

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10101 SENATE LABOR & COMMERCE

1 (L) a foreign limited liability company registered under
2 AS 10.50;

3 (M) a registered limited liability partnership under AS 32.05;

4 (N) a foreign limited liability partnership registered under
5 AS 32.05;

6 (O) a limited partnership formed under AS 32.11; or

7 (P) a foreign limited partnership registered under AS 32.11;

8 (2) "reserved or registered name" means a name reserved or registered
9 under this chapter, AS 10.06, AS 10.50, AS 32.05, or AS 32.11.

10 (b) Registration of a name gives the person who has registered the name the
11 exclusive right to the use of the name. A person who has registered a name under this
12 chapter

13 (1) may enjoin the use by another person of a name that is not
14 distinguishable on the records of the department from the registered name;

15 (2) has a cause of action for damages against another person who uses
16 a name that is not distinguishable on the records of the department from the registered
17 name.

18 (c) The department may adopt regulations under AS 44.62 (Administrative
19 Procedure Act) to implement (a) of this section.

20 * Sec. 20. AS 10.35.500 is amended by adding a new paragraph to read:

21 (3) "department" means the Department of Commerce and Economic
22 Development.

23 * Sec. 21. AS 10.40 is amended by adding a new section to read:

24 Sec. 10.40.015. Distinguishable name. A corporate name must be
25 distinguishable on the records of the Department of Commerce and Economic
26 Development from the name of another organized entity and from a reserved or
27 registered name. The department may adopt regulations to enforce this section. In this
28 section, "organized entity" and "reserved or registered name" have the meanings given
29 in AS 10.35.040.

30 * Sec. 22. AS 10.45.120 is amended by adding a new subsection to read:

31 (b) The corporate name of a professional corporation must be distinguishable

1 on the records of the Department of Commerce and Economic Development from the
 2 name of any other organized entity and from a reserved or registered name. The
 3 Department of Commerce and Economic Development may adopt regulations to
 4 implement this subsection. In this subsection, "organized entity" and "reserved or
 5 registered name" have the meanings given in AS 10.35.040.

6 * Sec. 23. AS 10.50.025 is repealed and reenacted to read:

7 **Sec. 10.50.025. Distinguishable name.** The name of a limited liability
 8 company must be distinguishable on the records of the department from the name of
 9 any other organized entity and from a reserved or registered name. The department
 10 may adopt regulations to ^{interpret and} implement this section. In this section, "organized entity"
 11 and "reserved or registered name" have the meanings given in AS 10.35.040.

12 * Sec. 24. AS 10.50.035 is amended to read:

13 **Sec. 10.50.035. Application to reserve company name.** Reservation of a
 14 name under AS 10.50.030 is made by filing an application with the department. If the
 15 department finds that the name is available for use by a limited liability company [,]
 16 and is distinguishable on the records of the department under AS 10.50.025 [NOT
 17 A RESERVED OR REGISTERED BUSINESS NAME UNDER AS 10.35 OR THIS
 18 CHAPTER], the department shall reserve it for the exclusive use of the applicant for
 19 a period of 120 days.

20 * Sec. 25. AS 10.50.040 is amended to read:

21 **Sec. 10.50.040. Registration of company name.** A limited liability company
 22 or a foreign limited liability company may register its name if the name is
 23 distinguishable on the records of the department [FROM THE NAMES IDENTIFIED]
 24 under AS 10.50.025.

25 * Sec. 26. AS 10.50.408(e) is amended to read:

26 (e) A company dissolved under this section may be reinstated within two years
 27 from the date of the certificate of involuntary dissolution if it is established to the
 28 satisfaction of the commissioner that in fact there was no cause for the dissolution, or
 29 if the delinquency, failure, or misrepresentation resulting in dissolution has been
 30 corrected and payment made of double the amount delinquent along with the amount
 31 the company would have paid had it not been dissolved during the two-year period.

1 Reinstatement may not be authorized if the name of the company is not distinguishable
 2 upon the records of the department under AS 10.50.025 [,] unless the company being
 3 reinstated amends its articles of organization to change its name to conform with the
 4 provisions of this chapter.

5 * Sec. 27. AS 32.05.480 is repealed and reenacted to read:

6 **Sec. 32.05.480. Distinguishable name.** The name of a limited liability
 7 partnership must be distinguishable on the records of the department from the name
 8 of any other organized entity and from a reserved or registered name. The department
 9 may adopt regulations to ^{interpret or} implement this section. In this section, "organized entity"
 10 and "reserved or registered name" have the meanings given in AS 10.35.040.

11 * Sec. 28. AS 32.05.510(a) is amended to read:

12 (a) A foreign limited liability partnership not intending to conduct affairs in
 13 this state may register its name if the name is distinguishable on the records of the
 14 department under AS 32.05.480.

15 * Sec. 29. AS 32.05.520 is amended to read:

16 **Sec. 32.05.520. Use of nondistinguishable name.** Registration or reservation
 17 under this chapter gives the person who has registered exclusive right to the use of the
 18 name. The person may enjoin the use of a name that is not distinguishable on the
 19 records of the department from the name to which the person has the exclusive right,
 20 and the person has a cause of action for damages against a person who uses a name
 21 that is not distinguishable on the records of the department from the name to which
 22 the person has the exclusive right.

23 * Sec. 30. AS 32.05.620(e) is amended to read:

24 (e) If the registration of a registered limited liability partnership is cancelled
 25 under this section, the registration may be reinstated within two years from the date
 26 of the certificate of cancellation if it is established to the satisfaction of the
 27 commissioner that in fact (1) there was no cause for the cancellation, or the
 28 delinquency, failure, or misrepresentation resulting in cancellation has been corrected;
 29 and (2) the partnership pays two times the amount of any delinquent fee and the
 30 amount the partnership would have paid had it not been cancelled during the two-year
 31 period. Unless the partnership being reinstated amends its registration to change its

1 name to comply with AS 32.05.470 - 32.05.520, reinstatement may not be authorized
 2 if the name of the partnership is not distinguishable on [IN] the records of the
 3 department under AS 32.05.480.

4 * Sec. 31. AS 32.11.120(d) is amended to read:

5 (d) A limited partner who knowingly permits the limited partner's name to be
 6 used in the name of the limited partnership, except under circumstances permitted by
 7 AS 32.11.810(a)(2) [AS 32.11.810(2)], is liable to creditors who extend credit to the
 8 limited partnership without actual knowledge that the limited partner is not a general
 9 partner.

10 * Sec. 32. AS 32.11.810 is amended to read:

11 **Sec. 32.11.810. Name.** The name of a limited partnership as set out in its
 12 certificate of limited partnership

13 (1) must contain without abbreviation the words "limited partnership";

14 (2) may not contain the name of a limited partner unless

15 (A) it is also the name of a general partner or the corporate
 16 name of a corporate general partner; or

17 (B) the business of the limited partnership had been carried on
 18 under that name before the admission of that limited partner; and

19 (3) must be distinguishable on the records of the department from
 20 [MAY NOT BE THE SAME AS, OR DECEPTIVELY SIMILAR TO,] the name of
 21 any other organized entity and from a reserved or registered name; in this
 22 paragraph, "organized entity" and "reserved or registered name" have the
 23 meanings given in AS 10.35.040 [A CORPORATION OR LIMITED PARTNERSHIP
 24 ORGANIZED UNDER THE LAWS OF THIS STATE OR LICENSED OR
 25 REGISTERED AS A FOREIGN CORPORATION OR LIMITED PARTNERSHIP IN
 26 THIS STATE].

27 * Sec. 33. AS 32.11.810 is amended by adding a new subsection to read:

28 (b) The department may adopt regulations under AS 44.62 (Administrative
 29 Procedure Act) to ^{interpret or} implement (a)(3) of this section.

