

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

3078 SCOMM 14.2: HOUSE SPECIAL COMMITTEE ON WAYS & MEANS 2005-2006⁷³²

SCOMM

142.6

Statewide Alaska Fish Revenue**Fish Taxes (includes municipal share)****Fish Resource Taxes**

<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>
\$4.7	\$4.4	\$5.3
\$3.7	\$2.4	\$3.0
\$0.2	\$0.2	\$0.2
\$25.3	\$26.0	\$29.2
\$7.2	\$9.9	\$6.9
\$41.1	\$42.9	\$44.6

Salmon and Seafood Marketing Taxes

Salmon Enhancement Tax

Dive Fishery Management

Fisheries Business Tax

Fishery Resource Landing Tax

Total Fish Resource Taxes*

* Note: Although all fish tax revenue is general fund revenue, customarily fifty percent of the fisheries business and fishery resource landing tax revenue is shared to qualifying communities. Also, customarily, revenue from Salmon and Seafood Marketing taxes is appropriated to the Alaska Seafood Marketing Institute and revenue from the Salmon Enhancement tax goes to qualifying aquaculture associations.

Corporation Fish Income Tax Revenue****\$2.1 \$1.8 \$3.2**

** Liabilities as reflected on original corporate income tax returns. Based on information provided on tax returns as interpreted by DOR. Liabilities may differ from amounts remitted by the taxpayer during the fiscal year due to timing differences resulting from the timing of estimated payments, refunds and filing extensions.

Total Fish Tax Revenue**\$43.2 \$44.7 \$47.8****Other Fish Revenue***

Licenses and Permits

\$23.4 \$23.2 \$23.2

Test Fisheries

\$2.2 \$2.0 \$1.6**Total Other Fish Revenue****\$25.6 \$25.2 \$24.8****Total Fish Revenue****\$68.8 \$69.9 \$72.6**

Source: Alaska Department of Revenue - Tax Division

Caution - Does not include revenue from local taxes or fees and is not an exhaustive list of "Other Fish Revenue Sources." For example, we did not include the fish industry component of fines and forfeitures or charges for services.

Statewide Alaska Mining Revenue**Mining Resource Taxes, Rents and Royalties**

	<u>CY 01</u>	<u>CY 02</u>	<u>CY 03</u>
Mining License Tax Revenue	\$2.1	\$0.5	\$1.0
Rents and Royalties	<u>\$3.2</u>	<u>\$3.1</u>	<u>\$3.9</u>
Total Mining Resource Taxes	\$5.3	\$3.6	\$4.9
Corporation Mining Income Tax Revenue**	\$0.0	\$0.3	**
Total Mining Tax Revenue*	<u>\$5.3</u>	<u>\$3.9</u>	<u>\$4.9</u>

*Corporation tax revenues are from returns received in Fiscal Year 2003 & 2004. With extensions this often equates to calendar year 2001 & 2002. Liabilities as reflected on original corporate income tax returns. Based on information provided on tax returns as interpreted by DOR. Liabilities may differ from amounts remitted by the taxpayer during the fiscal year due to timing differences resulting from the timing of estimated payments, refunds and filing extensions.

** Corporation income tax revenue from the mining sector not available for calendar year 2003.

Other Mining Tax Revenue*

Material Sales	1.6	1.8	0.9
Fees	<u>0.1</u>	<u>0.1</u>	<u>0.1</u>
Total Other Mining Revenue	<u>1.7</u>	<u>1.9</u>	<u>1.0</u>
Total Mining Revenue	\$7.0	\$5.8	\$5.9

Sources: Alaska Department of Revenue and Alaska Department of Community & Economic Development, Division of Community & Business Development and Department of Natural Resources, Division of Geological & Geophysical Surveys & Division of Mining, Land & Water. "Alaska's Mineral Industry 2003", Table 25, page 40.

TABLE 2

2004 Municipal Sales Tax, Special Tax and Revenues

Municipality	Sales Tax	Revenues	Special Tax	Revenues
Adak	3%	\$660,000	2% Fuel Transfer Tax	\$41,374
Akhiok	No		No	
Akiak	No		No	
Akutan	NR		NR	
Alakanuk	No		No	
Aleknagik	5%	\$93,429	5% Bed Tax	\$618
Aleutians East Borough	No		2% Raw Fish Tax	\$2,807,902
Allakaket	No	NR	NR	
Ambler	3%	\$22,470	No	
Anaktuvuk Pass	No		No	
Municipality of Anchorage	No		8% Bed Tax & Car Rental/15% Tobacco Tax/Aircraft (flat)	\$10,287,972/ \$4,456,172/ \$4,734,327/\$203,390
Anderson	No		8% Utility Tax	\$41,357
Angoon	3%	\$124,648	3% Bed Tax	\$23,073
Aniak	2%	\$49,357	No	
Anvik	No		No	
Atka	No		2% Raw Fish Tax/ 10% Bed Tax	\$32,795/\$1,702
Atkasuk	No		No	
Barrow	No		No	
Bethel	5%	\$4,880,743	3% Bed/5% Alcohol/5% Gaming/MVRT	\$74,937/\$57,003/\$489,168/\$62,952
Bettles	No		\$.02/gal. Fuel Transfer Tax	\$4,711
Brevig Mission	3%	\$29,781	No	
Bristol Bay Borough	No		3% Raw Fish Tax/10% Bed Tax	\$312,605 / \$51,132
Buckland	6%	\$20,602	No	
Cheformak	2%	24,027	2% Raw Fish Tax	\$149
Chevak	NR	NR	No	
Chignik	No		1%salmon tax/1% other seafood	\$66,920/\$13,303
Chuathbaluk	No		No	
Clarks Point	NR	NR	No	
Coffman Cove	No		No	
Cold Bay	No		8% Bed Tax/\$.04/gal. Fuel Tax	\$19,900/\$30,872
Cordova	6%	\$2,033,859	6% Bed Tax/6% Vehicle Rental Tax	\$79,030/\$13,509
Craig	5%	\$1,240,569	6% Liquor Tax	\$97,785
Deering	3%	\$19,120	No	
Delta Junction	No		No	
Denali Borough	No		Sev Tax \$.05/yd gravel-\$.05 ton-coal-\$. Bed Tax 7%	\$55,862/\$1,599,969
Dillingham	6%	\$2,014,814	10% Bed Tax / 10% Liquor Tax/6% Gaming	\$40,444/\$197,039/\$91,068
Diomedes	3%	\$15,564	No	
Eagle	No		No	
Eek	2%	\$23,850	No	
Egegik	No		2% Raw Fish Tax	\$202,571
Ekwok	No		No	
Elim	2%	\$29,031	No	
Emmonak	NR		No	
Fairbanks	No		8% Bed Tax/ 5% Alcohol Tax/ 8% Tobacco Tax	\$1,786,027/\$1,162,928/\$799,567
Fairbanks North Star Borough	No		8% Bed Tax	\$1,375,192
False Pass	2%	\$108,529	6% Bed Tax	\$564
Fort Yukon	3%	\$113,899	No	
Galena	3%	\$134,000	No	
Gambell	3%	\$65,989	No	
Golovin	No		No	
Goodnews Bay	No		No	
Grayling	No		No	
Gustavus	2%	NR	4% Bed Tax as of 4-1-04	None reported yet
Haines Borough	5.5%	\$1,865,653	4% Bed Tax/4% Tour Tax	\$64,268/\$20,423
Holy Cross	No		No	
Homer	3.50%	\$4,353,146	No	

