3 consequence of the participation by the party in the approved qualified project.

4 \* Sec. 29. AS 43 is amended by adding a new chapter to read:

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

6 **Article 1. Levy of Tax, Rate, Exemptions.**

7 **Sec. 43.44.010. Levy of sales and use tax; tax rate.** (a) A sales tax is levied  
8 on the sale, lease, or rental of tangible personal property and on the sale of services.

9 (b) A use tax is levied on the privilege of using in the state tangible personal  
10 property or services. The use tax is not levied if the sales tax levied in (a) of this  
11 section has been paid, except, if the price on which the tax was calculated did not  
12 represent the value of the property or service purchased, the use tax is imposed on the  
13 difference between the price and the value.

14 (c) The rate of the sales tax is three percent of the sales price. The rate of the  
15 use tax is three percent of the purchase price.

16 (d) The maximum tax on a single sale, lease, or rental is \$60.

17 **Sec. 43.44.020. Exemptions.** (a) The taxes levied in AS 43.44.010 apply to  
18 all sales, leases, rentals, and uses of tangible personal property and all sales and uses  
19 of services in this state except as provided in this section. Transactions described in  
20 this section must be documented on an invoice or receipt to qualify for the exemption.

21 (b) The taxes levied under AS 43.44.010 do not apply to

22 (1) tangible personal property or services that are exempt from taxation  
23 under federal law, including sales to the federal government, and purchases made with

24 (A) food coupons, food stamps, or other types of certificates  
25 issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program); and

26 (B) food instruments, food vouchers, or other types of  
27 certificates issued under 42 U.S.C. 1786 (Special Supplemental Nutrition  
28 Program for Women, Infants, and Children);

29 (2) medical care, including

30 (A) health care services provided by a person licensed or  
31 certified to provide those services under AS 08 or a "health care facility" as

1 that term is defined in AS 08.68.395(g);

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

6 (3) isolated or occasional sales, leases, or rentals of tangible personal  
7 property or sales of services by a person who is not regularly engaged in the business  
8 of selling, leasing, or renting similar personal property or services;

9 (4) sales, leases, or rentals of tangible personal property and sales of  
10 services by or to the state or a political subdivision of the state;

11 (5) the sale of natural gas, coal, fuel to be used to generate heat or  
12 electricity, water or sewer utilities, steam, or refuse and garbage collection service;

13 (6) the sale of property for resale if

14 (A) the purchaser resells the property, by itself or in  
15 combination with other property, in the ordinary course of business; and

16 (B) the property is subject to the sales tax levied under  
17 AS 43.44.010 on resale unless the subsequent resale is exempt under this  
18 section;

19 (7) the sale of property to a purchaser engaged in the business of  
20 mining or manufacturing if the purchaser incorporates the property as an ingredient or  
21 component part of the product in the business of mining or manufacturing; for  
22 purposes of this paragraph, electrical energy is considered a component part of the  
23 product;

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

28 (9) interest;

29 (10) financial services, including

30 (A) fees for services associated with a deposit account;

31 (B) fees for purchases of cashier's checks, money orders,

1 traveler's checks, currency, and similar products used for payment and transfer  
2 of funds;

3 (C) loan transaction pass-through charges that include sales tax;

4 (D) loan fees; and

5 (E) services related to the sale or purchase of financial  
6 instruments including stocks, bonds, and securities;

7 (11) property and services used for exploration, extraction, production,  
8 refinement, or transportation of natural resources, including oil and gas, fish and other  
9 seafood, timber and other forest products, and minerals;

10 (12) transportation of passengers and tangible personal property;

11 (13) the sale, use, or lease of property held for lease;

12 (14) the sale, transfer, or use of motor fuel taxed under AS 43.40.010;

13 (15) the sale, lease, and rental of real property and the construction of  
14 improvements on real property;

15 (16) sales, leases, or rentals made in a municipality or unincorporated  
16 community with a population of less than 500.

17 (c) The use by an individual of personal or household effects brought into the  
18 state for the establishment by the individual of an initial residence in this state and the  
19 use of property brought into the state by a nonresident for the nonresident's own  
20 nonbusiness use while temporarily within this state is exempt from the use tax.

21 **Sec. 43.44.030. Exemption certificates.** (a) The department shall provide for  
22 a uniform exemption certificate. A purchaser shall use the certificate when purchasing  
23 goods or services for resale or for other exempt transactions.

24 (b) The certificate must include

25 (1) the number of the seller's permit issued to the purchaser as  
26 provided in AS 43.44.110 or the number of the direct pay permit issued to the  
27 purchaser as provided in AS 43.44.120, as applicable;

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

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

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

1 (c) An exemption certificate executed by a purchaser or lessee must be in the  
2 possession of the seller or lessor at the time that an exempt transaction occurs.

3 (d) If the seller or lessor accepts an exemption certificate and believes in good  
4 faith that the purchaser or lessee will employ the property or service transferred in an  
5 exempt manner, the properly executed exemption certificate is considered conclusive  
6 evidence, as to the seller or lessor, that the sale is exempt.

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

15 (f) A person who uses an exemption certificate for property that will be used  
16 for purposes other than the purpose claimed is subject to penalties under  
17 AS 43.05.220, 43.05.290, or both.

## 18 Article 2. Payment of Tax.

19 **Sec. 43.44.100. Collection of sales and use tax.** (a) A seller shall add the  
20 amount of the sales tax levied by this chapter and the amount of any municipal general  
21 sales tax levied under AS 29.45 to the sales price of personal property or services  
22 subject to the tax. The tax shall be stated separately on any receipt, invoice, or other  
23 record of the transaction, except for sales from coin-operated or currency-operated  
24 machines, sales of drinks in a bar, sales on the dock, sales from street vending carts,  
25 admission fees, and other sales as determined by regulation by the department.

26 (b) Except as provided in (c) of this section, a seller shall collect the sales tax  
27 levied by this chapter and any general municipal sales tax levied under AS 29.45 from  
28 the buyer, file a return, and remit the tax collected to the department not later than 30  
29 days following the last day of the month in which the sale was made. A seller shall  
30 report and pay the tax using the same method of accounting that the seller uses for  
31 federal tax purposes.