30 * Sec. 34. AS 32.11.820(b) is amended to read:

31 (b) The reservation shall be made by filing with the department an application,

1 executed by the applicant, to reserve a specified name. If the department finds that
2 the name is available for use by a domestic or foreign limited partnership under
3 AS 32.11.810 [, AND NOT A RESERVED OR REGISTERED NAME UNDER
4 AS 10.35], the department shall reserve the name for the exclusive use of the applicant
5 for a period of 120 days. Once having reserved a name, the same applicant may not
6 again reserve the same name until more than 60 days after the expiration of the last
7 120-day period for which that applicant reserved that name. The right to the exclusive
8 use of a reserved name may be transferred to another person by filing with the
9 department a notice of the transfer executed by the applicant for whom the name was
10 reserved and specifying the name and address of the transferee.

11 * Sec. 35. AS 45.50.010(a) is amended to read:

12 (a) A mark may not be registered if it consists of or comprises

13 (1) immoral, deceptive, or scandalous matter;

14 (2) matter that may disparage or falsely suggest a connection with
15 persons, living or dead, institutions, beliefs, or national symbols, or bring them into
16 contempt or disrepute;

17 (3) the flag, coat of arms, or other insignia of the United States, this
18 or another state, a municipality of this or another state, a foreign nation, or simulation
19 of any of these;

20 (4) the name, signature, or portrait identifying a living individual,
21 except with the written consent of the individual;

22 (5) a mark that, (A) when used on or in connection with goods or
23 services of the applicant, is merely descriptive or deceptively misdescriptive of them;
24 (B) when used on or in connection with the goods or services of the applicant, is
25 primarily geographically descriptive or deceptively misdescriptive of them; (C) is
26 primarily merely a surname; however, this paragraph does not prevent the registration
27 of a mark used by the applicant that has become distinctive of the applicant's goods
28 or services; the commissioner may accept as evidence that the mark has become
29 distinctive, as used on or in connection with the applicant's goods or services, proof
30 of continuous use of the mark as a mark by the applicant in this state for the five years
31 immediately preceding the date on which the claim of distinctiveness is made; [OR]

1 (6) a mark that so resembles a mark registered in the state or in the
 2 United States Patent and Trademark Office, or a mark previously used by another and
 3 not abandoned, as to be likely, when used on or in connection with the goods or
 4 services of the applicant, to cause confusion or mistake or to deceive; or

5 (7) a mark that so resembles the name of another organized entity,
 6 or a reserved or registered name, that the mark is likely to cause confusion or
 7 mistake or to deceive; the form of operation of the organized entity without the
 8 mark, or of the person without the mark who holds the right to the reserved or
 9 registered name, is not a factor in determining whether the mark resembles a
 10 name under this paragraph; in this paragraph, "organized entity" and "reserved
 11 or registered name" have the meanings given in AS 10.35.040.

12 * Sec. 36. APPLICABILITY. (a) Sections 1 and 3 - 34 of this Act may not be interpreted
 13 to enable the Department of Commerce and Economic Development or any other person to
 14 take action under AS 10 or AS 32 against an organization because the organization's name
 15 does not comply with secs. 1 and 3 - 34 of this Act on or after the effective date of this
 16 section if the name complied with the provisions of AS 10 or AS 32 applicable to the
 17 organization's name before the effective date of this section, except that a corporation
 18 applying for reinstatement under AS 10.06.633(e) on or after the effective date of this section
 19 must comply with AS 10.06.633(e), as amended by sec. 8 of this Act, and a limited liability
 20 company applying for reinstatement under AS 10.50.408(e) on or after the effective date of
 21 this section must comply with AS 10.50.408(e), as amended by sec. 26 of this Act.

22 (b) Sections 1 and 3 - 34 of this Act do not affect any cause of action that accrues
 23 before the effective date of this section.

24 (c) AS 45.50.010(a)(7), as enacted by sec. 35 of this Act, does not invalidate the
 25 registration of a mark that is registered under AS 45.50.010 - 45.50.205 before the effective
 26 date of this section.

27 * Sec. 37. TRANSITION: REGULATIONS. Notwithstanding sec. 39 of this Act, the
 28 Department of Commerce and Economic Development may immediately proceed to adopt
 29 regulations necessary to implement the changes made by secs. 1 and 3 - 34 of this Act. The
 30 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the
 31 effective date under sec. 39 of this Act.

1 ***Sec. 38.** Section 37 of this Act takes effect immediately under AS 01.10.070(c).

2 ***Sec. 39.** Except as provided in sec. 37 of this Act, this Act takes effect July 1, 1999.

CS FOR SENATE BILL NO. 93(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the names of businesses and organizations and to the
2 registration under the Alaska Trademark Act of marks that resemble the name
3 of another business or organization; and providing for an effective date."

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

5 * **Section 1.** AS 06.05.301(b) is amended to read:

6 (b) The provisions of AS 10.06 (Alaska Corporations Code) apply to state
7 banks, except those provisions inconsistent with this chapter. The provisions
8 inconsistent with this chapter include AS 10.06.010(4) - (8), 10.06.105(a) and (d),
9 10.06.325, 10.06.356, 10.06.358 - 10.06.360, 10.06.370, 10.06.385 - 10.06.388,
10 10.06.420(i), 10.06.430, 10.06.453, 10.06.460(b), 10.06.485, 10.06.522 - 10.06.868,
11 10.06.915, 10.06.960, and 10.06.990(30) and (36).

12 * **Sec. 2.** AS 10.06.105(a) is amended to read:

13 (a) A corporate name must [SHALL] contain the word "corporation",
14 "company", "incorporated", or "limited", or an abbreviation of one of these words.

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1 The corporate name may not contain a word or phrase that indicates or implies that
2 the corporation is organized for a purpose other than the purpose contained in its
3 articles of incorporation. [THE CORPORATE NAME MAY NOT BE THE SAME
4 AS, OR DECEPTIVELY SIMILAR TO, THE NAME OF A DOMESTIC
5 CORPORATION EXISTING UNDER THE LAWS OF THIS STATE OR A
6 FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS
7 STATE, OR A NAME THAT HAS BEEN RESERVED OR REGISTERED
8 AS PROVIDED IN THIS TITLE.]

9 * Sec. 3. AS 10.06.105 is amended by adding a new subsection to read:

10 (d) A corporate name must be distinguishable on the records of the department
11 from the name of any other organized entity and from a reserved or registered name.
12 The department may adopt regulations to interpret and enforce this subsection. In this
13 subsection, "organized entity" and "reserved or registered name" have the meanings
14 given in AS 10.35.040.

15 * Sec. 4. AS 10.06.115 is amended to read:

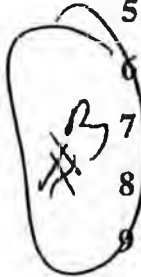
16 **Sec. 10.06.115. Application to reserve corporate name.** Reservation of a
17 corporate name is made by filing an application with the commissioner. If the
18 commissioner finds that the name is available for corporate use under
19 AS 10.06.105(d) [, AND NOT A RESERVED OR REGISTERED BUSINESS NAME
20 AS SET OUT IN AS 10.35], the commissioner shall reserve it for the exclusive use
21 of the applicant for a period of 120 days.

22 * Sec. 5. AS 10.06.125 is amended to read:

23 **Sec. 10.06.125. Registration of corporate name.** A corporation organized
24 and existing under the laws of a state or territory of the United States may register its
25 corporate name if the name is available for corporate use under AS 10.06.105(d)
26 [NOT THE SAME AS, OR DECEPTIVELY SIMILAR TO, THE NAME OF A
27 DOMESTIC CORPORATION, THE NAME OF A FOREIGN CORPORATION
28 AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, OR A CORPORATE
29 NAME RESERVED OR REGISTERED UNDER THIS CHAPTER OR A BUSINESS
30 NAME RESERVED OR REGISTERED UNDER AS 10.35].

31 * Sec. 6. AS 10.06.130 is repealed and reenacted to read:

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Sec. 10.06.130. Use of corporate name. (a) A corporation that is organized under this chapter has the exclusive right to the name under which it was organized. A foreign corporation that has obtained a certificate of authority under this chapter has the exclusive right to the name under which it received its certificate of authority. A corporation that has registered a name under AS 10.06.125 has the exclusive right to the use of the registered name.