TABLE 2 - continued

2004 Municipal Sales Tax, Special Tax and Revenues

Municipality	Sales Tax	Revenues	Special Tax	Revenues
Hoonah	5%	\$522,404	No	
Hooper Bay	4%	\$153,668	No	
Houston	2%	53472.44	No	
Hughes	No		No	
Huslia	No		No	
Hydaburg	4%	\$23,906	No	
Juneau, City & Borough of	5%	\$30,539,500	7% Bed Tax/ 3% Liquor Tax/ \$.30/pack Tobacco Tx	\$825,000/\$660,000/\$311,737
Kachemak	No		No	
Kake	5%	\$34,492	No	
Kaktovik	No		No	
Kaltag	No		No	
Kasaan	No		No	
Kenai	3%	\$3,680,000	No	
Kenai Peninsula Borough	2%	\$14,910,977	No	
Ketchikan	3.5%	\$7,933,224	6% Bed Tax	\$301,834
Ketchikan Gateway Borough	2%	\$4,071,818	4% Bed Tax	\$37,365
Kiana	2%	\$24,937	No	
King Cove	4%	\$434,863	4% Seafood Proc/Business impact tax-flat	\$795,862/\$100,000
Kivalina	NR	NR	No	
Klawock	5.5%	\$477,389	6% Bed Tax	\$5,844
Kobuk	No		No	
Kodiak	6%	\$7,130,691	5% Bed Tax	\$110,466
Kodiak Island Borough	No		9.25 mill Severance Tax/5% Bed Tax	\$799,693/\$56,177
Kotlik	3%	\$77,831	No	
Kotzebue	6%	\$2,423,193	6% Bed Tax/ 6% Alcohol Tax	\$40,690/\$21,064
Koyuk	2%	\$34,788	No	
Koyukuk	No		No	
Kupreanof	No		No	
Kwethluk	5%	\$106,538	No	
Lake & Peninsula Borough	No		2% Raw Fish Tax/Guide Fees/6% Bed Tax	\$574,192/\$23,098/\$134,509
Larsen Bay	3%	\$7,019	No	
Lower Kalskag	NR	NR	NR	
Manokotak	2%	\$1,185	No	
Marshall	4%	\$52,402	No	
Matanuska-Susitna Borough	No		5% Bed Tax	\$716,992
McGrath	No		No	
Mekoryuk	2%	\$13,000	No	
Metlakatla	No		No	
Mountain Village	3%	\$109,776	No	
Napakiak	3%	\$43,770	No	
Napaskiak	No		No	
Nenana	4%	\$136,808	No	
New Stuyahok	No		No	
Newhalen	2%	NR	NR	
Nightmute	2%	\$1,628	No	
Nikolai	No		No	
Nome	5%	\$3,484,362	4% Bed Tax	\$94,741
Nondalton	NR		No	
Noorvik	3%	\$109,032	No	
North Pole	3%	\$1,563,306	No	
North Slope Borough	No		No	
Northwest Arctic Borough	No		No	
Nuiqsut	No		No	

TABLE 2- continued

2004 Municipal Sales Tax, Special Tax and Revenues

Municipality	Sales Tax	Revenues	Special Tax	Revenues
Nulato	No		No	
Nunam Iqua (Sheldon Point)	2%	\$6,003	No	
Nunapitchuk	3%	\$32,730	No	
Old Harbor	3%	\$26,775	No	
Ouzinkie	3%	\$5,266	No	
Palmer	3%	\$3,066,089	No	
Pelican	4%	\$57,253	10% Bed Tax	\$2,528
Petersburg	6%	\$2,140,917	4% Bed Tax	\$37,920
Pilot Point	3%	110000	3% Fish Tax	\$3,000
Pilot Station	4%	\$54,556	No	
Platinum	No		No	
Point Hope	No		No	
Port Alexander	4%	\$14,250	6% Bed Tax	\$1,916
Port Heiden	No		No	
Port Lions	No		5% Bed Tax	\$4,558
Quinhagak	3%	\$77,506	No	
Ruby	No		No	
Russian Mission	No		No	
St. George	NR	NR	NR	
St. Mary's	3%	\$107,105	No	
St. Michael	NR		No	
Saint Paul	3%	\$281,808	3% Raw Fish Tax	\$601,253
Sand Point	3%	\$461,115	7% Bed Tax/2% Raw Fish Tax	\$5,236/\$526,295
Savoonga	3%	\$50,000	No	
Saxman	NR		No	
Scammon Bay	2%	\$26,571	No	
Selawik	5%	\$63,565	No	
Seldovia	4%/6.5%	\$107,299	No	
Seward	4%	\$2,674,839	4% Bed Tax	\$215,145
Shageluk	No		No	
Shaktolik	NR		No	
Shishmaref	2%	\$34,129	No	
Shungnak	NR		No	
Sitka, City & Borough of	5%/6%	\$7,527,857	6% Bed Tax/ \$.02/gal Fuel Tax	\$299,348/ \$7,437
Skagway	4%	\$2,531,977	8% Bed Tax	\$91,782
Soldotna	3%	\$5,694,134	No	
Stebbins	3%	\$45,646	No	
Tanana	2%	\$21,116	No	
Teller	3%	\$15,098	No	
Tenakee Springs	1%	\$7,121	6% Bed Tax	\$1,218
Thorne Bay	5%	\$156,704	No	
Togiak	2%	\$76,097	2% Raw Fish Tax	\$32,680
Toksook Bay	NR		No	
Unalakleet	5%	\$271,753	5% Bed Tax/5% Alcohol Tax	\$5,803/\$5,527
Unalaska	3%	\$6,350,610	2% Raw Fish Tax/ 5% Bed Tax	\$4,190,139/\$110,649
Upper Kalskag	No		No	
Valdez	No		6% Bed Tax	\$289,526
Wainwright	No		No	
Wales	NR	NR	NR	
Wasilla	2.5%	\$7,135,574	No	
White Mountain	1%	\$10,472	No	
Whittier	3%	\$176,461	Passenger Trans. Tax/3% Alcohol Tax	\$120,887/\$6,450
Wrangell	7%	\$1,872,949	\$4 per night Bed Tax	\$20,180
Yakutat, City & Borough of	4%	\$575,212	1% Raw Fish Tax/4% Bed & Car Rental Tx	\$11,362/\$64,529
TOTAL SALES TAX REPORTED		\$ 137,945,620	TOTAL SPECIAL TAXES REPORTED	\$43,659,859

Alaska Department of Revenue - Tax Division

Draft Non-Petroleum Corporation Income Tax Liabilities by Sector¹

	FY 2004		FY 2003 (revised)		FY 2002		FY 2001		FY 2000		FY 1999		FY 1998	
Business Activity	%	Tax Liability	%	Tax Liability	%	Tax Liability	%	Tax Liability	%	Tax Liability	%	Tax Liability	%	Tax Liability
Airlines	1%	530,353	1%	440,708	5%	2,145,349	4%	1,829,425	5%	2,705,322	2%	1,157,714	2%	1,735,467
Construction	6%	2,748,782	4%	1,538,641	4%	1,935,919	3%	1,357,780	3%	1,673,615	3%	1,638,376	3%	2,050,289
Finance	20%	9,616,568	20%	8,344,407	20%	8,994,254	9%	3,690,786	19%	10,636,659	20%	10,161,632	20%	9,170,326
Fish ²	7%	3,166,355	4%	1,798,904	5%	2,077,476	7%	3,039,414	4%	1,966,142	3%	1,359,905	3%	1,483,496
Manufacturing ³	4%	1,703,282	3%	1,181,278	4%	1,727,297	4%	1,755,109	3%	1,782,218	6%	3,081,797	6%	3,784,507
Mining ⁴	1%	323,706	0%	32,704	0%	18,665	1%	285,815	0%	75,900	1%	398,435	1%	246,792
Real Estate	3%	1,198,843	3%	1,269,993	1%	539,347	4%	1,525,122	3%	1,427,584	3%	1,745,832	3%	1,330,113
Retail	19%	9,104,931	23%	9,781,726	14%	6,319,374	11%	4,601,219	11%	6,067,087	10%	5,040,997	10%	5,241,579
Restaurants / Bars		98,834		103,094		**		**		**		**		**
Services	20%	9,530,500	20%	8,553,472	18%	8,186,279	21%	8,704,506	17%	9,481,634	21%	11,118,228	21%	7,657,407
Healthcare Services		1,758,083		1,213,974		**		**		**		**		**
Oil & Gas Services		2,980,771		5,121,833		2,600,000		900,000		2,900,000		5,300,000		**
Tourism ⁵		2,796,901		759,826		**		**		**		**		**
Transportation ⁶	7%	3,232,112	7%	2,818,573	8%	3,548,633	7%	2,828,536	6%	3,120,394	7%	3,669,637	7%	3,157,115
Utility & Comm.	1%	687,827	2%	708,840	6%	2,782,964	18%	7,373,389	17%	9,172,989	12%	6,241,187	12%	9,178,023
Wholesale	11%	5,401,905	12%	5,246,561	13%	5,823,224	10%	4,359,367	10%	5,670,993	9%	4,571,731	9%	4,999,215
Other Sectors ⁷	1%	355,774	1%	530,553	1%	540,349	1%	568,676	2%	1,164,398	3%	1,310,741	3%	2,841,659
Total⁸	100%	\$47,600,938	100%	\$42,246,360	100%	\$44,639,129	100%	\$41,919,145	100%	\$54,944,935	100%	\$51,496,211	100%	\$52,875,988

Prepared 11/29/04

¹ Reporting a tax liability on an original corporate income tax return. Liabilities may differ from amounts remitted by the taxpayer during the fiscal year due to timing differences resulting from estimated tax payments, credits and final payment of taxes. Based upon information provided on tax returns as interpreted by DOR. Prior years have been updated for consistency purposes.

² Includes fish processors that are usually classified under Manufacturing.

³ Fish processing included under Fisheries and wood products manufacturing included under Other Sectors.

⁴ Does not include oil and gas extraction.

⁵ Tourism includes hotels, lodges, guided tour operators. Air transportation including helicopters is included in Airlines category; other transportation is included in Transportation category.

⁶ Airline transportation is included in its own sector above.