1 (c) A seller that electronically files a return and remits the sales tax collected  
2 under this chapter to the department within 30 days as required in this section may  
3 retain one percent of the amount collected to cover expenses associated with collecting  
4 and remitting the tax.

5 (d) To the fullest extent permitted under the Constitution of the United States,  
6 a person whose sales are not subject to the sales tax is required to collect the use tax  
7 from the purchaser and pay the tax collected to the department.

8 (e) A seller that collects a total of less than \$250 of taxes levied under this  
9 chapter and AS 29.45 in a month shall file a return and remit the tax not later than 30  
10 days following the last day of the month in which a total of \$250 is reached or, if the  
11 total collected in a calendar year is less than \$250, within 30 days following the last  
12 day of the calendar year.

13 (f) If a seller provides a bundle of personal property or services including both  
14 taxable and tax-exempt property or services, the seller shall collect the tax on the price  
15 of the entire bundle as stated on any receipt, invoice, or other record of the transaction.

16 **Sec. 43.44.110. Registration and seller's permit.** (a) A seller shall register  
17 with the department, and apply for and obtain a permit before making a sale, lease, or  
18 rental of tangible personal property or a sale of services that is taxable under this  
19 chapter.

20 (b) If a seller fails to register and obtain a permit as required under (a) of this  
21 section and fails to file a tax return or make a payment required under this chapter, the  
22 department must assess double the penalties otherwise due under AS 43.05.220.

23 (c) The department must specify the format for permit applications. An  
24 application shall include the seller's place of business, the seller's business name, and  
25 any other information the department requires.

26 (d) A permit is valid until revoked or suspended but is not assignable. A  
27 permit is valid only for the person in whose name it is issued. A copy of the permit  
28 must be conspicuously displayed at all times at the place for which it is issued.

29 (e) A seller shall apply for a seller's permit. If the seller has more than one  
30 location in which the seller maintains an office or other place of business, an  
31 application may include multiple locations. A vending machine operator who has

1 more than one vending machine location is considered to have only one place of  
2 business for purposes of this section. A seller who does not maintain an office or  
3 other place of business and who moves from place to place is considered to have only  
4 one place of business and shall attach the permit to the applicant's cart, stand, truck, or  
5 other merchandising device.

6 (f) The department may revoke or suspend a permit held by a person who fails  
7 to comply with the provisions of this chapter. The department shall provide written  
8 notice and an opportunity for a hearing on a proposed revocation or suspension. The  
9 hearing must be conducted informally and is not subject to AS 44.62 (Administrative  
10 Procedure Act).

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

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

18 **Sec. 43.44.120. Direct pay permit.** (a) The department may issue a direct  
19 pay permit allowing the permit holder to purchase, lease, or rent taxable goods and  
20 services without payment of tax to the seller at the time of purchase to a person that  
21 applies to the department and meets criteria established by the department by  
22 regulation.

23 (b) The holder of a direct pay permit shall file a return and remit the tax levied  
24 under this chapter and any municipal taxes levied under AS 29.45.650 and 29.45.700  
25 to the department not later than 30 days following the last day of the month in which  
26 the purchase, lease, or rental was made.

27 (c) The department may revoke a direct pay permit held by a person who fails  
28 to comply with the provisions of this chapter. The department shall provide written  
29 notice and an opportunity for a hearing on a proposed revocation. The hearing shall  
30 be conducted informally and is not subject to AS 44.62. A person aggrieved by the  
31 department's final decision to revoke a permit may appeal the decision to the superior

1 court.

2 (d) The department may require a permit holder whose direct pay permit has  
3 been revoked to provide security in a form and amount satisfactory to the department  
4 to guarantee payment of the permit holder's tax liability under this chapter before  
5 issuing a new permit to that person.

6 **Sec. 43.44.130. Presumption of taxability; sales price and purchase price.**

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

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

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

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

16 **Sec. 43.44.140. Deduction for bad debts.** (a) A person filing a return under  
17 AS 43.44.100(b) may deduct sales found to be worthless. The bad debt may be  
18 deducted when it

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

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

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

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

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

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

2 **Sec. 43.44.150. Payment of use tax.** A user subject to the use tax shall file a  
3 return and remit the tax levied under this chapter and any municipal use tax levied  
4 under AS 29.45 to the department not later than 30 days following the last day of the  
5 month in which the taxable use occurs.

6 **Sec. 43.44.160. Computation of tax.** (a) The taxes levied under this chapter  
7 shall be computed on an invoice basis.

8 (b) The tax computation shall be

9 (1) carried to the third decimal place;

10 (2) rounded to a whole cent using a method that rounds up to the next  
11 cent whenever the third decimal place is greater than four; and

12 (3) made according to a rounding algorithm prescribed by the  
13 department.

14 **Sec. 43.44.170. Tax credit for sales or use tax paid to another state or a**  
15 **political subdivision.** (a) A buyer liable under this chapter for use tax on tangible  
16 personal property or services is entitled to a full credit for the amount of sales or use  
17 tax paid on the tangible personal property or services to another state.

18 (b) A buyer liable under AS 29.45.650 or 29.45.700 for use tax on tangible  
19 personal property or services is entitled to a full credit for the amount of sales or use  
20 tax paid on the tangible personal property or services to a political subdivision of this  
21 or another state. In the case of a city within a borough, if both the city and the  
22 borough levy a sales and use tax, the credit for taxes paid to a political subdivision of a  
23 state shall be applied against the amount of use tax levied by the city and the borough  
24 in proportion to the respective city and borough tax rates.

25 **Sec. 43.44.180. Liability for tax.** (a) Except as provided in (c) of this  
26 section, a seller is liable for the sales tax on tangible personal property or services sold  
27 by the seller.

28 (b) A buyer is liable for the tax on tangible personal property or services sold  
29 to the buyer if the seller did not collect the tax.

30 (c) A seller that receives and accepts in good faith from a buyer a copy of the  
31 buyer's direct payment permit is not liable for the sales tax on the tangible personal

1 property or services sold, leased, or rented to the buyer.