(b) A corporation with the exclusive right to a name under (a) of this section (1) may enjoin the use of a name that is not distinguishable on the records of the department from the name to which the corporation has the exclusive right under (a) of this section;

(2) has a cause of action for damages against a person who uses a name that is not distinguishable on the records of the department from the name to which the corporation has the exclusive right under (a) of this section.

* **Sec. 7.** AS 10.06.633(e) is amended to read:

(e) A corporation dissolved under this section may be reinstated within two years from the date of the certificate of involuntary dissolution if it is established to the satisfaction of the commissioner that in fact there was no cause for the dissolution, or if the neglect, omission, delinquency, or noncompliance resulting in dissolution has been corrected and payment made of double the amount delinquent along with the amount the corporation would have paid had it not been dissolved during the two-year period. Reinstatement may not be authorized if the name is not available for corporate use under AS 10.06.105(d) [SAME OR A DECEPTIVELY SIMILAR CORPORATE, RESERVED, OR REGISTERED NAME IS CURRENTLY ON FILE WITH THE COMMISSIONER,] unless the corporation being reinstated amends its articles of incorporation to change its name to conform with the provisions of this chapter.

* **Sec. 8.** AS 10.06.720 is amended to read:

Sec. 10.06.720. Corporate name of foreign corporation. A certificate of authority may not be issued to a foreign corporation unless the corporate name of the corporation

(1) contains the word "corporation", "company", "incorporated", or

1 "limited", or an abbreviation of one of these words, or, for use in this state, adds at the
2 end of its name one of these words or an abbreviation of one of them;

3 (2) does not contain a word or phrase that indicates or implies that it
4 is organized for a purpose other than the purpose contained in its articles of
5 incorporation or that it is authorized or empowered to conduct the business of banking
6 or insurance;

7 (3) does not contain the word "city", "borough", or "village" or
8 otherwise imply that the corporation is a municipality, but the name of a city, borough,
9 or village may be used in the corporate name;

10 (4) is available for corporate use under AS 10.06.105(d) [NOT THE
11 SAME NAME AS, OR DECEPTIVELY SIMILAR TO, THE NAME OF A
12 DOMESTIC CORPORATION EXISTING UNDER THE LAWS OF THIS STATE OR
13 A FOREIGN CORPORATION AUTHORIZED TO TRANSACT BUSINESS IN THIS
14 STATE, OR A NAME THE EXCLUSIVE RIGHT TO WHICH IS RESERVED IN
15 THE MANNER PROVIDED IN THIS TITLE, OR THE NAME OF A
16 CORPORATION THAT HAS IN EFFECT A REGISTRATION OF ITS NAME
17 AS PROVIDED IN THIS CHAPTER].

18 * Sec. 9. AS 10.13.120(a) is amended to read:

19 (a) The corporate name of a licensee must include the word "BIDCO" or
20 "Bidco" and must be distinguishable on the records of the department from the
21 name of any other organized entity and from a reserved or registered name.
22 ["BIDCO."] A licensee may not transact business under a name other than its
23 corporate name. In this subsection, "organized entity" and "reserved or registered
24 name" have the meanings given in AS 10.35.040.

25 * Sec. 10. AS 10.15 is amended by adding a new section to article 8 to read:

26 Sec. 10.15.578. **Distinguishable name.** The name of a cooperative association
27 must be distinguishable on the records of the department from the name of any other
28 organized entity and from a reserved or registered name. The department may adopt
29 regulations under AS 44.62 (Administrative Procedure Act) to interpret or implement
30 this section. In this section, "organized entity" and "reserved or registered name" have
31 the meanings given in AS 10.35.040.

1 * Sec. 11. AS 10.20.021 is repealed and reenacted to read:

2 **Sec. 10.20.021. Corporate name.** (a) The name of a corporation may not
3 contain a word or phrase that indicates or implies that it is organized for a purpose
4 other than one or more of the purposes contained in the articles of incorporation of the
5 corporation.

6 (b) The name of the corporation must be distinguishable on the records of the
7 department from the name of any other organized entity and from a reserved or
8 registered name. The department may adopt regulations under AS 44.62
9 (Administrative Procedure Act) to interpret or implement this subsection. In this
10 subsection, "organized entity" and "reserved or registered name" have the meanings
11 given in AS 10.35.040.

12 * Sec. 12. AS 10.20.470 is amended to read:

13 **Sec. 10.20.470. Corporate name of foreign corporation.** A certificate of
14 authority may not be issued to a foreign corporation unless the corporate name of the
15 corporation

16 (1) does not contain a word or phrase that [WHICH] indicates or
17 implies that it is organized for any purpose other than the purpose contained in its
18 articles of incorporation;

19 (2) is available for use by the foreign corporation under
20 AS 10.20.021(b) [NOT THE SAME AS, OR DECEPTIVELY SIMILAR TO, THE
21 NAME OF A CORPORATION, WHETHER FOR PROFIT OR NOT FOR PROFIT,
22 EXISTING UNDER THE LAWS OF THIS STATE, OR A FOREIGN
23 CORPORATION, WHETHER FOR PROFIT OR NOT FOR PROFIT, AUTHORIZED
24 TO TRANSACT BUSINESS OR CONDUCT AFFAIRS IN THIS STATE, OR A
25 CORPORATE OR BUSINESS NAME RESERVED OR REGISTERED
26 AS PERMITTED BY THE LAWS OF THIS STATE].

27 * Sec. 13. AS 10.20.471 is amended to read:

28 **Sec. 10.20.471. Assumed corporate name.** When a foreign corporation,
29 applying for a certificate of authority, has a name that is not available for use by the
30 foreign corporation under AS 10.20.021(b) [THE SAME AS OR DECEPTIVELY
31 SIMILAR TO THAT OF A CORPORATION OPERATING UNDER THIS

1 CHAPTER], it shall

2 (1) select a name under which it elects to do business in the state;

3 (2) clearly identify on all advertising, contracts, and other legal
4 documents its true corporate name as well as its assumed name.

5 * Sec. 14. AS 10.25.040 is amended to read:

6 Sec. 10.25.040. Name. The name of a cooperative must include the words
7 "electric" or "telephone," as appropriate to its purpose, and "cooperative," and the
8 abbreviation "inc." [THE NAME OF A COOPERATIVE SHALL BE DISTINCT
9 FROM THE NAME OF OTHER COOPERATIVES OR CORPORATIONS
10 ORGANIZED UNDER THE LAWS OF OR AUTHORIZED TO DO BUSINESS IN
11 THIS STATE. THIS SECTION DOES NOT APPLY TO A CORPORATION THAT
12 BECOMES SUBJECT TO THIS CHAPTER BY COMPLIANCE WITH AS 10.25.290
13 AND 10.25.300 OR 10.25.620 AND THAT ELECTS TO RETAIN A CORPORATE
14 NAME THAT DOES NOT COMPLY WITH THIS SECTION.]

15 * Sec. 15. AS 10.25.040 is amended by adding new subsections to read:

16 (b) The name of a cooperative must be distinguishable on the records of the
17 Department of Commerce and Economic Development from the name of any other
18 organized entity and from a reserved or registered name. The Department of
19 Commerce and Economic Development may adopt regulations under AS 44.62
20 (Administrative Procedure Act) to interpret or implement this subsection.

21 (c) The provisions of (a) of this section do not apply to a corporation that
22 becomes subject to this chapter by compliance with AS 10.25.290 and 10.25.300 or
23 10.25.620 and that elects to retain a corporate name that does not comply with (a) of
24 this section.