⁷ Forestry and Insurance sectors combined for confidentiality reasons.

⁸ In FY 1997 and FY 1999, total general corporation income tax liabilities were updated and, consequently, do not match the liabilities shown in our annual reports.

** Not estimated

Please note when evaluating data:

- Timing of returns may distort data; we may receive no returns or multiple returns from a given taxpayer in a year, depending on whether the corporation used a 6-month extension.
- Only Subchapter C corporations pay corporate income tax. Thus industry representation is dependent upon the form of organization of businesses in each industry.
- Industry classifications are based on DOR interpretations of each corporation's Alaska businesses and may not match classifications based on NAICS codes.

Table 25. Revenues paid to the State of Alaska and municipalities by Alaska's mineral industry, 1998–2003^a

	1998	1999	2000	2001	2002	2003
State mineral rents and royalties						
State claim rentals ^b	\$ 1,170,812	\$ 1,982,453	\$ 1,975,376	\$ 1,736,522	\$ 1,908,228	\$ 2,129,440
Production royalties	9,489	14,214	6,175	1,933	23,447	270,734
Annual labor	118,020	90,720	79,907	103,274	124,741	224,519
Subtotal	1,298,321	2,087,387	2,061,458	1,841,729	2,056,416	2,624,693
State coal rents and royalties						
Rents	331,716	205,983	233,249	198,545	256,927	237,912
Royalties	1,937,899	2,615,858	1,482,803	1,168,043	860,633	1,064,208
Bonus	0	0	372,000	0	0	0
Offshore Prospecting Permits	0	0	0	0	0	0
Subtotal	2,269,615	2,821,841	2,088,052	1,366,588	1,117,560	1,302,120
State material sales						
Mental Health	40,269	32,407	33,928	118,545	151,993	134,512
Division of Land	1,043,602	586,550	449,343	1,515,769	1,595,708	542,311
SPCO	28,491	28,941	41,395	12,894	24,725	208,309
Subtotal	1,112,362	647,898	524,666	1,647,208	1,772,426	885,132
State mining miscellaneous fees						
Filing Fees	2,510	4,288	5,400	3,000	3,000	4,700
Penalty Fees	0	8,000	0	0	450	0
Explore incentive app filing fee	2,000	3,000	0	0	0	0
Bond pool payment	79,929	70,692	50,100	53,866	45,208	44,878
Surface coal mining app fee	6,890	2,500	1,830	3,700	2,530	1,005
APMA mining fees	18,975	19,288	18,550	13,175	11,975	15,113
Subtotal	110,304	107,768	75,880	73,741	63,163	65,696
Mining license ^c	1,797,292	1,296,663	2,712,541	2,068,232	469,270	1,030,845
State total	6,587,894	6,961,557	7,462,597	6,997,498	5,478,835	5,908,486
Payments to Municipalities	7,934,000	8,818,819	9,196,500	9,763,220	9,703,208	10,510,048
TOTAL	\$14,521,894	\$15,780,376	\$16,659,097	\$16,760,718	\$15,182,043	\$16,418,534

^aDoes not include state corporate income taxes, which were not released for this study.^bIncludes upland lease and offshore lease rentals.^cIncludes metals, coal, and material.

N/A = not available.

SOURCE: Municipalities, companies, and DNR Financial Services Section.

ALASKA'S TAX AND ROYALTY SCHEME ON MINERAL PRODUCTION

Alaska's tax and royalty scheme, as it pertains to mineral production, consists of several components. The primary components of this scheme are the mining license tax, the corporate income tax, and the net income royalty.

Mining License Tax

One major component of Alaska's tax and royalty scheme on mineral production dates back to territorial days. The mining license tax, as enacted in 1913, imposed a 0.5% tax on mining net income over \$5,000. In the 40 years that followed, the tax rates and structure changed several times until 1955, when the territorial legislature adopted the rate structure that exists today.¹

The mining license tax is levied on mining *net income*—income that remains after expenses are paid—and on royalties received in connection with mining properties and activities. New mining operations (excluding sand and gravel operations) are exempt from paying the annual mining license tax for a period of three and one-half years prior to the start of production. The rates for the mining license tax are as follows.

Table 1: Mining License Tax Rates

Mining Net Income	Tax Base	Plus	Of the Amount Over
\$0 -- \$40,000		No Tax	
\$40,001 -- \$50,000	\$1,200	3%	\$40,000
\$50,001 -- \$100,000	\$1,500	5%	\$50,000
Over \$100,000	\$4,000	7%	\$100,000
Source: AS 43.65.010.			

Corporate Income Tax

The corporate income tax also dates back to territorial days when the Alaska Net Income Tax Act (ANITA) was passed, which levied a flat tax of 10% of each corporation's federal tax liability. The ANITA has undergone significant changes over the years, but its current rate structure was put into place 24 years ago, with the enactment of Chapter 116 SLA 1981. The current income tax rates for corporations are as follows.

¹ "Mining License Tax, AS 43.65," *Tax Division FY 2004 Annual Report*, p. 38-39, Alaska Department of Revenue, Tax Division; we include a copy of these pages from the report as Attachment A.

Table 2: Corporate Income Tax Rates

<i>If your Alaska taxable income is:</i>				
At least	But less than	Your Tax is	Plus	Of the Amount Over
-0-	10,000	-0-	1%	-0-
10,000	20,000	100	2%	10,000
20,000	30,000	300	3%	20,000
30,000	40,000	600	4%	30,000
40,000	50,000	1,000	5%	40,000
50,000	60,000	1,500	6%	50,000
60,000	70,000	2,100	7%	60,000
70,000	80,000	2,800	8%	70,000
80,000	90,000	3,600	9%	80,000
90,000 or more		4,500	9.4%	90,000
Source: AS 43.20.011.				

It is important to note that not all miners or mining companies operating in the state have formed corporations and pay the corporate income tax. Additionally, many corporations engaged in mining in the state experience years when they report negative net incomes; in such years, those corporations would not pay any income tax to the state.

Net Income Royalty

In 1989, the legislature authorized collection of a 3% production royalty, the third component in the Alaska tax and royalty scheme on mineral production.² Also referred to as a net income royalty because it is assessed on the *net income* of mining companies, the royalty applies to revenues received from minerals produced from state mining claims or mining leases during each calendar year. Payment of the 3% royalty, the rate that has been in effect since 1989, is in exchange for the right to extract from state land the minerals produced.³

OTHER FEES AND TAXES

State Claim Rentals and Annual Labor Requirements

Two other fees imposed on the mining industry in Alaska include the state claim rentals and the annual labor requirements. Miners whose claims are located on state land must pay an annual

² AS 38.05.212.

³ Alaska Department of Natural Resources, "Fact Sheet: Production Royalty."

rental fee. For the first five years since the claim was located, the fee is \$0.66 per acre; for years 5-10, the fee is \$1.32 per acre; and for the 11th year and beyond, the fee is \$3.30 per acre.⁴

There is also an annual labor requirement imposed on the industry. In any given year, miners with claims of 40 acres or less must have provided a minimum of \$100 worth of labor developing the claim; those with up to 160 acres must have provided a minimum of \$400 worth of labor. If the labor is not performed, mining companies must pay this amount to the State.

Property Tax

Mining operations that occur in taxing jurisdictions are subject to property taxes. For example, the Greens Creek mine near Juneau pays property taxes to the City and Borough of Juneau. Although state law prohibits taxation of resources in place, buildings, equipment, and other infrastructure may be taxed by local jurisdictions.

Other Fees and Penalties

Like other industries, the mineral industry pays the State for other miscellaneous items, including various filing and application fees. The State also assesses penalties for late payments and other violations of state code.

TAX CREDIT PROGRAMS

There are currently two credit programs available to mining companies to reduce their state tax and/or royalty burden. Another credit program was available to the mineral, but this program was terminated in 1999.

The Alaska education tax credit, enacted in 1987, allows mineral industry taxpayers who make contributions for educational purposes to take a tax credit for an amount equal to 50% of contributions up to \$100,000 and 100% of the next \$100,000 in contributions, not to exceed \$150,000 for any taxpayer in one year.⁵ The credit is applicable to the state mining tax or corporate income tax.

The mineral exploration incentive credit, authorized in 1995, allows mineral industry taxpayers to take a credit for 50% of their mining tax liability, their corporate income tax liability, or their royalty liability owed to the State, for eligible costs of exploration activities related to determining existence, location, extent, or quality of a locatable mineral or coal deposit. Credit for any one taxpayer cannot exceed \$20 million and must be applied within 15 tax years after the credit is approved.⁶

⁴ The annual rental requirement applies to mining claims, leasehold locations, upland mining leases, and off-shore mining leases. The requirement for prospecting sites is \$200 for the two-year rental.

⁵ AS 43.65.018.

⁶ AS 27.30.010 - 099.