2 **Sec. 43.44.190. Taxpayer quitting business; liability of successor.** (a) All  
3 taxes payable under this chapter are due and payable immediately whenever a  
4 taxpayer quits business, sells, exchanges, or otherwise disposes of the business or  
5 disposes of the stock of goods. The taxpayer shall make a return and pay the taxes due  
6 within 10 days after the taxpayer quits business, sells, exchanges, or otherwise  
7 disposes of the business or disposes of the stock of goods.

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

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

19 (d) A successor is not liable for any tax due from the person from whom the  
20 successor acquired a business or stock of goods if (1) the successor gives written  
21 notice to the department of the acquisition; and (2) an assessment is not issued by the  
22 department against the former operator of the business within six months after receipt  
23 of the notice from the successor. If an assessment is issued by the department and a  
24 copy of the assessment is not mailed to the successor, the successor is not liable for the  
25 tax due.

26 **Sec. 43.44.200. Tax as debt.** (a) The tax imposed by this chapter and related  
27 interest and penalties become a personal debt of the individual required to file a return  
28 from the time the liability arises, regardless of when the time for payment of the  
29 liability occurs.

30 (b) If the personal representative of an estate has voluntarily distributed the  
31 assets held in that capacity without reserving sufficient assets to pay the taxes, interest,

1 and penalties, the personal representative is personally liable for any deficiency, to the  
2 extent permitted under AS 13.16.

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

9 **Article 3. Administration of Tax.**

10 **Sec. 43.44.300. Accounting.** Except as provided in AS 43.44.310, the  
11 department shall deposit the proceeds of the tax levied under this chapter in the  
12 general fund of the state.

13 **Sec. 43.44.310. Relationship to municipal levies.** (a) A municipality may  
14 not levy a sales and use tax except as provided in AS 04.21.010(c), AS 29.45.650,  
15 29.45.655, or 29.45.700. The department shall collect sales and use taxes levied under  
16 AS 29.45.650 or 29.45.700. A municipality may not collect a sales and use tax levied  
17 under AS 29.45.650 or 29.45.700.

18 (b) Except as provided in (c) of this section, from the total combined state and  
19 municipal sales and use taxes collected within the boundaries of a municipality, the  
20 department shall remit to the municipality the amount collected and payable to the  
21 municipality under this subsection. If the rate of a sales and use tax levied by a  
22 municipality is

23 (1) less than three percent, the department shall remit the amount of  
24 the tax levied by the municipality;

25 (2) at least three percent but less than four percent, the department  
26 shall remit the amount that would have been collected in the municipality if the sales  
27 and use tax levy had been four percent;

28 (3) at least four percent but less than five percent, the department shall  
29 remit the amount that would have been collected in the municipality if the sales and  
30 use tax levy had been five percent;

31 (4) five percent or more, the department shall round up to the next

1 whole number and remit the amount that would have been collected in the  
2 municipality if the sales and use tax levy had been that whole number; for example, if  
3 a municipality levied a sales and use tax at the rate of five percent, the department  
4 shall remit the amount that would have been collected under a six percent levy.

5 (c) In the case of a city within a borough, if both the city and the borough levy  
6 a sales and use tax, the department shall combine the city and borough tax rates to  
7 determine the amount to remit to the municipalities under (b) of this section. Of that  
8 amount, the department shall remit to the city an amount proportionate to the city's  
9 share of the combined tax rate and remit the remainder to the borough.

10 (d) The department shall have sole responsibility and authority for the  
11 administration of taxes levied under this chapter, AS 29.45.650, and 29.45.700. The  
12 department may contract with a municipality to provide a field office for that  
13 municipality's geographic area of the state.

14 **Sec. 43.44.320. Refunds and credits.** The department may credit or refund  
15 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties  
16 collected without authority, and taxes that are found unjustly assessed or excessive in  
17 amount, or otherwise wrongfully collected. The department shall set limitations,  
18 specify the manner in which claims for credits or refunds are made, and give notice of  
19 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid  
20 out of the general fund on a warrant issued under a voucher approved by the  
21 department. If the department credits or refunds a municipal sales tax, it may collect  
22 the amount of the credit or refund from the municipality.

23 **Sec. 43.44.330. Electronic filing and remittance.** The department shall by  
24 regulation provide for the electronic filing of returns and remittance of taxes, and shall  
25 provide for other uses of technology or filing methodologies to improve the efficiency  
26 of administration of the sales and use tax.

27 **Sec. 43.44.340. Authority to enter streamlined sales and use tax**  
28 **agreement.** (a) The department is authorized to enter into the Streamlined Sales and  
29 Use Tax Agreement with one or more states to simplify and modernize sales and use  
30 tax administration in order to substantially reduce the burden of tax compliance for all  
31 sellers and for all types of commerce. In furtherance of the Streamlined Sales and Use

1 Tax Agreement, the department is authorized to act jointly with other states that are  
2 members of the Streamlined Sales and Use Tax Agreement to establish standards for  
3 certification of a certified service provider and certified automated system and  
4 establish performance standards for multistate sellers.

5 (b) To the extent possible, the department shall adopt regulations  
6 implementing this chapter consistent with the Streamlined Sales and Use Tax  
7 Agreement.

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

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

#### 15 Article 4. General Provisions.

##### 16 Sec. 43.44.399. Definitions. In this chapter,

17 (1) "lease or rental," regardless of whether a transaction is  
18 characterized as a lease or rental under generally accepted accounting principles, the  
19 Internal Revenue Code, AS 45.29, or other provisions of federal, state, or local law,

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

23 (B) does not include

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

27 (ii) a transfer of possession or control of property under  
28 an agreement that requires the transfer of title upon completion of  
29 required payments if payment of an option price does not exceed the  
30 greater of \$100 or one percent of the total required payments; or

31 (iii) providing tangible personal property along with an

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

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

9 (2) "manufacturing" means combining or processing components or  
10 materials, including the processing of ores in a mill, smelter, refinery, or reduction  
11 facility, to increase the value of the components or materials for sale in the ordinary  
12 course of business; "manufacturing" does not include construction;

13 (3) "purchase price" applies to the measure subject to use tax and has  
14 the same meaning as sales price;

15 (4) "sales price"