25 * Sec. 16. AS 10.35.020 is amended to read:

26 Sec. 10.35.020. Application to reserve name. Reservation of a business name
27 is made by filing an application with the commissioner. Upon finding that the name
28 is available for business use, the commissioner shall reserve it for the exclusive use
29 of the applicant for a period of 120 days. A name is not available for business use
30 if the name [WHICH] is not distinguishable on the records of the department
31 under AS 10.35.040(a) [THE SAME AS, OR DECEPTIVELY SIMILAR TO, THE

1 NAME OF A DOMESTIC CORPORATION OR A FOREIGN CORPORATION
2 AUTHORIZED TO TRANSACT BUSINESS IN THE STATE, OR A NAME
3 RESERVED OR REGISTERED UNDER THIS TITLE] or gives the impression that
4 the business is incorporated.

5 * Sec. 17. AS 10.35.020 is amended by adding a new subsection to read:

6 (b) The department may adopt regulations under AS 44.62 (Administrative
7 Procedure Act) to interpret or implement this section.

8 * Sec. 18. AS 10.35.040 is repealed and reenacted to read:

9 Sec. 10.35.040. Registration of name. (a) A person conducting a business
10 may register its name if the name is distinguishable on the records of the department
11 from the name of any other organized entity and from a reserved or registered name.
12 In this subsection,

13 (1) "organized entity" means

14 (A) a corporation under AS 10.06;

15 (B) a foreign corporation authorized under AS 10.06 to transact
16 business in this state;

17 (C) a BIDCO licensed under AS 10.13;

18 (D) a cooperative organized under AS 10.15;

19 (E) a foreign cooperative under AS 10.15 that is authorized
20 under AS 10.06 to do business in this state;

21 (F) a nonprofit corporation organized under AS 10.20;

22 (G) a nonprofit foreign corporation authorized under AS 10.20
23 to transact business in this state;

24 (H) a cooperative organized under AS 10.25;

25 (I) a religious corporation formed under AS 10.40;

26 (J) a professional corporation organized under AS 10.45;

27 (K) a limited liability company organized under AS 10.50;

28 (L) a foreign limited liability company registered under
29 AS 10.50;

30 (M) a registered limited liability partnership under AS 32.05;

31 (N) a foreign limited liability partnership registered under

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AS 32.05;

(O) a limited partnership formed under AS 32.11; or

(P) a foreign limited partnership registered under AS 32.11;

(2) "reserved or registered name" means a name reserved or registered under this chapter, AS 10.06, AS 10.50, AS 32.05, or AS 32.11.

(b) Registration of a name gives the person who has registered the name the exclusive right to the use of the name. A person who has registered a name under this chapter

(1) may enjoy the use by another person of a name that is not distinguishable on the records of the department from the registered name;

(2) has a cause of action for damages against another person who uses a name that is not distinguishable on the records of the department from the registered name.

(c) The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to interpret or implement (a) of this section.

* Sec. 19. AS 10.35.500 is amended by adding a new paragraph to read:

(3) "department" means the Department of Commerce and Economic Development.

* Sec. 20. AS 10.40 is amended by adding a new section to read:

Sec. 10.40.015. Distinguishable name. A corporate name must be distinguishable on the records of the Department of Commerce and Economic Development from the name of another organized entity and from a reserved or registered name. The department may adopt regulations to interpret and enforce this section. In this section, "organized entity" and "reserved or registered name" have the meanings given in AS 10.35.040.

* Sec. 21. AS 10.45.120 is amended by adding a new subsection to read:

(b) The corporate name of a professional corporation must be distinguishable on the records of the Department of Commerce and Economic Development from the name of any other organized entity and from a reserved or registered name. The Department of Commerce and Economic Development may adopt regulations to interpret and implement this subsection. In this subsection, "organized entity" and

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1 "reserved or registered name" have the meanings given in AS 10.35.040.

2 * Sec. 22. AS 10.50.025 is repealed and reenacted to read:

3 **Sec. 10.50.025. Distinguishable name.** The name of a limited liability
4 company must be distinguishable on the records of the department from the name of
5 any other organized entity and from a reserved or registered name. The department
6 may adopt regulations to interpret and implement this section. In this section,
7 "organized entity" and "reserved or registered name" have the meanings given in
8 AS 10.35.040.

9 * Sec. 23. AS 10.50.035 is amended to read:

10 **Sec. 10.50.035. Application to reserve company name.** Reservation of a
11 name under AS 10.50.030 is made by filing an application with the department. If the
12 department finds that the name is available for use by a limited liability company [,]
13 and is distinguishable on the records of the department under AS 10.50.025 [NOT
14 A. RESERVED OR REGISTERED BUSINESS NAME UNDER AS 10.35 OR THIS
15 CHAPTER], the department shall reserve it for the exclusive use of the applicant for
16 a period of 120 days.

17 * Sec. 24. AS 10.50.040 is amended to read:

18 **Sec. 10.50.040. Registration of company name.** A limited liability company
19 or a foreign limited liability company may register its name if the name is
20 distinguishable on the records of the department [FROM THE NAMES IDENTIFIED]
21 under AS 10.50.025.

22 * Sec. 25. AS 10.50.408(e) is amended to read:

23 (e) A company dissolved under this section may be reinstated within two years
24 from the date of the certificate of involuntary dissolution if it is established to the
25 satisfaction of the commissioner that in fact there was no cause for the dissolution, or
26 if the delinquency, failure, or misrepresentation resulting in dissolution has been
27 corrected and payment made of double the amount delinquent along with the amount
28 the company would have paid had it not been dissolved during the two-year period.
29 Reinstatement may not be authorized if the name of the company is not distinguishable
30 upon the records of the department under AS 10.50.025 [,] unless the company being
31 reinstated amends its articles of organization to change its name to conform with the

1 provisions of this chapter.

2 * Sec. 26. AS 32.05.480 is repealed and reenacted to read:

3 **Sec. 32.05.480. Distinguishable name.** The name of a limited liability
4 partnership must be distinguishable on the records of the department from the name
5 of any other organized entity and from a reserved or registered name. The department
6 may adopt regulations to interpret or implement this section. In this section,
7 "organized entity" and "reserved or registered name" have the meanings given in
8 AS 10.35.040.

9 * Sec. 27. AS 32.05.510(a) is amended to read:

10 (a) A foreign limited liability partnership not intending to conduct affairs in
11 this state may register its name if the name is distinguishable on the records of the
12 department under AS 32.05.480.

13 * Sec. 28. AS 32.05.520 is amended to read:

14 **Sec. 32.05.520. Use of nondistinguishable name.** Registration or reservation
15 under this chapter gives the person who has registered exclusive right to the use of the
16 name. The person may enjoin the use of a name that is not distinguishable on the
17 records of the department from the name to which the person has the exclusive right,
18 and the person has a cause of action for damages against a person who uses a name
19 that is not distinguishable on the records of the department from the name to which
20 the person has the exclusive right.

21 * Sec. 29. AS 32.05.620(e) is amended to read:

22 (e) If the registration of a registered limited liability partnership is cancelled
23 under this section, the registration may be reinstated within two years from the date
24 of the certificate of cancellation if it is established to the satisfaction of the
25 commissioner that in fact (1) there was no cause for the cancellation, or the
26 delinquency, failure, or misrepresentation resulting in cancellation has been corrected;
27 and (2) the partnership pays two times the amount of any delinquent fee and the
28 amount the partnership would have paid had it not been cancelled during the two-year
29 period. Unless the partnership being reinstated amends its registration to change its
30 name to comply with AS 32.05.470 - 32.05.520, reinstatement may not be authorized
31 if the name of the partnership is not distinguishable on [IN] the records of the

1 department under AS 32.05.480.

2 * Sec. 30. AS 32.11.120(d) is amended to read:

3 (d) A limited partner who knowingly permits the limited partner's name to be
4 used in the name of the limited partnership, except under circumstances permitted by
5 AS 32.11.810(a)(2) [AS 32.11.810(2)], is liable to creditors who extend credit to the
6 limited partnership without actual knowledge that the limited partner is not a general
7 partner.