The special industrial incentive investment tax credit program, authorized in 1984, was enacted to conform to portions of the U.S. Internal Revenue Code.⁷ Under the program, mining companies could take credit in varying amounts for qualified investments of up to \$250 million. This program ended for new investment credits in 1994 and for credits carried forward, in 1999. Therefore, no special industrial incentive credits were taken in FYs 02 through 04; Tax Division reports show that credits of \$3.6 million, \$1.2 million, and \$2.2 million were taken in FY 01, FY 00, and FY 99, respectively.⁸

ESTIMATED MINERAL PRODUCTION AND THE AMOUNT OF REVENUE COLLECTED FROM THE MINING INDUSTRY

A report entitled "Alaska's Mineral Industry 2003—Special Report 58," produced by the Department of Natural Resources (DNR), Division of Geological and Geophysical Surveys, provides a very useful compilation of mining industry activities in 2003 and prior years. Several tables from that publication are particularly useful in the context of this report; we provide a copy of the report as Attachment B.

One of the tables in the DNR report provides the estimated production of minerals from 2001 through 2003, by mineral type. The table also contains the estimated values of the minerals produced, based on average prices for the years reported. Table 3 below provides information extracted from that table on metal minerals; we include a copy of the complete table as it appears in the DNR publication is included in Attachment B.⁹

Table 3: Estimated Mineral Production in Alaska, 2001 - 2003

Metals	Quantity Produced			Estimated Values (in \$)		
	2001	2002	2003	2001	2002	2003
Gold (ounces)	550,644	562,094	528,191	149,246,000	174,283,000	191,934,000
Silver (ounces)	16,798,000	17,858,183	18,589,100	73,408,000	82,326,000	95,300,000
Copper (tons)	1,400	1,600	-	1,988,000	2,272,000	-
Lead (tons)	127,385	146,462	162,479	56,049,000	61,514,000	64,279,000
Zinc (tons)	634,883	718,106	714,769	507,907,000	502,674,000	536,348,000
TOTALS				788,598,000	823,069,000	887,861,000

Notes: Estimated values are based on average prices for each year.

Source: Table 10, "Alaska's Mineral Industry 2003 -- Special Report 58," Department of Natural Resources, Division of Geological and Geophysical Surveys, p. 25; we include a copy of this publication as Attachment B.

⁷ AS 43.20.042.

⁸ Department of Revenue, Tax Division, *FY 01 Annual Report*, p. 17.

⁹ See Attachment B, p. 25 (Table 10).

Another table from the DNR report provides information about the amount of revenue paid to the State and to local governments by the mineral industry, from 1998 through 2003. We present a condensed version of this below; a copy of the complete table as it appears in the DNR publication is included with our report in Attachment B.¹⁰

Table 4: Revenues Paid to the State of Alaska and Local Governments by the Mineral Industry, 1998 - 2003

Type of Fee or Tax	1998	1999	2000	2001	2002	2003
Mineral Rents and Royalties	1,298,321	2,087,387	2,061,458	1,841,729	2,056,416	2,624,693
Coal Rents and Royalties	2,269,615	2,821,841	2,088,052	1,366,588	1,117,560	1,302,120
Material Sales	1,112,362	647,898	524,666	1,647,208	1,772,426	885,132
Mining Miscellaneous Fees	110,304	107,768	75,880	73,741	63,163	65,696
Mining License Tax	1,797,292	1,296,663	2,712,541	2,068,232	469,270	1,030,845
Total Payments to State	6,587,894	6,961,557	7,462,597	6,997,498	5,478,835	5,908,486
Total Payments to Local Gov'ts	7,934,000	8,818,819	9,196,500	9,763,220	9,703,208	10,510,048
TOTAL PAYMENTS	14,521,894	15,780,376	16,659,097	16,760,718	15,182,043	16,418,534

Notes: Not included are amounts paid for corporate income taxes; such information is proprietary, rather than public, information.

Source: Table 25, "Alaska's Mineral Industry 2003 -- Special Report 58," Department of Natural Resources, Division of Geological and Geophysical Surveys, p. 40; we include a copy of this publication as Attachment B.

Preliminary reports from officials at the Department of Natural Resources and the Department of Revenue indicate that 2004 was a very productive year in mining terms. According to the Tax Division's *FY 2004 Annual Report*, Mining License Tax receipts were almost ten times the amount collected in fiscal year 2003, with collections of \$396,254 in FY 03 and \$3,224,684 in FY 04.¹¹ Early indications in 2005 support the departments' predictions that mineral industry production will remain at its high level throughout the year.¹²

NET INCOME OF MINING OPERATIONS IN ALASKA

As discussed above, the three major components of the tax and royalty scheme for mining operations in Alaska—the mining license tax, the corporate income tax, and the royalty—are levied on mining net income, less any tax credits received. Mining companies reporting negative net income in any given year are not required to pay these taxes and/or royalties to the State in that year.

Confidentiality requirements prevent Department of Revenue officials from disclosing information about the net incomes of individual businesses in the state. As such, department officials could provide only aggregated information on the net incomes of Alaska mining operations, as follows.

¹⁰ See Attachment B, p. 40 (Table 25).

¹¹ These numbers are reported on a fiscal year basis, and therefore do not reconcile with the numbers presented in Table 3, which are reported on a calendar year basis.

¹² Kerwin Krause, Geologist, Department of Natural Resources; Mr. Krause can be reached at (907) 269-6652.

Table 5: Aggregate Net Income of Mining Operations in Alaska, FY 2003 and 2004

Net Income Return Information	FY 2003	FY 2004
Number of Returns Filed	190	144
Dollar Value, Returns with Positive Net Income	9,179,586	19,512,905
Dollar Value, Returns with Negative Net Income	(133,614,349)	(52,971,832)
Notes: Information from mining license tax returns filed during the fiscal year. Amounts will not correspond to cash received because of prepayments, refunds, and timing issues. Source: Brett Fried, Economist, Department of Revenue, 465-3682.		

According to the net income information shown in Table 5, the State would have received tax and royalty revenue on only \$9.2 million in FY 03 and \$19.5 million in FY 04 from the over 140 mining operations that filed returns in each of those years.

Brett Fried, Economist, Department of Revenue, prepared an estimate of the amount of tax that could be collected if the State were to levy a hypothetical flat tax of 3% on mineral production.¹³ His work is shown below; as you will see, Mr. Fried used the estimated mineral quantities and values as reported in the DNR special report discussed previously.

¹³ Brett Fried, Economist, Department of Revenue, can be reached at 465-3682.

Table 25. Revenues paid to the State of Alaska and municipalities by Alaska's mineral industry, 1998–2003^a

	1998	1999	2000	2001	2002	2003
State mineral rents and royalties						
State claim rentals ^b	\$ 1,170,812	\$ 1,982,453	\$ 1,975,376	\$ 1,736,522	\$ 1,908,228	\$ 2,129,440
Production royalties	9,489	14,214	6,175	1,933	23,447	270,734
Annual labor	118,020	90,720	79,907	103,274	124,741	224,519
Subtotal	1,298,321	2,087,387	2,061,458	1,841,729	2,056,416	2,624,693
State coal rents and royalties						
Rents	331,716	205,983	233,249	198,545	256,927	237,912
Royalties	1,937,899	2,615,858	1,482,803	1,168,043	860,633	1,064,208
Bonus	0	0	372,000	0	0	0
Offshore Prospecting Permits	0	0	0	0	0	0
Subtotal	2,269,615	2,821,841	2,088,052	1,366,588	1,117,560	1,302,120
State material sales						
Mental Health	40,269	32,407	33,928	118,545	151,993	134,512
Division of Land	1,043,602	586,550	449,343	1,515,769	1,595,708	542,311
SPCO	28,491	28,941	41,395	12,894	24,725	208,309
Subtotal	1,112,362	647,898	524,666	1,647,208	1,772,426	885,132
State mining miscellaneous fees						
Filing Fees	2,510	4,288	5,400	3,000	3,000	4,700
Penalty Fees	0	8,000	0	0	450	0
Explore incentive app filing fee	2,000	3,000	0	0	0	0
Bond pool payment	79,929	70,692	50,100	53,866	45,208	44,878
Surface coal mining app fee	6,890	2,500	1,830	3,700	2,530	1,005
APMA mining fees	18,975	19,288	18,550	13,175	11,975	15,113
Subtotal	110,304	107,768	75,880	73,741	63,163	65,696
Mining license ^c	1,797,292	1,296,663	2,712,541	2,068,232	469,270	1,030,845
State total	6,587,894	6,961,557	7,462,597	6,997,498	5,478,835	5,908,486
Payments to Municipalities	7,934,000	8,818,819	9,196,500	9,763,220	9,703,208	10,510,048
TOTAL	\$14,521,894	\$15,780,376	\$16,659,097	\$16,760,718	\$15,182,043	\$16,418,534

^aDoes not include state corporate income taxes, which were not released for this study.^bIncludes upland lease and offshore lease rentals.^cIncludes metals, coal, and material.