16 (A) applies to the measure subject to sales tax and means the  
17 total amount of consideration, including cash, credit, property, and services, for  
18 which personal property or services are sold, leased, or rented, valued in  
19 money, whether received in money or otherwise, without any deduction for the  
20 following:

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

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

25 (iii) charges by the seller for any services necessary to  
26 complete the sale, rental, or lease, other than delivery and installation  
27 charges;

28 (iv) delivery charges;

29 (v) installation charges;

30 (vi) the value of exempt personal property given to the  
31 purchaser where taxable and exempt personal property have been

1 bundled together and sold, leased, or rented by the seller as a single  
2 product or piece of merchandise; and

3 (vii) credit for any trade-in;

4 (B) does not include

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

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

12 (iii) taxes legally imposed directly on a consumer that  
13 are separately stated on the invoice, bill of sale, or similar document  
14 given to the purchaser;

15 (5) "seller" means a person making sales, leases, or rentals of tangible  
16 personal property or services;

17 (6) "service" means an activity that is engaged in for another person  
18 for consideration and that is distinguished from the sale or lease of property; in  
19 determining what a service is, the intended use, principal objective, or ultimate  
20 objective of the contracting parties is irrelevant; "service" includes labor; professional  
21 services; telephone or other communications service; entertainment, including cable or  
22 pay television or other telecommunications service; the supplying of food, lodging, or  
23 other accommodations in hotels, restaurants, or elsewhere; and admission to  
24 exhibitions;

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

29 (8) "tax" means the taxes levied by AS 43.44.010;

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

1 \* Sec. 30. AS 43.56.030 is amended to read:

2           **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed  
3 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of

4                   (1) all other ad valorem taxes or other taxes imposed by a municipality  
5 on property subject to tax under this chapter or exempted from taxation by  
6 AS 43.56.020; and

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

10                           (A) taxes on the retail sale or use of the property except for the  
11 retail sales tax levied under AS 29.45.650 or 29.45.700 on the first \$1,000 of  
12 each sale;

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

14                           (C) taxes on the sale or use of services used in or associated  
15 with the property or in its maintenance or operation except for the sales tax  
16 levied under AS 29.45.650 or 29.45.700 on the first \$1,000 of each sale;

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

20                           (E) any license, excise, fee, charge or other tax on or pertaining  
21 to the property or services.

22 \* Sec. 31. AS 43.56.030 is amended to read:

23           **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed  
24 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of

25                   (1) all other ad valorem taxes or other taxes imposed by a municipality  
26 on property subject to tax under this chapter or exempted from taxation by  
27 AS 43.56.020; and

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

31                           (A) taxes on the retail sale or use of the property except for the

1 retail sales tax [LEVIED UNDER AS 29.45.650 OR 29.45.700] on the first  
2 \$1,000 of each sale;

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

4 (C) taxes on the sale or use of services used in or associated  
5 with the property or in its maintenance or operation except for the sales tax  
6 [LEVIED UNDER AS 29.45.650 OR 29.45.700] on the first \$1,000 of each  
7 sale;

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

11 (E) any license, excise, fee, charge or other tax on or pertaining  
12 to the property or services.

13 \* **Sec. 32.** AS 29.10.200(64), 29.10.200(65), 29.10.200(66); AS 29.35.170(c);  
14 AS 29.45.655, 29.45.660(c); AS 43.44.010, 43.44.020, 43.44.030, 43.44.100, 43.44.110,  
15 43.44.120, 43.44.130, 43.44.140, 43.44.150, 43.44.160, 43.44.170, 43.44.180, 43.44.190,  
16 43.44.200, 43.44.300, 43.44.310, 43.44.320, 43.44.330, 43.44.340, and 43.44.399 are  
17 repealed.

18 \* **Sec. 33.** Sections 4, 6, 9, and 11, ch. 100, SLA 2002, and sec. 9, ch. 117, SLA 2003, are  
19 repealed.

20 \* **Sec. 34.** The uncodified law of the State of Alaska is amended by adding a new section to  
21 read:

22 REGULATIONS. (a) The Department of Revenue may proceed to adopt regulations  
23 necessary to implement the provisions of this Act. The regulations take effect under AS 44.62  
24 (Administrative Procedure Act), but not before the effective date of the provision being  
25 implemented.

26 (b) The Department of Revenue shall adopt regulations relating to sourcing, or the  
27 determination of where a sale occurred for sales and use tax purposes, that are, to the extent  
28 possible, consistent with the Streamlined Sales and Use Tax Agreement.

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

31 TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 43.44.310(b)(1), added by

1 sec. 29 of this Act, for one year after the effective date of sec. 29 of this Act, the department  
2 shall remit to a municipality that levies a sales and use tax at a rate of less than three percent  
3 the amount that would have been collected if the sales and use tax levy had been the actual  
4 rate plus a fraction corresponding to the actual rate divided by three.

5 (b) The use tax imposed in AS 43.44.010(b), added by sec. 29 of this Act, does not  
6 apply to the use of tangible personal property acquired before the effective date of sec. 29 of  
7 this Act.

8 (c) Services under a contract executed and paid in full before the effective date of sec.  
9 29 of this Act and performed within 12 months after the effective date of sec. 29 of this Act  
10 are exempt from the sales tax and use tax.

11 \* **Sec. 36.** Section 34 of this Act takes effect immediately under AS 01.10.070(c).

12 \* **Sec. 37.** Sections 2, 4, 6, 8, 11, 13, 16, 19, 22, 24, 26, 28, 31, and 32 of this Act take  
13 effect July 1, 2013.

14 \* **Sec. 38.** Except as provided in secs. 36 and 37 of this Act, this Act takes effect July 1,  
15 2005.

ADOPTED  
4/14/04

23-LS1051\X  
Kurtz  
4/12/04

CS FOR SENATE BILL NO. 366( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the levy and collection of sales and use taxes, and to the levy,  
2 collection, and expenditure of municipal taxes; and providing for an effective date."