8 * Sec. 31. AS 32.11.810 is amended to read:

9 Sec. 32.11.810. Name. The name of a limited partnership as set out in its
10 certificate of limited partnership

11 (1) must contain without abbreviation the words "limited partnership";

12 (2) may not contain the name of a limited partner unless

13 (A) it is also the name of a general partner or the corporate
14 name of a corporate general partner; or

15 (B) the business of the limited partnership had been carried on
16 under that name before the admission of that limited partner; and

17 (3) must be distinguishable on the records of the department from
18 [MAY NOT BE THE SAME AS, OR DECEPTIVELY SIMILAR TO,] the name of
19 any other organized entity and from a reserved or registered name; in this
20 paragraph. "organized entity" and "reserved or registered name" have the
21 meanings given in AS 10.35.040 [A CORPORATION OR LIMITED PARTNERSHIP
22 ORGANIZED UNDER THE LAWS OF THIS STATE OR LICENSED OR
23 REGISTERED AS A FOREIGN CORPORATION OR LIMITED PARTNERSHIP IN
24 THIS STATE].

25 * Sec. 32. AS 32.11.810 is amended by adding a new subsection to read:

26 (b) The department may adopt regulations under AS 44.62 (Administrative
27 Procedure Act) to interpret or implement (a)(3) of this section.

28 * Sec. 33. AS 32.11.820(b) is amended to read:

29 (b) The reservation shall be made by filing with the department an application,
30 executed by the applicant, to reserve a specified name. If the department finds that
31 the name is available for use by a domestic or foreign limited partnership under

1 AS 32.11.810 [, AND NOT A RESERVED OR REGISTERED NAME UNDER
2 AS 10.35], the department shall reserve the name for the exclusive use of the applicant
3 for a period of 120 days. Once having reserved a name, the same applicant may not
4 again reserve the same name until more than 60 days after the expiration of the last
5 120-day period for which that applicant reserved that name. The right to the exclusive
6 use of a reserved name may be transferred to another person by filing with the
7 department a notice of the transfer executed by the applicant for whom the name was
8 reserved and specifying the name and address of the transferee.

9 * Sec. 34. AS 45.50.010(a) is amended to read:

10 (a) A mark may not be registered if it consists of or comprises

11 (1) immoral, deceptive, or scandalous matter;

12 (2) matter that may disparage or falsely suggest a connection with
13 persons, living or dead, institutions, beliefs, or national symbols, or bring them into
14 contempt or disrepute;

15 (3) the flag, coat of arms, or other insignia of the United States, this
16 or another state, a municipality of this or another state, a foreign nation, or simulation
17 of any of these;

18 (4) the name, signature, or portrait identifying a living individual,
19 except with the written consent of the individual;

20 (5) a mark that, (A) when used on or in connection with goods or
21 services of the applicant, is merely descriptive or deceptively misdescriptive of them;
22 (B) when used on or in connection with the goods or services of the applicant, is
23 primarily geographically descriptive or deceptively misdescriptive of them; (C) is
24 primarily merely a surname; however, this paragraph does not prevent the registration
25 of a mark used by the applicant that has become distinctive of the applicant's goods
26 or services; the commissioner may accept as evidence that the mark has become
27 distinctive, as used on or in connection with the applicant's goods or services, proof
28 of continuous use of the mark as a mark by the applicant in this state for the five years
29 immediately preceding the date on which the claim of distinctiveness is made; [OR]

30 (6) a mark that so resembles a mark registered in the state or in the
31 United States Patent and Trademark Office, or a mark previously used by another and

1 not abandoned, as to be likely, when used on or in connection with the goods or
2 services of the applicant, to cause confusion or mistake or to deceive; or

3 (7) a mark that so resembles the name of another organized entity,
4 or a reserved or registered name, that the mark is likely to cause confusion or
5 mistake or to deceive; the form of operation of the organized entity without the
6 mark, or of the person without the mark who holds the right to the reserved or
7 registered name, is not a factor in determining whether the mark resembles a
8 name under this paragraph; in this paragraph, "organized entity" and "reserved
9 or registered name" have the meanings given in AS 10.35.040.

10 * Sec. 35. APPLICABILITY. (a) Sections 1 - 33 of this Act may not be interpreted to
11 enable the Department of Commerce and Economic Development or any other person to take
12 action under AS 10 or AS 32 against an organization because the organization's name does
13 not comply with secs. 1 - 33 of this Act on or after the effective date of this section if the
14 name complied with the provisions of AS 10 or AS 32 applicable to the organization's name
15 before the effective date of this section, except that a corporation applying for reinstatement
16 under AS 10.06.633(e) on or after the effective date of this section must comply with
17 AS 10.06.633(e), as amended by sec. 7 of this Act, and a limited liability company applying
18 for reinstatement under AS 10.50.408(e) on or after the effective date of this section must
19 comply with AS 10.50.408(e), as amended by sec. 25 of this Act.

20 (b) This Act does not affect any cause of action that accrues before the effective date
21 of this section.

22 (c) AS 45.50.010(a)(7), as enacted by sec. 34 of this Act, does not invalidate the
23 registration of a mark that is registered under AS 45.50.010 - 45.50.205 before the effective
24 date of this section.

25 * Sec. 36. TRANSITION: REGULATIONS. Notwithstanding sec. 38 of this Act, the
26 Department of Commerce and Economic Development may immediately proceed to adopt
27 regulations necessary to implement the changes made by this Act. The regulations take effect
28 under AS 44.62 (Administrative Procedure Act), but not before the effective date of sec. 38
29 of this Act.

30 * Sec. 37. Section 36 of this Act takes effect immediately under AS 01.10.070(c).

31 * Sec. 38. Except as provided in sec. 36 of this Act, this Act takes effect July 1, 1999.

SB

107

FISCAL NOTE

① CF
② GF PR ←
3 DE PR

ALL FUNDS

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. CSSB107(FIN) revis

Fy 99 7

Revision Date/Time (Note if correction) _____	Dept. Affected <u>DCED</u>
Title <u>An Act relating to tourism and tourim marketing; eliminating the ATMC</u>	BRU <u>Tourism</u>
Sponsor <u>Mackie</u>	Component <u>Tourism Development</u>
Requester <u>House Finance</u>	Component Serial No. <u>1026</u>
	ATMC

00 6.7
01 5.7
02 5.2
03 4.7

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	216.8	0.0	0.0	0.0	0.0	0.0
Travel	53.4	0.0	0.0	0.0	0.0	0.0
Contractual	4,361.1	0.0	0.0	0.0	0.0	0.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,631.3	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0					
-----------------------------	------------	--	--	--	--	--

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	3,331.4					
1005 GF/Program Receipts	1,299.9					
1037 GF/Mental Health						
Other						
TOTAL	4,631.3	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time	(3)	(3)	(3)	(3)	(3)
Part-time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

Prepared by <u>Tom Lawson, Director</u>	Phone <u>465-2506</u>
Division <u>Administrative Services</u>	Date/Time <u>4/30/99 12:48 PM</u>
Approved by Commissioner <u>Deborah B. Sedwick</u>	Date <u>4/30/99</u>
Agency <u>Commerce and Economic Development</u>	

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SPONSOR STATEMENT

SB 107, Abolishing the Tourism Marketing Council.

Senate Bill 107 initiates a fundamental change in the manner and method of state government involvement in promoting Alaskan tourism. Under provisions of the legislation, the state's current participation in the marketing of Alaska as a tourism destination would be accomplished through a contract with a single qualified trade association to provide the planning and execution of the marketing program.

Heretofore, the state has appropriated substantial amounts of public funds to participate in a cooperative marketing effort with representatives of the tourism industry. Combined with matching funds from the industry itself, the effort is a jointly managed, coordination of public and private resources to promote the entire state as a tourism destination. The coordination of this effort is accomplished through the activities of the Alaska Tourism Marketing Council.