N/A = not available.

SOURCE: Municipalities, companies, and DNR Financial Services Section.

Table 12. Average metal prices, 1993–2003

	Gold (\$/oz)	Silver (\$/oz)	Copper (\$/lb)	Zinc (\$/lb)	Lead (\$/lb)
1993	359.00	4.30	0.87	0.44	0.18
1994	386.00	5.41	1.05	0.45	0.35
1995	395.00	5.43	1.33	0.48	0.34
1996	387.60	5.19	1.03	0.49	0.37
1997	330.76	4.91	1.03	0.59	0.28
1998	293.88	5.53	0.75	0.46	0.24
1999	278.70	5.20	0.71	0.49	0.23
2000	279.10	4.96	0.82	0.51	0.21
2001	271.04	4.37	0.71	0.40	0.22
2002	310.06	4.61	0.71	0.35	0.21
2003	363.38	4.88	0.81	0.38	0.23

Table 10. Estimated mineral production in Alaska, 2001-2003^a

	Quantity			Estimated values ^b		
	2001	2002	2003	2001	2002	2003
Metals						
Gold (ounces)	550,644	562,094	528,191 ^c	\$149,246,000	\$174,283,000	\$191,934,000
Silver (ounces)	16,798,000	17,858,183	18,589,100	73,408,000	82,326,000	95,300,000
Copper (tons)	1,400	1,600	0 ^d	1,988,000	2,272,000	0
Lead (tons)	127,385	146,462	162,479	56,049,000	61,514,000	64,279,000
Zinc (tons)	634,883	718,106	714,769	507,907,000	502,674,000	536,348,000
Subtotal				\$788,598,000	\$823,069,000	\$887,861,000
Industrial minerals						
Jade and soapstone (tons)	2.0	2.0	0 ^e	\$25,000	\$25,000	\$0
Sand and gravel (million tons)	10.4	22.4	11.9	55,221,000	120,698,000	64,140,000
Rock (million tons)	3.1	3.2	0.9	27,176,000	31,442,000	10,406,000
Subtotal				\$82,422,000	\$152,165,000	\$74,546,000
Energy minerals						
Coal (tons)	1,537,000	1,158,000	1,088,000	\$48,108,000	\$37,400,000	\$38,080,000
Peat (cubic yards)	36,000	35,000	35,000 ^f	180,000	175,000	175,000
Subtotal				\$48,288,000	\$37,575,000	\$38,255,000
TOTAL				\$919,308,000	\$1,012,809,000	\$1,000,662,000

^aProduction data from DGGs questionnaires, phone interviews with mine and quarry operators, Alaska Department of Transportation and Public Facilities, and federal land management agencies.

^bValues for selected metal production based on average prices for each year; for 2003—gold (\$363.58/ounce unless other value provided by operator); silver (\$4.88/ounce); copper (\$0.81/lb); zinc (\$0.38/lb); lead (\$0.23/lb). All other values provided by mine operators. Values rounded to nearest \$1,000.

^cHardrock gold 504,591 ounces, placer gold 23,600 ounces.

^dGreens Creek has historically been credited with a small copper concentrate production; no credit was experienced for 2003 production.

^eJade and soapstone credit has been dropped.

^fProjected only; no reports from producers.

Major Metal-Mineral Mining Operations in Alaska

Name	Major Mineral(s)	Land Ownership
Red Dog	Zinc	Nana Corporation
Fort Knox	Gold	Mental Health Trust (satellite on state land)
Greens Creek	Silver/ Zinc/ Gold/ Lead	Federal and Private
Pogo	Gold	State
Illinois Creek	Gold/ Silver	State

Metal Mines Taxation Comparison of All Taxes

State	Property Tax	Severance Tax	License Tax	Sales and Use Tax	Other Taxes or Fees
1 Arizona	On average, the tax rate is 12.18% of the assessed value of the real and personal property of the company	2.5% of the net severance base (Severance Base = 50% of the difference between the gross value of production and the production costs)	None	None	6.968% of net proceeds
2 California	Personal and real property are valued annually. They are taxed locally. The ore body is valued and taxed as a part of the property taxes.	None	None	Personal property is subject to a sales tax	Each mining company pays a pro rata share (between \$100 - \$4,000) for publication of the State Mining and Geology Board Annual Report; a fee of \$5.00/roy oz of gold and \$0.10/roy oz of silver is levied for Abandoned Mine Reclamation.
3 Colorado ¹	Personal and real property are valued annually. They are taxed locally.	0% to 2.25% of gross income	None	Personal property is subject to a sales tax	None
4 Idaho	Personal and real property are valued annually. They are taxed locally.	None	1% of the net value of the royalties	With the proper certificates, most of the personal property used in the mining operation is exempt from the sales tax	None
5 Montana ²	Personal and real property are valued annually. The property tax is levied at the state and local level.	3% of the annual gross proceeds are subject to tax for property tax purposes. This is an ad valorem tax on the value of production.	0% of the first \$250,000 gross value of production; 1.8% of the gross value of production of gold, silver or other platinum-group metal for dust, bullion or metal or other processed concentrate	None	None
6 Nevada	The state values real and personal property of a centrally valued property. Other than the state debt service amount, all property taxes are collected locally.	2% to 5% of net proceeds	None	Personal property is subject to a sales tax	A state levy of \$0.17/\$100 of assessed value is used for state debt service and is assessed against all real and personal property.
7 New Mexico ³	Both real and personal property based on an average production value. Maximum mill levies are established in law with voter approved increases allowed.	Copper = 0.5% of taxable value; rare earth and other metals = 0.125% of taxable value; gold and silver = 0.20% of taxable value	none	Personal property is subject to a sales tax	75% excise tax on the gross value received for the severed product, regardless of deductions
8 North Dakota ⁴	The mine is subject to any local real property taxes; the resource in the ground is not.	\$0.375/ton severance tax; \$0.02ignite research tax	None	Personal property is not taxed in North Dakota but purchase of machinery and equipment is subject to a sales tax	none
9 Oregon ⁵	Personal property is valued at 100% of market value. The state prepares manual and valuation schedules which are applied locally. Effective tax rate is approximately \$15 per \$1,000 of market value (1.5%).	None	None	None	None
10 South Dakota ⁶	2 mills on the dollar maximum for state levy; 1 mill maximum for state highway levy Other property taxes are variable by county	10% of net profits of precious metals, \$4/oz of gold; 4.5% of taxable value (posted field price) of energy minerals	None	Personal property is subject to a sales tax	\$1 - \$4 per oz of gold if London price is \$500/oz or greater; through June 30, 2004, 2% of the first \$50,000,000 of gross yield and 1% of all additional revenue over \$50,000,000
11 Utah ⁷	Used for local purposes only, approx 1% of market value	2.6% of the taxable value	None	Personal property is subject to a sales tax	None
12 Washington ⁸	A maximum of 3.6 mills/\$1,000 of value of real and personal property for state education equalization. Personal property is valued annually. The state prepares valuation schedules but the property is taxed locally.	None	None	Personal property is subject to a sales tax	None
13 Wyoming	Property taxes are levied on a local basis. The rates range from 6% to 8.6%	2% of gross product of miscellaneous minerals	None	Personal property is subject to a sales tax	None

Source: 2004 State Tax Handbook, Western Mine Engineering Company website, individual state statutes, agencies and individuals.

¹ For mines begun after July 1, 1989 Colorado does not levy a tax on the first \$15,000,000 of gross income. For mines begun before July 1, 1989 the first \$11,000,000 of gross income is exempt. The tax is 2.25% on all gross income above \$9 thousand.² Under the Resource Integrity and Groundwater Assessment Act, a 1/2 of 1% tax on the gross value of minerals extracted. This tax is in addition to the gross proceeds tax.³ The severance tax in New Mexico is levied against the gross value of sales less 50% deduction for expenses. The gross value of sales is calculated separately for each mineral type.⁴ "Energy minerals," any minerals fuel including, but not limited to coal, lignite, petroleum, oil, natural gas, uranium and thorium and any combination of minerals used in the production of energy.⁵ According to the Oregon Dept. of Geology and Mineral Industries website there are no active commercial metallic mines in the state.⁶ The 4.5% tax on energy minerals is in lieu of all other taxes except sales, use and property taxes from all taxing jurisdictions. Numerous production and reclamation expenses, depreciation costs and local tax reductions and other expenses are allowed before determining "net profits."⁷ In Utah the taxable value is 30% of the gross proceeds for all metals except beryllium. For beryllium the taxable value is 20% of gross proceeds. Ore shipped out of state has a taxable value of 30% of gross proceeds.⁸ Washington levies a business and occupation tax.