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

4 \* Section 1. AS 29.05.210(b) is amended to read:

5 (b) The department shall provide assistance to each borough and unified  
6 municipality incorporated after December 31, 1985, in

7 (1) establishing the initial sales and use tax assessment [AND  
8 COLLECTION DEPARTMENT] if the borough or unified municipality has adopted a  
9 sales or use tax;

10 (2) determining the initial property tax assessment roll if the borough  
11 or unified municipality has adopted a property tax, including contracting for appraisals  
12 of property needed to complete the initial assessment.

13 \* Sec. 2. AS 29.10.200(41) is amended to read:

14 (41) AS 29.35.170 [AS 29.35.170(b)] (assessment and collection of

1 taxes);

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

3 (51) AS 29.45.650 [AS 29.45.650(c), (d), (e), (f), (i), AND (j)]

4 (general sales and use tax);

5 \* Sec. 4. AS 29.10.200(52) is amended to read:

6 (52) AS 29.45.700 [AS 29.45.700(d) AND (e)] (general sales and use

7 tax);

8 \* Sec. 5. AS 29.10.200 is amended by adding new paragraphs to read:

9 (64) AS 29.35.110(a) (expenditure of borough revenues);

10 (65) AS 29.45.660 (notice of sales and use tax);

11 (66) AS 29.45.670 (referendum on adoption, and modification of sales  
12 and use tax).

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

14 (a) Borough revenues received through taxes levied [COLLECTED] on an  
15 areawide basis by the borough may be expended on general administrative costs and  
16 on areawide functions only. Borough revenues received through taxes levied  
17 [COLLECTED] on a nonareawide basis may be expended on general administrative  
18 costs and functions that render service only to the area outside all cities in the  
19 borough. This subsection applies to home rule and general law municipalities.

20 \* Sec. 7. AS 29.35.170 is amended to read:

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

25 (b) Taxes, other than general sales and use taxes, levied by a city shall be  
26 collected by a borough and returned in full to the levying city. [THIS SUBSECTION  
27 APPLIES TO HOME RULE AND GENERAL LAW MUNICIPALITIES.]

28 \* Sec. 8. AS 29.35.170 is amended by adding a new subsection to read:

29 (c) This section applies to home rule and general law municipalities.

30 \* Sec. 9. AS 29.45.650 is repealed and reenacted to read:

31 **Sec. 29.45.650. General sales and use tax.** (a) Except as provided in

1 AS 29.45.750, a borough may levy a general sales and use tax. If a borough levies a  
2 general sales and use tax,

3 (1) the borough must conform exactly to the statewide sales and use  
4 tax levied and collected under AS 43.44, except that the municipal general sales and  
5 use tax may be levied at any rate; and

6 (2) the borough's use tax is levied on the privilege of using in the  
7 borough tangible personal property or services.

8 (b) The Department of Revenue shall collect a sales and use tax levied under  
9 this section and remit the proceeds to the municipality. The Department of Revenue  
10 may use its administrative authority under AS 43.05 and its enforcement and  
11 collection authority under AS 43.10 to collect a sales and use tax levied under this  
12 section.

13 \* **Sec. 10.** AS 29.45 is amended by adding a new section to read:

14 **Sec. 29.45.655. Specific taxes on property and services.** Unless otherwise  
15 prohibited by law, a municipality may levy and collect specific sales or excise taxes on  
16 single categories of tangible or intangible property or services, such as bed taxes, car  
17 rental taxes, and fish taxes.

18 \* **Sec. 11.** AS 29.45.660(a) is amended to read:

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

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

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

1 \* Sec. 12. AS 29.45.660 is amended by adding a new subsection to read:

2 (c) This section applies to home rule and general law municipalities.

3 \* Sec. 13. AS 29.45.670 is amended to read:

4 **Sec. 29.45.670. Referendum, adoption, and modification.** A new sales and  
5 use tax or an increase in the rate of levy of a sales tax approved by ordinance does not  
6 take effect until ratified by a majority of the voters at an election. A municipality  
7 may not require that a new sales and use tax or an increase in the rate of levy of a  
8 sales tax approved by ordinance be ratified by more than 50 percent plus one of  
9 the voters voting on the issue. This section applies to home rule and general law  
10 municipalities.

11 \* Sec. 14. AS 29.45.700 is repealed and reenacted to read:

12 **Sec. 29.45.700. Power of levy.** A city may levy sales and use taxes in the  
13 manner provided for boroughs under AS 29.45.650 and 29.45.655.

14 \* Sec. 15. AS 29.45.750(b) is amended to read:

15 (b) A municipality that levies [AND COLLECTS] a sales tax on mobile  
16 telecommunications services shall do so in accordance with the provisions of 4 U.S.C.  
17 116 - 126 (Mobile Telecommunications Sourcing Act).

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

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

26 \* Sec. 17. AS 43 is amended by adding a new chapter to read:

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

28 **Sec. 43.44.010. Levy of sales and use tax; tax rate.** (a) A sales tax is levied  
29 on the sale, lease, or rental of tangible personal property and on the sale of services.

30 (b) A use tax is levied on the privilege of using in the state tangible personal  
31 property or services. The use tax is not levied if the sales tax levied in (a) of this

1 section has been paid, except, if the price on which the tax was calculated did not  
2 represent the value of the property or service purchased, the use tax is imposed on the  
3 difference between the price and the value.

4 (c) The rate of the sales tax is four percent of the sales price. The rate of the  
5 use tax is four percent of the purchase price.

6 (d) The maximum tax on a single sale, lease, or rental is \$60.