It is the intent of SB 107 that all of the state's tourism marketing functions are consolidated and performed under contract to achieve a more efficient and effective result. The legislation would dissolve the Alaska Tourism Marketing Council and eliminate other tourism

marketing functions in the Division of Tourism. In its stead, the state would pursue its marketing goals contractually. The contractor must be a qualified trade association that initially contributes at least 30 percent of the costs of the contracted marketing campaign. In three years time, the association's contribution to the campaign increases to at least 60 percent of the cost. The Division of Tourism retains its oversight, governmental coordination, and advocacy functions for tourism development.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB107 (FIN) revis

Revision Date/Time (Note if correction) _____	Dept. Affected <u>DCED</u>
Title <u>An Act relating to tourism and tourism marketing; eliminating the ATMC</u>	BRU <u>Tourism</u>
Sponsor <u>Mackie</u>	Component <u>Tourism Development</u>
Requester <u>House Finance</u>	Component Serial No. <u>2278</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	673.6	569.2	569.2	569.2	569.2	569.2
Travel	71.1	68.1	68.1	68.1	68.1	68.1
Contractual	1,381.2	4,634.2	4,134.2	3,634.2	3,634.2	3,634.2
Supplies	12.0	12.0	12.0	12.0	12.0	12.0
Equipment						
Land & Structures						
Grants & Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous						
TOTAL OPERATING	2,197.9	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5

CAPITAL EXPENDITURES	0.0
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CHANGE IN REVENUES ()	
-------------------------------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,103.0	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat. Designated PR	94.9	0.0	0.0	0.0	0.0	0.0
TOTAL	2,197.9	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5

Estimate of any current year (FY99) cc 2,197.9

POSITIONS

Full-time	11	8	8	8	8	8
Part-time	3	3	3	3	3	3
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Eliminates 3 positions in the Division of Tourism Inquiry Section in FY01.

This fiscal note is based on current levels of state funding for tourism development and marketing and changes envisioned in the "New Millennium Plan".

Includes one time contractual cost of 20.0 in FY00 to conduct a feasibility study on the contracting out of the inquiry section function, "determining the potential costs and benefits which would result from contracting out the work in question," per Article 13 of the GGU Agreement.

For FY2000, there is a separate fiscal note for the ATMC.

See attached details

Prepared by <u>Tom Lawson, Director</u>	Phone <u>465-2506</u>
Division <u>Administrative Services</u>	Date/Time <u>4/30/99 12:56 PM</u>
Approved by Commissioner <u>Deborah B. Sedwick</u>	Date <u>4/30/99</u>
Agency <u>Commerce and Economic Development</u>	

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Alaska Department of Commerce and Economic Development, Division of Tourism
SB 107/HB 136 Fiscal Note Details

	FY 2001	FY02	FY03	FY04	FY05
Personal Services	569.2 Reduction of \$321.2 from FY00 Division and ATMC.	569.2	569.2	569.2	569.2
Tok APLIC					
Admin Clerk I	13.9 Part time	13.9	13.9	13.9	13.9
Admin Clerk I	13.6 Part time	13.6	13.6	13.6	13.6
Admin Clerk I	15.3 Part time	15.3	15.3	15.3	15.3
Admin Clerk III	50.5 Full time	50.5	50.5	50.5	50.5
Juneau					
Director	98.4	98.4	98.4	98.4	98.4
Admin Manager I	48.4 Share w/ DTD	48.4	48.4	48.4	48.4
Secretary I	38.4 Share w/ DTD	38.4	38.4	38.4	38.4
Dev Spec I	72.3 See attached sheet for descriptions and activities of these four positions.	72.3	72.3	72.3	72.3
Dev Spec I	72.6	72.6	72.6	72.6	72.6
Proj. Asst.	54.7	54.7	54.7	54.7	54.7
Proj. Asst.	54.7	54.7	54.7	54.7	54.7
Pub. Specialist	36.4 More than 50% shared & funded by other divisions and independent agencies	36.4	36.4	36.4	36.4
Travel	68.1 Travel throughout Alaska for 5 professional staff to support community tourism development, meet with other state and federal counterparts; a \$56.1 reduction from FY00 for DOT & ATMC 7 professional staff.	68.1	68.1	68.1	68.1
Grants	60.0 Rural Tourism Center	60.0	60.0	60.0	60.0
Supplies	12.0 Office and data processing supplies in Juneau and Tok offices.	12.0	12.0	12.0	12.0
Contractual					
Tourism North	331.0 Alaska's contribution to the cooperative highway promotion program with the Yukon and British Columbia.	331.0	331.0	331.0	331.0
N. American Travel Trade	47.3 Work with Alaska tour operators and suppliers, destinations, and travel agents to increase Alaska travel experiences in tour offerings.	47.3	47.3	47.3	47.3
International	640.0 Contract representatives in Japan, Korea, Taiwan, Australia, United Kingdom and Western Europe.	640.0	640.0	640.0	640.0
Research	195.4 Annual conversion study and annualized Alaska Visitor Statistics Program	195.4	195.4	195.4	195.4
Fixed costs	385.1 Chargebacks, leases, phone, printing. Reduced \$153.3 from FY00.	385.1	385.1	385.1	385.1
Subtotal, all contractual	4,634.2	4,134.2	3,634.2	3,634.2	3,634.2
Total Tourism	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5

*A portion of Division contractual is transferred to the QTA assuming they agree to conduct those marketing components. The subtotal increases because research previously part of the ATMC budget is transferred to the Division. FY99 and FY00 ATMC state contribution is \$3,335.4; 25% industry contribution/PR is \$1,299.9.4; industry contribution is taken off budget beginning FY01. Total FY99 and FY00 state funding for tourism is \$5,533.3. Per the Millennium Plan, the State's contribution is reduced approximately \$300.0 in FY01 and \$500.0 each year in FY02 and FY03 and then stabilizes.

**Division of Tourism
State Tourism Development and Coordination**

Purpose

The purpose of these four professional positions is to assist Alaska businesses and communities in developing opportunities in the tourism industry. This is accomplished by providing a range of expertise in the fields of business and management in order to enhance, stabilize and diversify the economy, thereby creating opportunities for Alaskans. In order to address prior year budget reductions, two higher range positions were reclassified to project assistants. Pairs comprised of one development specialist and one project assistant work together to more effectively accomplish the large workload at a lower cost. One pair focuses on planning, transportation and access, and working with other state and federal agencies. The other pair focuses on assisting small businesses and communities develop products. Some of the major activities of the four professional positions are described below.

1) Development Specialist and Project Assistant

- Consult with small businesses and communities on tourism development opportunities including feasibility studies for implementation of a tourism program based on limited community resources.
- Work with convention and visitor bureaus statewide, providing technical assistance, coop-marketing opportunities cross promotion, and membership meetings/consultation.
- Provide technical assistance to communities, nonprofit organizations, and individual businesses desiring guidance in the development and implementation of economic development programs related to tourism.
- Provide technical assistance by meeting with the private sector to discuss proposals for tourism attractions and facilities on public lands
- Serve as counsel, on development issues, to public and private sectors of the visitor industry. This includes Convention and Visitors Bureaus, Chambers of Commerce, various State offices, trade associations, and the industry representatives.
- Analyze and address the potential for economic development created by tourism throughout the state, coordinate with federal and state agencies, and work with community groups and private sector organizations to expand the visitor industry.
- Participate in land use decision-making processes to insure consideration of tourism issues; serve as a liaison to other public agencies whose activities affect division functions and to discuss proposals for tourism attractions and facilities with those agencies.

- Liaison to the Rural Tourism Center.