Alaska Department of Revenue
Tax Division

Prepared by Brett Fried
Prepared on January 18, 2004
Produced for Representative Seaton

Draft Proposed Tax on the "Gross Value" of Minerals in Alaska

		Quantity*	Estimated*	Proposed
		2003	Values 2003	Tax @ 3%
Metals				
Gold	(ounces)	528,191	\$191,934,000	\$5,758,020
Silver	(ounces)	18,589,100	\$95,300,000	\$2,859,000
Lead	(tons)	162,479	\$64,279,000	\$1,928,370
Zinc	(tons)	714,769	\$536,348,000	\$16,090,440
Subtotal			\$887,861,000	\$26,635,830
Industrial minerals				
Sand and gravel	(million tons)	11.9	\$64,140,000	\$1,924,200
Rock	(million tons)	0.9	\$10,406,000	\$312,180
Subtotal			\$74,546,000	\$2,236,380
Energy minerals				
Coal	(tons)	1,088,000	\$38,080,000	\$1,142,400
Peat	(cubic yards)	35,000	\$175,000	\$5,250
			\$38,255,000	\$1,147,650
Total			\$1,000,662,000	\$30,019,860

*Quantity and value from the Department of Natural Resources, Division of Geological & Geophysical Surveys. "Special Report 58: Alaska's Mineral Industry 2003." Table 10. pg 25.

Assumptions:

- (1) Assumes production value (quantity x market price) is the same as gross value. That is, Alaska exports raw ore that must be smelted prior to sale. Production value is the value of the final product not the value of the raw ore in Alaska. There were only, approximately, \$67 million of exploration and development expenditures in Alaska in 2003 (DNR, Table 1, pg. 58).
- (2) Assumes that the 2003 production value is representative of future production values. The average production value for the last five years has been close to one billion.
- (3) Assumes mining companies will not change their behavior as a result of the tax.

Mining

BILL CORBOS

465-3761 - MINING TAX

Brett Fried

- 465-3682 - Nat. Resources

Rick Keig (H.)

789-8110

~~Representing~~
Representing
Alaska Miners Assoc
Council of Alaska Producers

Bob Loeffler

Director

Division
of Mining, Land
& WATER

AL Clough

Deputy Commissioner
Dept of Community &
Economic Development

SCOMM

142.7

CS FOR HOUSE BILL NO. 293(W&M)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

Offered: 5/12/03

Referred: Finance

Sponsor(s): HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (d) A city that levies and 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 * **Sec. 18.** AS 29.45 is amended by adding a new section to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 WASTE SEAFOOD].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 44. Sales and Use Tax.

Article 1. Levy and Collection of the Tax.

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

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

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

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

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

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

1 purchase price of the tangible personal property or service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 **Article 2. Exemptions.**

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

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

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

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

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

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

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

6 (2) interest on money loaned or deposited;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 AS 43.44.010(a).

2 **Sec. 43.44.200. Exemption for transactions subject to other taxes.** (a)

3 Motor fuel transactions subject to tax under AS 43.40 are exempt from the sales tax
4 and use tax.

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

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

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

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

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

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

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

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

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

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

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

1 exempt from the sales tax and use tax.

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

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

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

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

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

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

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

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

22 (3) the property or service purchased;

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

24 (5) a signature line for the purchaser.

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

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

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

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

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

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

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

18 **Sec. 43.44.270. Permit application: requirements; place of business; form.**
19 (a) A person wishing to engage in business in this state shall file with the department
20 an application for a seller's permit. If the person has more than one location in which
21 the person maintains an office or other place of business, an application may include
22 multiple locations. A vending machine operator who has more than one vending
23 machine location is considered to have only one place of business for purposes of this
24 section. An applicant who does not maintain an office or other place of business and
25 who moves from place to place is considered to have only one place of business and
26 shall attach the permit to the applicant's cart, stand, truck, or other merchandising
27 device.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (2) a person who

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 **Article 4. General Provisions.**

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

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

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

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

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

22 (B) does not include

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

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

31 (iii) providing tangible personal property along with an

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

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

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

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

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

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

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

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

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

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

(10) "sales price"

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

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

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

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

11 (iv) delivery charges;

12 (v) installation charges;

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

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

18 (B) does not include

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

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

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

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

30 AS 43.44.010;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 293(W&M)
 (H) Publish Date: 5/13/03

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2003) cost: 150.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

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

See Page 2 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried

Division: Tax Division

Approved by: Larry Persily, Deputy Commissioner

Agency: Department of Revenue

Phone 465-5469

Date/Time 5/12/03 9:58 PM

Date 5/12/2003

This legislation would:

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

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

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

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 293(FIN)
(H) Publish Date: 5/16/03

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

Expenditures/Revenues (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2003) cost: 150.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

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

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

See Pages 2 and 3 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried Phone 465-5469
Division: Tax Division Date/Time 5/16/03 8:06 AM
Approved by: Larry Persily, Deputy Commissioner Date 5/16/2003
Agency: Department of Revenue

CSHB293(FIN) - Sales & Use Tax - FN#2

May 16, 2003

Department of Revenue – Page 2 of 3

This legislation would:

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

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

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

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 293(FIN)
 (H) Publish Date: 5/16/03

Revision Date/Time (Note if correction):

Dept. Affected: Law

Title "An Act relating to a state sales and use tax; . . . Increasing the motor fuel tax . . ."

BRU Civil Division

Sponsor House Ways & Means Committee

Component Commercial

Requester House Finance Committee

Component No. 2211

Expenditures/Revenues

(Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of any current year (FY2003) cost: 0.0

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

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill creates a statewide sales and use tax.

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

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

Prepared by: Joan M. Kasson

Phone (907) 465-5370

Division: Attorney General's Office

Date/Time 5/12/03 11:21 AM

Approved by: Kathryn Daughhetee for Gregg D. Renkes, Attorney General

Date 5/12/2003

Agency: Department of Law

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 321

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE WILSON

Introduced: 5/20/03

Referred: House Special Committee on Ways and Means, State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to taxation, including taxation of income of individuals, estates, and
2 trusts, to application of an individual's permanent fund dividend toward the individual's
3 income tax liability, and to a warning about taxation on commercial fishing license
4 applications; and providing for an effective date."

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

6 * **Section 1.** AS 16.05.480 is amended by adding a new subsection to read:

7 (j) The application for a commercial fishing license must contain the
8 following warning in boldface type: "WARNING: You are obligated to pay Alaska
9 state income tax and federal income tax on your earnings from fishing, to the extent
10 required by law."

11 * **Sec. 2.** AS 43.20 is amended by adding a new section to read:

12 **Sec. 43.20.009. Tax on individuals, estates, and trusts.** (a) There is
13 imposed for each taxable year an income tax, computed as provided in this section, on
14 every

(1) resident individual; and

(2) estate, trust, and nonresident and part-year resident individual with income from sources in the state.

(b) For a resident individual, the tax under this section is three percent of the individual's taxable income, or \$100, whichever is greater.

(c) For an estate or a trust, or for a nonresident or part-year resident individual, the tax under this section is three percent of that portion of the taxpayer's taxable income that is attributable to sources in the state. To identify that portion of the taxpayer's taxable income, the taxpayer shall identify the percentage of the taxpayer's adjusted gross income that comes from sources in the state and apply that percentage to the taxpayer's taxable income.

(d) In this section, "taxable income" means "taxable income" as defined in 26 U.S.C. 63

(1) less any income that is exempt under other provisions of state or federal law, including longevity bonus payments under AS 47.45;

(2) plus

(A) the cost-of-living allowance that is exempt under 26 U.S.C. 912(2); and

(B) interest on bonds issued by other states and political subdivisions of other states that is exempt under 26 U.S.C.

* Sec. 3. AS 43.20.031(c) is amended to read:

(c) In computing the tax under this chapter, a corporation [THE TAXPAYER] is not entitled to deduct any taxes based on or measured by net income.

* Sec. 4. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.032. Individual income tax returns and payment; tax cap. (a)

Except as provided in (f) of this section, every individual, trust, estate, and partnership subject to tax under this chapter required to make a return of income under 26 U.S.C. (Internal Revenue Code) shall file with the department, not later than the date the federal return is required to be filed, a return setting out

(1) the amount of tax due under this chapter, less allowable credits and payment claimed against the tax; and

(2) other information that the department requires for the purpose of carrying out the provisions of this chapter.

(b) The total amount of tax imposed under AS 43.20.009 is due and payable to the department at the same time and in the same manner as the tax is payable under 26 U.S.C.

(c) A person required to file a return under this section shall file the return using the same filing status as the person uses on the person's return of income under the provisions of the Internal Revenue Code for the year.

(d) The maximum tax liability of a person filing as a single individual under AS 43.20.009 is \$20,000. The maximum tax liability of a couple filing jointly under AS 43.20.009 is \$30,000.

(e) The provisions of AS 43.20.030(b), 43.20.030(d), and 43.20.030(e) apply to individual income tax returns and payments under this section.