7 **Sec. 43.44.020. Exemptions.** The taxes levied in AS 43.44.010 apply to all  
8 sales, leases, rentals, and uses of tangible personal property and all sales and uses of  
9 services in this state except as provided in this section. Transactions described in this  
10 section must be documented on an invoice or receipt to qualify for the exemption.  
11 The tax levied under AS 43.44.010 does not apply to

12 (1) tangible personal property or services that are

13 (A) explicitly exempted from taxation under another provision  
14 of state law; or

15 (B) exempt from taxation under federal law, including sales to  
16 the federal government, and purchases made with

17 (i) food coupons, food stamps, or other types of  
18 certificates issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program);  
19 and

20 (ii) food instruments, food vouchers, or other types of  
21 certificates issued under 42 U.S.C. 1786 (Special Supplemental  
22 Nutrition Program for Women, Infants, and Children);

23 (2) medical care, including

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

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

31 (3) isolated or occasional sales, leases, or rentals of tangible personal

1 property or sales of services by a person who is not regularly engaged in the business  
2 of selling, leasing, or renting similar personal property or services;

3 (4) sales, leases, or rentals of tangible personal property and sales of  
4 services by or to the state or a political subdivision of the state;

5 (5) the sale of natural gas, coal, diesel fuel to be used for home  
6 heating, heating oil, water, district heat, sewer, electricity, steam, or refuse and  
7 garbage collection service;

8 (6) the sale of property for resale if

9 (A) the purchaser resells the property, by itself or in  
10 combination with other property, in the ordinary course of business; and

11 (B) the property is subject to the sales tax levied under  
12 AS 43.44.010 on resale;

13 (7) the sale of property to a purchaser engaged in the business of  
14 mining or manufacturing if the purchaser incorporates the property as an ingredient or  
15 component part of the product in the business of mining or manufacturing; for  
16 purposes of this paragraph, electrical energy or electricity used or consumed by  
17 electrolytic reduction used in the reduction or refinement of ores is considered a  
18 component part of the product;

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

23 (9) interest;

24 (10) financial services, including

25 (A) fees for services associated with a deposit account;

26 (B) fees for purchases of cashier's checks, money orders,  
27 traveler's checks, currency, and similar products used for payment and transfer  
28 of funds;

29 (C) loan transaction pass-through charges that include sales tax;

30 (D) loan fees; and

31 (E) services related to the sale or purchase of financial

1 instruments including stocks, bonds, and securities;

2 (11) property and services used for exploration, extraction, production,  
3 refinement, or transportation of natural resources, including oil and gas, fish and other  
4 seafood, timber and other forest products, and minerals;

5 (12) transportation of passengers and tangible personal property;

6 (13) the sale, use, or lease of property held for lease;

7 (14) the sale, transfer, or use of motor fuel taxed under AS 43.40.010;

8 (15) the sale, lease, and rental of real property and the construction of  
9 improvements on real property.

10 **Sec. 43.44.030. Collection of sales and use tax.** (a) A seller shall add the  
11 amount of the sales tax levied by this chapter and the amount of any municipal general  
12 sales tax levied under AS 29.45 to the sales price of personal property or services  
13 subject to the tax. The tax shall be stated separately on any receipt, invoice, or other  
14 record of the transaction, except for sales from coin-operated or currency-operated  
15 machines, sales of drinks in a bar, sales on the dock, sales from street vending carts,  
16 admission fees, and other sales as determined by regulation by the department.

17 (b) Except as provided in (e) of this section, a seller shall collect the sales tax  
18 levied by this chapter and any general municipal sales tax levied under AS 29.45 from  
19 the buyer, file a return, and remit the tax collected to the department not later than 30  
20 days following the last day of the month in which the tax was collected.

21 (c) A seller remitting the sales tax collected under this chapter to the  
22 department within 30 days as required in this section may retain one percent of the  
23 amount collected to cover expenses associated with collecting and remitting the tax.

24 (d) To the fullest extent permitted under the Constitution of the United States,  
25 a person whose sales are not subject to the sales tax is required to collect the use tax  
26 from the purchaser and pay the tax collected to the department.

27 (e) A seller that collects a total of less than \$250 of taxes levied under this  
28 chapter and AS 29.45 in a month shall file a return and remit the tax not later than 30  
29 days following the last day of the month in which a total of \$250 is reached or, if the  
30 total collected in a calendar year is less than \$250, within 30 days following the last  
31 day of the calendar year.

1 (f) If a seller provides a bundle of personal property or services including both  
2 taxable and tax-exempt property and services, the seller shall collect the tax on the  
3 price of the entire bundle as stated on any receipt, invoice, or other record of the  
4 transaction.

5 (g) All taxes payable under this chapter are due and payable immediately  
6 whenever a taxpayer quits business, sells, exchanges, or otherwise disposes of the  
7 business or disposes of the stock of goods. The taxpayer shall make a return and pay  
8 the taxes due within 10 days after the taxpayer quits business, sells, exchanges, or  
9 otherwise disposes of the business or disposes of the stock of goods.

10 **Sec. 43.44.035. Deduction for bad debts.** (a) A person filing a return under  
11 AS 43.44.030(b) may deduct sales found to be worthless. The bad debt may be  
12 deducted when it

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

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

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

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

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

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

27 **Sec. 43.44.040. Payment of use tax.** A user subject to the use tax shall file a  
28 return and remit the tax levied under this chapter and any municipal use tax levied  
29 under AS 29.45 to the department not later than 30 days following the last day of the  
30 month in which the taxable use occurs.

31 **Sec. 43.44.050. Accounting.** Except as provided in AS 43.44.060, the

1 department shall deposit the proceeds of the tax levied under this chapter in the  
2 general fund of the state.

3 **Sec. 43.44.060. Relationship to municipal levies.** (a) A municipality may  
4 not levy a sales and use tax except as provided in AS 04.21.010(c), AS 29.45.650,  
5 29.45.655, or 29.45.700. The department shall collect sales and use taxes levied under  
6 AS 29.45.650 or 29.45.700. A municipality may not collect a sales and use tax levied  
7 under AS 29.45.650 or 29.45.700.

8 (b) Except as provided in (c) of this section, from the total combined state and  
9 municipal sales and use taxes collected within the boundaries of a municipality, the  
10 department shall remit to the municipality the amount described under this subsection.  
11 If the rate of a sales and use tax levied by a municipality is

12 (1) less than three percent, the department shall remit the amount of  
13 the tax levied by the municipality;

14 (2) at least three percent but less than four percent, the department  
15 shall remit the amount that would have been collected in the municipality if the sales  
16 and use tax levy had been four percent;

17 (3) at least four percent but less than five percent, the department shall  
18 remit the amount that would have been collected in the municipality if the sales and  
19 use tax levy had been five percent;

20 (4) five percent or more, the department shall round up to the next  
21 whole number and remit the amount that would have been collected in the  
22 municipality if the sales and use tax levy had been that whole number; for example, if  
23 a municipality levied a sales and use tax at the rate of five percent, the department  
24 shall remit the amount that would have been collected under a six percent levy.