2) Development Specialist and Project Assistant

- Work with existing businesses in developing new tourism products and new or improved offerings, and getting more exposure in key markets.
- Coordinate with the State of Alaska's overseas trade contractors in Japan, Korea and Taiwan to increase exposure of rural Alaska tourism opportunities and rural Alaska arts and crafts export products. Assist in the produce of informational materials about rural tourism and export products in the language of the host countries and promotional activities. Alaska's overseas contractors can facilitate the opening of rural Alaska to more commerce with the major Asian markets.
- Coordination of Top of the World (Alaska) travel agent training to train travel agents and wholesale packagers of Alaska travel products.
- Coordination of Alaska Travel Fair where wholesale packagers are brought to Alaska to meet with small businesses that can not afford to attend trade show or travel on trade missions. The most recent fair provided Alaska businesses access to more than 50 tour operators from Europe, North America, Asia and Australia/New Zealand.
- Primary contact for North American tour operators offering Alaska tour products; provide referrals to businesses in Alaska.
- Meet regularly with key decision makers in the international tourism markets, including tour operators, airline officials, and government agencies, regarding the development and promotion of Alaska as a visitor destination.
- Assist in developing business plans, feasibility analyses, and funding packages leading to the development of new or upgraded visitor attraction/activity/destination in Alaska.
- Oversee contracts for tourism research including the Alaska Visitor Statistics Program.
- Coordinates development efforts for direct air service, supports promotional campaigns for increased highway traffic, cruise ship capacity, Alaska Railroad and Alaska Marine Highway utilization. These are executed in coordination with Alaska's foreign offices as well as working closely and cooperatively with Alaska convention and visitor bureaus, trade associations, and other destination marketing organizations.
- Work cooperatively with airlines worldwide is required of this position to develop new and improved access to Alaska.

- Maintain resource library on domestic and international tourism data, contacts and materials.
- Serve on the Visitor Center Committee overseeing the operation of the Alaska Public Lands Information Centers (APLIC). This also involves planning exhibits, training staff, and coordinating projects that serve visitors.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB107 (L&C) rev1

Revision Date/Time (Note if correction) _____ Dept. Affected DCED
 Title An Act relating to tourism and tourism marketing; BRU Tourism
eliminating the ATMC Component Tourism Development
 Sponsor Mackie
 Requester Senate Finance Component Serial No. 2278

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	673.6	569.2	569.2	569.2	569.2	569.2
Travel	71.1	68.1	68.1	68.1	68.1	68.1
Contractual	1,381.2	4,634.2	4,134.2	3,634.2	3,634.2	3,634.2
Supplies	12.0	12.0	12.0	12.0	12.0	12.0
Equipment						
Land & Structures						
Grants & Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous						
TOTAL OPERATING	2,197.9	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5

CAPITAL EXPENDITURES	0.0					
-----------------------------	------------	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,103.0	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat. Designated PR	94.9	0.0	0.0	0.0	0.0	0.0
TOTAL	2,197.9	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5

Estimate of any current year (FY99) cc 2,197.9

POSITIONS

Full-time	11	8	8	8	8	8
Part-time	3	3	3	3	3	3
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Eliminates 3 positions in the Division of Tourism Inquiry Section in FY01.

Includes one time contractual cost of 20.0 in FY00 to conduct a feasibility study on the contracting out of the inquiry section function, "determining the potential costs and benefits which would result from contracting out the work in question," per Article 13 of the GGU Agreement.

For FY2000, there is a separate fiscal note for the ATMC.

See attached details.

Prepared by Tom Lawson, Director Phone 465-2506
 Division Administrative Services Date/Time 4/19/99 11:47 AM
 Approved by Commissioner [Signature] Date 4/19/99
 Agency Commerce and Economic Development

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Alaska Department of Commerce and Economic Development, Division of Tourism
SB 107/HB 136 Fiscal Note Details

	FY 2001	FY02	FY03	FY04	FY05
Personal Services	569.2 Reduction of \$321.2 from FY00 Division and ATMC.	569.2	569.2	569.2	569.2
Tok APLIC					
Admin Clerk I	13.9 Part time	13.9	13.9	13.9	13.9
Admin Clerk I	13.6 Part time	13.6	13.6	13.6	13.6
Admin Clerk I	15.3 Part time	15.3	15.3	15.3	15.3
Admin Clerk III	50.5 Full time	50.5	50.5	50.5	50.5
Juneau					
Director	98.4	98.4	98.4	98.4	98.4
Admin Manager I	48.4 Share w/ DTD	48.4	48.4	48.4	48.4
Secretary I	38.4 Share w/ DTD	38.4	38.4	38.4	38.4
Dev Spec I	72.3 See attached sheet for descriptions and activities of these four positions.	72.3	72.3	72.3	72.3
Dev Spec I	72.6	72.6	72.6	72.6	72.6
Proj. Asst.	54.7	54.7	54.7	54.7	54.7
Proj. Asst.	54.7	54.7	54.7	54.7	54.7
Pub. Specialist	36.4 More than 50% shared & funded by other divisions and independent agencies	36.4	36.4	36.4	36.4
Travel	68.1 Travel throughout Alaska for 5 professional staff to support community tourism development, meet with other state and federal counterparts; a \$56.1 reduction from FY00 for DOT & ATMC 7 professional staff.	68.1	68.1	68.1	68.1
Grants	60.0 Rural Tourism Center	60.0	60.0	60.0	60.0
Supplies	12.0 Office and data processing supplies in Juneau and Tok offices.	12.0	12.0	12.0	12.0
Contractual					
Tourism North	331.0 Alaska's contribution to the cooperative highway promotion program with the Yukon and British Columbia.	331.0	331.0	331.0	331.0
N. American Travel Trade	47.3 Work with Alaska tour operators and suppliers, destinations, and travel agents to increase Alaska travel experiences in tour offerings.	47.3	47.3	47.3	47.3
International	640.0 Contract representatives in Japan, Korea, Taiwan, Australia, United Kingdom and Western Europe.	640.0	640.0	640.0	640.0
Research	195.4 Annual conversion study and annualized Alaska Visitor Statistics Program	195.4	195.4	195.4	195.4
Fixed costs	385.1 Chargebacks, leases, phone, printing. Reduced \$153.3 from FY00.	385.1	385.1	385.1	385.1
Subtotal, all contractual	4,634.2	4,134.2	3,634.2	3,634.2	3,634.2
Total Tourism	5,343.5	4,843.5	4,343.5	4,343.5	4,343.5

*A portion of Division contractual is transferred to the QTA assuming they agree to conduct those marketing components. The subtotal increases because research previously part of the ATMC budget is transferred to the Division. FY99 and FY00 ATMC state contribution is \$3,335.4; 25% industry contribution/PR is \$1,299.9.4; industry contribution is taken off budget beginning FY01. Total FY99 and FY00 state funding for tourism is \$5,533.3. Per the Millennium Plan, the State's contribution is reduced approximately \$300.0 in FY01 and \$500.0 each year in FY02 and FY03 and then stabilizes.

**Division of Tourism
State Tourism Development and Coordination**

Purpose

The purpose of these four professional positions is to assist Alaska businesses and communities in developing opportunities in the tourism industry. This is accomplished by providing a range of expertise in the fields of business and management in order to enhance, stabilize and diversify the economy, thereby creating opportunities for Alaskans. In order to address prior year budget reductions, two higher range positions were reclassified to project assistants. Pairs comprised of one development specialist and one project assistant work together to more effectively accomplish the large workload at a lower cost. One pair focuses on planning, transportation and access, and working with other state and federal agencies. The other pair focuses on assisting small businesses and communities develop products. Some of the major activities of the four professional positions are described below.

1) Development Specialist and Project Assistant

- Consult with small businesses and communities on tourism development opportunities including feasibility studies for implementation of a tourism program based on limited community resources.
- Work with convention and visitor bureaus statewide, providing technical assistance, coop-marketing opportunities cross promotion, and membership meetings/consultation.
- Provide technical assistance to communities, nonprofit organizations, and individual businesses desiring guidance in the development and implementation of economic development programs related to tourism.
- Provide technical assistance by meeting with the private sector to discuss proposals for tourism attractions and facilities on public lands
- Serve as counsel, on development issues, to public and private sectors of the visitor industry. This includes Convention and Visitors Bureaus, Chambers of Commerce, various State offices, trade associations, and the industry representatives.
- Analyze and address the potential for economic development created by tourism throughout the state, coordinate with federal and state agencies, and work with community groups and private sector organizations to expand the visitor industry.
- Participate in land use decision-making processes to insure consideration of tourism issues; serve as a liaison to other public agencies whose activities affect division functions and to discuss proposals for tourism attractions and facilities with those agencies.