(f) An individual subject to tax under this chapter need not file a return and remit the tax if:

(1) the individual is under 19 years of age, and the individual's tax liability is zero;

(2) the individual's only income from sources in the state is from a partnership or corporation that has filed a return on that income under AS 43.20.175; or

(3) the individual's tax liability is \$100 and the individual has elected, on the form provided for under AS 43.23.015(b), to have \$100 of the individual's permanent fund dividend applied to the individual's income tax liability.

(g) The commissioner may by regulation provide for an incentive for accurate and timely filing of tax returns by individuals, trusts, estates, and partnerships, and for electronic filing and payment by individuals, trusts, estates, and partnerships. An incentive under this section may not exceed \$25 a taxpayer.

* Sec. 5. AS 43.20.040 is repealed and reenacted to read:

Sec. 43.20.040. Income from sources in the state. (a) In this chapter, income from sources in the state includes

(1) compensation for personal services rendered in the state;

- 1 (2) working in the state for salary or wages;
- 2 (3) income from real or tangible personal property located in the state;
- 3 (4) income from stocks, bonds, notes, bank deposits, and other
- 4 intangible personal property having a taxable or business situs in the state; however,
- 5 the receipt of interest income from intangible property in the state does not alone
- 6 establish a taxable or business situs in the state;
- 7 (5) rentals and royalties for the use of or for the privilege of using, in
- 8 the state, patents, copyrights, secret processes and formulas, good will, marks, trade
- 9 brands, franchises, and other property having a taxable or business situs in the state;
- 10 (6) income distributed from a trust established under or governed by
- 11 the laws of the state, except that income of a trust established under or governed by the
- 12 laws of the state that is income of a nonresident is not included if the nonresident is a
- 13 resident of a state that does not impose an income tax on income to residents of this
- 14 state from trusts established or governed by the laws of the nonresident's state of
- 15 residence;
- 16 (7) income of a trust established under or governed by the laws of the
- 17 state and income of the estate of a decedent who on the date of death was domiciled in
- 18 the state;
- 19 (8) income, from a source with a taxable or business situs in the state,
- 20 of
- 21 (A) a trust not established under or governed by the laws of the
- 22 state; or
- 23 (B) the estate of a decedent who on the date of death was not
- 24 domiciled in the state;
- 25 (9) income of whatever nature from a source with a taxable or business
- 26 situs in the state.
- 27 (b) Except as provided in (a)(4) of this section, in this section, income is from
- 28 a source with a taxable or business situs in the state if it is attributed to or derived from
- 29 (1) business facilities or property in the state;
- 30 (2) business, farming, or fishing activities in the state;
- 31 (3) conducting in the state the management or investment function for

1 intangible property;

2 (4) a partnership, limited liability company, estate, or trust conducting
3 business activities in the state;

4 (5) a corporation transacting business activities in the state that has
5 elected to file federal returns under subchapter S of the Internal Revenue Code;

6 (6) any other activity from which income is received, realized, or
7 derived in the state.

8 (c) If a business, trade, or profession is carried on partly inside and partly
9 outside the state, other than the rendering of purely personal services by an individual,
10 the income from sources in the state shall be determined as provided in AS 43.19.

11 * **Sec. 6.** AS 43.20 is amended by adding a new section to article 1 to read:

12 **Sec. 43.20.046. Individual, trust, and estate tax credits.** (a) For a resident,
13 a trust established under or governed by the laws of this state, or the estate of a
14 decedent who on the date of death was domiciled in this state, the income tax imposed
15 on that resident, trust, or estate by another state or territory of the United States for the
16 taxable year, on income derived from sources in that state or territory, is allowed as a
17 credit against the tax under this chapter.

18 (b) The credit under (a) of this section is determined by multiplying the tax
19 computed under this chapter by a fraction, the numerator of which is the income
20 derived from sources in the other state or territory and the denominator of which is
21 income derived from all sources. However, the credit under (a) of this section may not
22 exceed the actual tax paid to the other state or territory.

23 (c) An individual under 19 years of age with a tax liability of \$100 under
24 AS 43.20.009 is entitled to a credit of \$100.

25 (d) An individual, estate, or trust is allowed only the state credits provided in
26 this section. The total state credit allowed under this section may not exceed the tax
27 liability for the taxable year for the individual, estate, or trust. A credit may not be
28 carried, in whole or in part, to a different taxable year.

29 * **Sec. 7.** AS 43.20 is amended by adding a new section to read:

30 **Sec. 43.20.171. Tax withholding on wages of individuals.** (a) Every
31 employer making payment of wages or salaries after December 31, 2003,

(1) shall deduct and withhold an amount of tax computed in a manner to approximate the amount of tax due on those wages or salaries under this chapter for that taxable year;

(2) shall remit the tax withheld to the department accompanied by a return on a form prescribed by the department at the times required by the department by regulation;

(3) is liable for the payment of the tax required to be deducted and withheld under this section but is not liable to any individual for the amount of the payment; and

(4) shall furnish to the employee at the time required by the department a written statement on a form prescribed by the department showing

(A) the name and taxpayer identification number of the employer;

(B) the name and social security number of the employee;

(C) the total amount of wages or salary for the taxable year;

and

(D) the total amount deducted and withheld as tax for the taxable year.

(b) The department shall publish the rates of withholding required by this section.

* Sec. 8. AS 43.20 is amended by adding a new section to read:

Sec. 43.20.175. Tax withholding by pass-through entities. (a) A partnership that pays or credits amounts to a nonresident on account of the partner's distributive share of income from sources in the state shall withhold the tax owed by the individual under AS 43.20.009.

(b) A corporation for which an election under 26 U.S.C. 1362(a) (Internal Revenue Code) is in effect for the tax year that pays or credits income from sources in the state to a nonresident shall withhold the tax owed by the nonresident under AS 43.20.009.

(c) A partnership or corporation required to withhold tax under (a) or (b) of this section is liable to the department for payment of that tax.

(d) A partnership or corporation required to withhold tax under (a) or (b) of this section shall file a return of the income on a form prescribed by the department and pay the tax to the department.

(e) For purposes of this section, "partnership" means a person that is taxable as a partnership for purposes of 26 U.S.C. (Internal Revenue Code).

* Sec. 9. AS 43.20.340 is amended by adding new paragraphs to read:

(12) "individual" means a natural person, married or unmarried, adult or minor, subject to payment of income tax under 26 U.S.C. (Internal Revenue Code);

(13) "nonresident" means an individual who is not a resident or part-year resident;

(14) "resident" means an individual who, for the entire taxable year, was domiciled in the state or resided in the state.

* Sec. 10. AS 43.23.015(b) is amended to read:

(b) The department shall prescribe and furnish an application form for claiming a permanent fund dividend. The application must include notice of the penalties provided for under AS 43.23.035 and contain a statement of eligibility and a certification of residency. The application must allow an applicant to elect to have \$100 of the dividend retained by the department and applied to the individual's state income tax liability.

* Sec. 11. AS 43.05.085; AS 43.20.012, and 43.20.013 are repealed.

* Sec. 12. The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITIONAL PROVISIONS: REGULATIONS. The commissioner of the Department of Revenue shall adopt regulations to implement the provisions of this Act.

* Sec. 13. Section 12 of this Act takes effect immediately under AS 01.10.070(c).

* Sec. 14. Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2004.



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DEPARTMENT OF THE TREASURY

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How To Use the Table

To figure your general sales tax deduction using the Optional Local Sales Tax Table for Certain Alaska Boroughs and Cities, follow Steps 1 through 4 and complete the worksheet on page 2.



If your filing status is married filing separately, both you and your spouse elect to deduct sales taxes, and your spouse elects to use the optional sales tax tables (for any state or for certain Alaska boroughs and cities), you also must use the tables to figure your general sales tax deduction.

Step 1. Read down the "At least – But less than" columns in the Optional Local Sales Tax Table for Certain Alaska Boroughs and Cities and find the line that includes your 2004 total available income. Total available income is the amount shown on your Form 1040, line 37, plus any nontaxable items, such as the following.

- Tax-exempt interest.
- Veterans' benefits.
- Nontaxable combat pay.
- Workers' compensation.
- Nontaxable part of social security and railroad retirement benefits.
- Nontaxable part of IRA, pension, or annuity distributions. Do not include rollovers.
- Public assistance payments.

Note. If your filing status is married filing separately, use your own total available income. Follow the above instructions, beginning with the amount shown on your Form 1040, line 37.

Step 2. Go to the column that includes the total number of exemptions you claimed on your Form 1040, line 6d. Enter the amount from that column on line 1 of the worksheet.

Step 3. Enter on line 2 of the worksheet the local general sales tax rate imposed by the Alaska borough and city where you lived in 2004. When entering the tax rate, omit the percentage symbol. For example, if your city imposed a 4% sales tax, enter 4 on line 2.