25 (c) In the case of a city within a borough, if both the city and the borough levy  
26 a sales and use tax, the department shall combine the city and borough tax rates to  
27 determine the amount to remit to the municipalities under (b) of this section. Of that  
28 amount, the department shall remit to the city an amount proportionate to the city's  
29 share of the combined tax rate and remit the remainder to the borough.

30 **Sec. 43.44.070. Computation of tax.** (a) The taxes levied under this chapter  
31 shall be computed on an invoice basis.

1 (b) The tax computation shall be

2 (1) carried to the third decimal place;

3 (2) rounded to a whole cent using a method that rounds up to the next  
4 cent whenever the third decimal place is greater than four; and

5 (3) made according to a rounding algorithm prescribed by the  
6 department.

7 **Sec. 43.44.080. Tax credit for sales or use tax paid to another state or a**  
8 **political subdivision.** (a) A buyer liable under this chapter for use tax on tangible  
9 personal property or services is entitled to a full credit for the amount of sales or use  
10 tax paid on the tangible personal property or services to another state.

11 (b) A buyer liable under AS 29.45.650 or 29.45.700 for use tax on tangible  
12 personal property or services is entitled to a full credit for the amount of sales or use  
13 tax paid on the tangible personal property or services to a political subdivision of this  
14 or another state. In the case of a city within a borough, if both the city and the  
15 borough levy a sales and use tax, the credit for taxes paid to a political subdivision of a  
16 state shall be applied against the amount of use tax levied by the city and the borough  
17 in proportion to the respective city and borough tax rates.

18 **Sec. 43.44.090. Liability for tax.** (a) Except as provided in (c) of this  
19 section, a seller is liable for the sales tax on tangible personal property or services sold  
20 by the seller.

21 (b) A buyer is liable for the tax on tangible personal property or services sold  
22 to the buyer if the seller did not collect the tax.

23 (c) A seller that receives and accepts in good faith from a buyer a copy of the  
24 buyer's direct payment permit is not liable for the sales tax on the tangible personal  
25 property or services sold, leased, or rented to the buyer.

26 **Sec. 43.44.100. Registration.** A seller shall register with the department  
27 before making a sale, lease, or rental of tangible personal property or a sale of services  
28 that is taxable under this chapter.

29 **Sec. 43.44.110. Direct pay permit.** (a) The department may issue a direct  
30 pay permit allowing the permit holder to purchase, lease, or rent taxable goods and  
31 services without payment of tax to the seller at the time of purchase.

1 (b) The holder of a direct pay permit shall file a return and remit the tax levied  
 2 under this chapter and any municipal taxes levied under AS 29.45.650 and 29.45.700  
 3 to the department not later than 30 days following the last day of the month in which  
 4 the purchase, lease, or rental was made.

5 (c) The department may revoke a direct pay permit held by a person who fails  
 6 to comply with the provisions of this chapter. The department shall provide written  
 7 notice and an opportunity for a hearing on a proposed revocation. The hearing shall  
 8 be conducted informally and is not subject to AS 44.62. A person aggrieved by the  
 9 department's final decision to revoke a permit may appeal the decision to the superior  
 10 court.

11 (d) The department may require a permit holder whose direct pay permit has  
 12 been revoked to provide security in a form and amount satisfactory to the department  
 13 to guarantee payment of the permit holder's tax liability under this chapter before  
 14 issuing a new permit to that person.

15 **Sec. 43.44.120. Refunds and credits.** The department may credit or refund  
 16 overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties  
 17 collected without authority, and taxes that are found unjustly assessed or excessive in  
 18 amount, or otherwise wrongfully collected. The department shall set limitations,  
 19 specify the manner in which claims for credits or refunds are made, and give notice of  
 20 allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid  
 21 out of the general fund on a warrant issued under a voucher approved by the  
 22 department. If the department credits or refunds a municipal sales tax, it may collect  
 23 the amount of the credit or refund from the municipality.

24 **Sec. 43.44.130. Authority to enter streamlined sales and use tax**  
 25 **agreement.** (a) The department is authorized to enter into the Streamlined Sales and  
 26 Use Tax Agreement with one or more states to simplify and modernize sales and use  
 27 tax administration in order to substantially reduce the burden of tax compliance for all  
 28 sellers and for all types of commerce. In furtherance of the Streamlined Sales and Use  
 29 Tax Agreement, the department is authorized to act jointly with other states that are  
 30 members of the Streamlined Sales and Use Tax Agreement to establish standards for  
 31 certification of a certified service provider and certified automated system and

1 establish performance standards for multistate sellers.

2 (b) To the extent possible, the department shall adopt regulations  
3 implementing this chapter consistent with the Streamlined Sales and Use Tax  
4 Agreement.

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

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

12 **Sec. 43.44.199. Definitions.** In this chapter,

13 (1) "lease or rental," regardless of whether a transaction is  
14 characterized as a lease or rental under generally accepted accounting principles, the  
15 Internal Revenue Code, AS 45.29, or other provisions of federal, state, or local law,

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

19 (B) does not include

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

23 (ii) a transfer of possession or control of property under  
24 an agreement that requires the transfer of title upon completion of  
25 required payments if payment of an option price does not exceed the  
26 greater of \$100 or one percent of the total required payments; or

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

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

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

9 (3) "purchase price" applies to the measure subject to use tax and has  
10 the same meaning as sales price;

11 (4) "sales price"

12 (A) applies to the measure subject to sales tax and means the  
13 total amount of consideration, including cash, credit, property, and services, for  
14 which personal property or services are sold, leased, or rented, valued in  
15 money, whether received in money or otherwise, without any deduction for the  
16 following:

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

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

21 (iii) charges by the seller for any services necessary to  
22 complete the sale, rental, or lease, other than delivery and installation  
23 charges;

24 (iv) delivery charges;

25 (v) installation charges;

26 (vi) the value of exempt personal property given to the  
27 purchaser where taxable and exempt personal property have been  
28 bundled together and sold, leased, or rented by the seller as a single  
29 product or piece of merchandise; and

30 (vii) credit for any trade-in;

31 (B) does not include

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

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

8 (iii) taxes legally imposed directly on a consumer that  
9 are separately stated on the invoice, bill of sale, or similar document  
10 given to the purchaser;

11 (5) "seller" means a person making sales, leases, or rentals of tangible  
12 personal property or services;

13 (6) "service" means an activity that is engaged in for another person  
14 for consideration and that is distinguished from the sale or lease of property; in  
15 determining what a service is, the intended use, principal objective, or ultimate  
16 objective of the contracting parties is irrelevant; "service" includes labor; professional  
17 services; telephone or other communications service; entertainment, including cable or  
18 pay television or other telecommunications service; the supplying of food, lodging, or  
19 other accommodations in hotels, restaurants, or elsewhere; and admission to  
20 exhibitions;

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

25 (8) "tax" means the taxes levied by AS 43.44.010;

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

28 \* Sec. 18. AS 43.56.030 is amended to read:

29 **Sec. 43.56.030. In place of other taxes.** Except for those taxes imposed  
30 under AS 43.55, the taxes levied or authorized under AS 43.56.010(b) are in place of

31 (1) all other ad valorem taxes or other taxes imposed by a municipality

1 on property subject to tax under this chapter or exempted from taxation by  
2 AS 43.56.020; and

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

6 (A) taxes on the retail sale or use of the property except for the  
7 retail sales tax levied under AS 29.45.650 or 29.45.700 on the first \$1,000 of  
8 each sale;

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

10 (C) taxes on the sale or use of services used in or associated  
11 with the property or in its maintenance or operation except for the sales tax  
12 levied under AS 29.45.650 or 29.45.700 on the first \$1,000 of each sale;

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

16 (E) any license, excise, fee, charge or other tax on or pertaining  
17 to the property or services.

18 \* Sec. 19. Section 4, ch. 100, SLA 2002, as amended by sec. 9, ch. 117, SLA 2003, is  
19 repealed and reenacted to read:

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

21 (a) A [EXCEPT AS PROVIDED IN AS 29.45.750, A] borough may levy a  
22 general sales and use tax. If a borough levies a general sales and use tax,

23 (1) the borough must conform exactly to the statewide sales and use  
24 tax levied and collected under AS 43.44, except that the municipal general sales and  
25 use tax may be levied at any rate;

26 (2) the borough's use tax is levied on the privilege of using in the  
27 borough tangible personal property or service

28 \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 REGULATIONS. (a) The Department of Revenue may proceed to adopt regulations  
31 necessary to implement the provisions of this Act. The regulations take effect under AS 44.62

1 (Administrative Procedure Act), but not before the effective date of the provision being  
2 implemented.

3 (b) The Department of Revenue shall adopt regulations relating to sourcing, or the  
4 determination of where a sale occurred for sales and use tax purposes, that are, to the extent  
5 possible, consistent with the Streamlined Sales and Use Tax Agreement.

6 \* Sec. 21. The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 43.44.060(b)(1), added by  
9 sec. 17 of this Act, for one year after the effective date of sec. 17 of this Act, the department  
10 shall remit to a municipality that levies a sales and use tax at a rate of less than three percent  
11 the amount that would have been collected if the sales and use tax levy had been the actual  
12 rate plus a fraction corresponding to the actual rate divided by three.

13 (b) The use tax imposed in AS 43.44.010(b), added by sec. 17 of this Act, does not  
14 apply to the use of tangible personal property acquired before the effective date of sec. 17 of  
15 this Act.

16 (c) Services under a contract executed and paid in full before the effective date of sec.  
17 17 of this Act and performed within 12 months after the effective date of sec. 17 of this Act  
18 are exempt from the sales tax and use tax.

19 \* Sec. 22. Section 20 of this Act takes effect immediately under AS 01.10.070(c).

20 \* Sec. 23. Except as provided in sec. 22 of this Act, this Act takes effect July 1, 2005.

SENATE FINANCE COMMITTEE  
4 /14/2004 COMMITTEE ACTION

Bill Number	SB 366		
Amendment	Version "X"		
Motion	to adopt		
<u>Motion by</u>	Stevens		
<u>Objection by</u>	Stevens		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

23-LS1051W  
Kurtz  
3/31/04

CS FOR SENATE BILL NO. 366( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE BY REQUEST

*"W" was  
discussed but  
not offered  
for adoption*

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the levy and collection of sales and use taxes, and to the levy,  
2 collection, and expenditure of municipal taxes; and providing for an effective date."

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

4 \* Section 1. AS 29 05.210(b) is amended to read:

5 (b) The department shall provide assistance to each borough and unified  
6 municipality incorporated after December 31, 1985, in

7 (1) establishing the initial sales and use tax assessment [AND  
8 COLLECTION DEPARTMENT] if the borough or unified municipality has adopted a  
9 sales or use tax;

10 (2) determining the initial property tax assessment roll if the borough  
11 or unified municipality has adopted a property tax, including contracting for appraisals  
12 of property needed to complete the initial assessment.

13 \* Sec. 2. AS 29.10.200(41) is amended to read:

14 (41) AS 29.35.170 [AS 29.35.170(b)] (assessment and collection of

23-LS1051W  
Kurtz  
3/31/04

CS FOR SENATE BILL NO. 366( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATE FINANCE COMMITTEE BY REQUEST

"W" WAS  
discussed but  
not offered  
for adoption

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the levy and collection of sales and use taxes, and to the levy,  
2 collection, and expenditure of municipal taxes; and providing for an effective date."

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

4 \* Section 1. AS 29.05.210(b) is amended to read:

5 (b) The department shall provide assistance to each borough and unified  
6 municipality incorporated after December 31, 1985, in

7 (1) establishing the initial sales and use tax assessment [AND  
8 COLLECTION DEPARTMENT] if the borough or unified municipality has adopted a  
9 sales or use tax;

10 (2) determining the initial property tax assessment roll if the borough  
11 or unified municipality has adopted a property tax, including contracting for appraisals  
12 of property needed to complete the initial assessment.

13 \* Sec. 2. AS 29.10.200(41) is amended to read:

14 (41) AS 29.35.170 [AS 29.35.170(b)] (assessment and collection of