If the general sales tax rate changed for your locality during 2004, use the average rate for the year. Figure the average rate by prorating each of the rates based on the number of days each rate was in effect. The sum of the prorated rates is the average rate for the year.

If you lived in more than one locality during 2004, prorate your local general sales taxes based on the number of days you resided in the locality for which you are determining the local sales tax deduction. Use a separate worksheet for each locality.

Step 4. Enter on line 4 of the worksheet any local general sales taxes paid on the following specified items.

- A motor vehicle (including a car, motorcycle, motor home, recreational vehicle, sport utility vehicle, truck, van, and off-road vehicle). Also include any local general sales taxes paid for a leased motor vehicle. If the sales tax rate on these items is higher than the general sales tax rate, only include the amount of tax you would have paid at the general sales tax rate.
- An aircraft, boat, home (including mobile and prefabricated), or home building materials, but only if the tax rate was the same as the general sales tax rate.

Do not include sales taxes paid on items used in your trade or business.

Local General Sales Tax Deduction Worksheet

(Using the Optional Local Sales Tax Table for Certain Alaska Boroughs and Cities)

(Keep for Your Records)

1.	Local general sales taxes. See Steps 1 and 2 on page 1	1.
2.	Local general sales tax rate. Omit percentages when entering the tax rate. See Step 3 above	2.
3.	Multiply line 1 by line 2	3.
4.	Local general sales taxes paid on specified items, if any. See Step 4 above	4.
5.	Deduction for general sales taxes. Add lines 3 and 4. Enter the result here and on Schedule A (Form 1040), line 5, and be sure to check box b on that line.	5.
Note. If you elect to deduct general sales taxes, you cannot deduct your state and local income taxes.		

← important proviso

Optional Local Sales Tax Table for Certain Alaska Boroughs and Cities (Based on a Local Sales Tax Rate of 1 Percent)

Income		Exemptions					
At least	But less than	1	2	3	4	5	Over 5
\$0	\$20,000	69	83	94	102	108	118
20,000	30,000	93	113	127	137	146	159
30,000	40,000	110	133	149	162	173	188
40,000	50,000	125	151	169	183	195	212
50,000	60,000	139	167	187	203	216	235
60,000	70,000	151	182	203	220	235	255
70,000	80,000	162	196	219	237	252	274
80,000	90,000	173	208	233	252	268	291
90,000	100,000	183	221	246	267	284	308

100,000	120,000	197	237	264	286	304	330
120,000	140,000	215	258	288	312	332	360
140,000	160,000	231	278	310	335	357	387
160,000	180,000	247	297	331	358	380	413
180,000	200,000	262	314	350	379	403	437
200,000	or more	328	393	438	474	503	545



Use this table for your 2004 tax return only. Do not use it to figure your 2005 deduction.

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Sales and Use Tax

Alaska Department of Revenue
Robynn J. Wilson, CPA 4/1/05

4/1/05

1

Sales tax theory

4/1/05

2

Arguments in favor of a sales tax

- Reliable and stable source of revenue
- Encourages saving and investment; does not penalize income production
- Public acceptance
 - Simple and convenient payment
 - Low rates

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Arguments against a sales tax

- Generally thought to be regressive
- Cost of compliance for vendors

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Sales tax genesis

- Tax on consumption
- First implemented during the Great Depression

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A "good" sales tax: (an oxymoron?)

- Broad base, low rate
- Balance between simplicity and certainty
- Low cost of compliance

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6

Taxpayers want:

- Fairness
- Simplicity
- Certainty

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7

Who cares about simplification?

- AT&T
- Safeway
- Fred Meyers
- Costco
- Wal-Mart
- Alaska Commercial

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8

Who cares about certainty?

- Fed-Ex
- Phillips
- Tesoro
- BP
- Exxon
- UPS

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9

Sales tax administration

- What is taxed?
- Who is the taxpayer?
- Why is "where" an issue?
- Exemptions

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10

Scope of a sales tax

What it covers

- Tangible personal property
- Services

What it doesn't cover

- Intangible personal property
- Real estate

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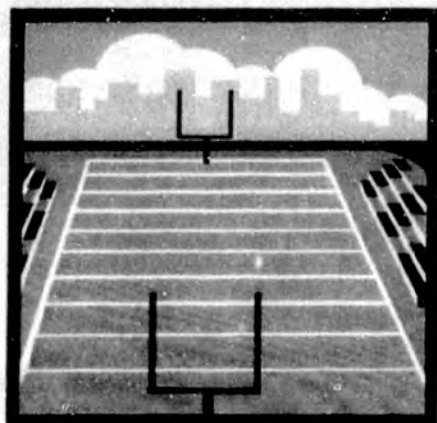
The consumer as a taxpayer

- The seller must collect sales tax for all over-the-counter sales in the state
- If the sale occurs outside the state, the consumer must report Use Tax

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Use Tax



It's about fairness

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13

Use Tax

- Complementary to sales tax and is imposed when no sales tax has been collected
- Generally imposed on the "storage, use or other consumption" of taxable property or services
- Collection responsibilities of out of state vendors

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14

Nexus

- Jurisdiction to tax requires "nexus" or "some definite link, some minimum connection" between the taxing jurisdiction and the person, object or activity that is being taxed.



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Nexus standards

Sales tax

- Physical presence required

Income tax

- Physical presence not required

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What are reasons for exemptions?

- May be mandated by federal law
- Regressivity cure
- Social engineering
- State to state competition
- Substitutable products
- Eliminate pyramiding

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17

However: states do tax business inputs

- Revenue loss
- Hidden tax
- Public perception

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18

Challenging Areas

- Construction inventory
- Industrial exemption

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Construction inventory

- In most states, contractors are deemed to be the consumers of tangible personal property incorporated into the real estate for improvements or repairs
- Contractors are treated as retailers when materials are separately stated on their customer invoices.

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Industrial exemptions



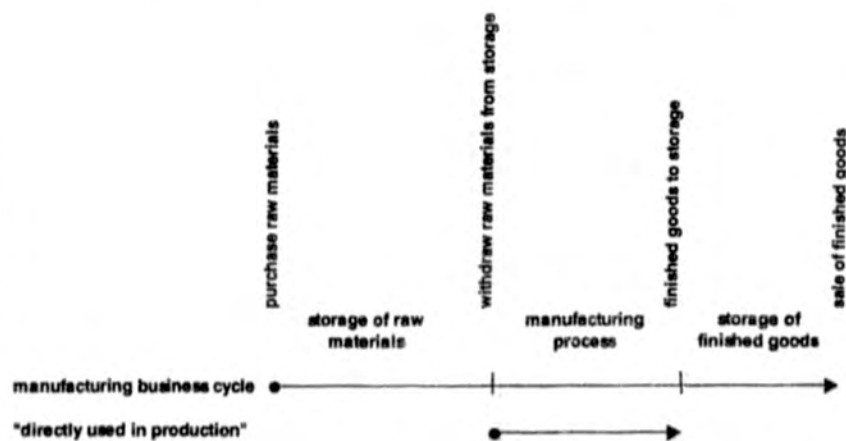
Common approaches:

- sale for resale
- manufacturing—used "directly" in "manufacturing" process

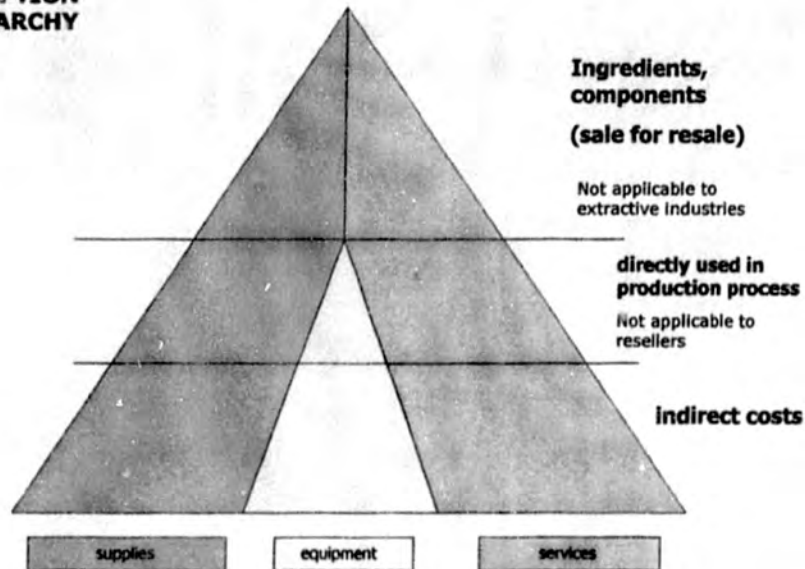
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Manufacturing process



**INDUSTRIAL
SALES/USE TAX
EXEMPTION
HIERARCHY**



**INDUSTRIAL
SALES/USE TAX
EXEMPTION
HIERARCHY
FISH PROCESSING**