- Liaison to the Rural Tourism Center.

2) Development Specialist and Project Assistant

- Work with existing businesses in developing new tourism products and new or improved offerings, and getting more exposure in key markets.
- Coordinate with the State of Alaska's overseas trade contractors in Japan, Korea and Taiwan to increase exposure of rural Alaska tourism opportunities and rural Alaska arts and crafts export products. Assist in the produce of informational materials about rural tourism and export products in the language of the host countries and promotional activities. Alaska's overseas contractors can facilitate the opening of rural Alaska to more commerce with the major Asian markets.
- Coordination of Top of the World (Alaska) travel agent training to train travel agents and wholesale packagers of Alaska travel products.
- Coordination of Alaska Travel Fair where wholesale packagers are brought to Alaska to meet with small businesses that can not afford to attend trade show or travel on trade missions. The most recent fair provided Alaska businesses access to more than 50 tour operators from Europe, North America, Asia and Australia/New Zealand.
- Primary contact for North American tour operators offering Alaska tour products; provide referrals to businesses in Alaska.
- Meet regularly with key decision makers in the international tourism markets, including tour operators, airline officials, and government agencies, regarding the development and promotion of Alaska as a visitor destination.
- Assist in developing business plans, feasibility analyses, and funding packages leading to the development of new or upgraded visitor attraction/activity/destination in Alaska.
- Oversee contracts for tourism research including the Alaska Visitor Statistics Program.
- Coordinates development efforts for direct air service, supports promotional campaigns for increased highway traffic, cruise ship capacity, Alaska Railroad and Alaska Marine Highway utilization. These are executed in coordination with Alaska's foreign offices as well as working closely and cooperatively with Alaska convention and visitor bureaus, trade associations, and other destination marketing organizations.
- Work cooperatively with airlines worldwide is required of this position to develop new and improved access to Alaska.

- Maintain resource library on domestic and international tourism data, contacts and materials.
- Serve on the Visitor Center Committee overseeing the operation of the Alaska Public Lands Information Centers (APLIC). This also involves planning exhibits, training staff, and coordinating projects that serve visitors.

FISCAL NOTE

STATE OF ALASKA
1999 Legislative Session

BILL NO. SB 107

Revision Date: 04/23/99
Title: Abolish the Alaska Tourism Marketing Council

Dept. Affected Commerce and Economic Dev.
BRU Tourism
Component Tourism Development

Sponsor: Senate Labor and Commerce Committee
Requester: Senate Finance Committee

Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	573.6	400.0	400.0	400.0	400.0	400.0
Travel	71.1	30.0	30.0	30.0	30.0	30.0
Contractual	1,361.2	5,200.0	4,700.0	4,200.0	4,200.0	4,200.0
Supplies	12.0	10.0	10.0	10.0	10.0	10.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	2,077.9	5,700.0	5,200.0	4,700.0	4,700.0	4,700.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES []	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0					
1003 GF Match	0.0					
1004 GF	1,983.0	5,700.0	5,200.0	4,700.0	4,700.0	4,700.0
1005 GF/Program Receipts	0.0					
1037 GF/Mental Health	0.0					
1108 Designated PR	94.9	0.0	0.0	0.0	0.0	0.0
TOTAL	2,077.9	5,700.0	5,200.0	4,700.0	4,700.0	4,700.0

Estimate of any current year (FY99) costs: 0.0

POSITIONS

Full-time	11	0	0	0	0	0
Part-time	3	0	0	0	0	0
Temporary	0	0	0	0	0	0

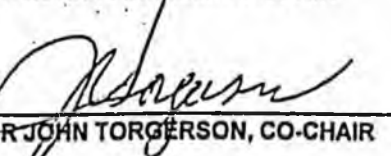
ANALYSIS: (Attach a separate page if necessary)

*J - Senate Finance Adopted House
Finance Com F.N.'s
D.G.*

Prepared By: SENATE FINANCE COMMITTEE


SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/23/99
Phone: 465-2995


SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/23/99
Phone: 465-2828

FISCAL NOTE

STATE OF ALASKA
1999 Legislative Session

BILL NO. SB 107

Revision Date: 04/23/99
Title: Abolish Alaska Tourism Marketing Council
Sponsor: Senate Labor and Commerce Committee
Requester: Senate Finance Committee

Dept. Affected Commerce and Economic Dev.
BRU Tourism
Component ATMC
Component Serial No. _____

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 00	FY01	FY02	FY03	FY04	FY05
Personal Services	216.8	0.0	0.0	0.0	0.0	0.0
Travel	53.4	0.0	0.0	0.0	0.0	0.0
Contractual	4,361.1	0.0	0.0	0.0	0.0	0.0
Supplies	4.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	4,635.3	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES []	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 00	FY01	FY02	FY03	FY04	FY05
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	3,335.4	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	1,299.9	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1091 Designated Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	4,635.3	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) costs: 0.0

POSITIONS

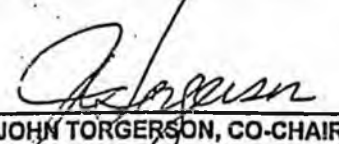
POSITIONS	FY 00	FY01	FY02	FY03	FY04	FY05
Full-time	3	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared By: SENATE FINANCE COMMITTEE


SENATOR SEAN PARNELL, CO-CHAIR

Date: 4/23/99
Phone: 465-2995


SENATOR JOHN TORGERSON, CO-CHAIR

Date: 4/23/99
Phone: 465-2828

SENATOR KIM ELTON

MEMORANDUM

April 26, 1999

TO: All Senate Members
FROM: Senator Kim Elton
RE: Tourism Marketing

SB 107, the vehicle for AVA's "New Millennium Plan" which gives all tourism marketing functions of the Division of Tourism and the Alaska Tourism Marketing Council to a single qualified trade association, is on the floor for this morning. I think you should be aware of the recent experience of Alberta, Canada with a similar plan.

Carol Patterson of Kalahari Management, Inc., a consulting firm in Calgary, Alberta, reports that Alberta revamped the province's tourism governance and marketing structure about 5 years ago. They initiated something called the "Alberta Tourism Partnership" which had goals similar to the "New Millennium Plan" advocated by AVA. The Alberta Tourism Partnership transferred more power to the tourism industry by creating an industry-driven organization to lead the marketing efforts. They anticipated government would save money by having each government dollar matched by 6 or 7 industry dollars, and intended to focus marketing on areas where viable tourism already existed, rather than providing economic development in every small community.

What actually happened turned out to be something far different than they anticipated. By the time the organization was formed to handle marketing, the government's contribution had shrunk to about one-third of what it had been spending on marketing through the Dept. of Tourism. This created tremendous pressure to deliver marketing programs without adequate funding. In order to meet their industry match, the Tourism Partnership attempted to take credit for what they called "parallel spending", similar to the AVA's current method of counting individual business advertising as a match for Alaska state dollars.

In addition, people in rural areas never seemed to fully accept the new organization because most of the marketing efforts were focused on two major cities (Calgary and Edmonton) and the national parks. As a result, they felt they had little influence in the organization. The entire operation collapsed about a year ago when the tourism minister abruptly terminated the contract with the

ALASKA SENATE

STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108

SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

Alberta Tourism Partnership and appointed a firm to manage marketing efforts on an interim basis while a new governance structure was created. Ms. Patterson reports the tourism industry lost a whole year of marketing and created a great deal of confusion and ill will between government and industry. The province is struggling to regain its market presence.

Ms. Patterson makes the following observations about Alberta's experience:

"Don't underestimate the political power of rural areas (even if they don't have as much expertise in the tourism industry or have large tourism companies.); they can hold tremendous influence.

You can't compensate for inadequate funds by simply restructuring (its like moving the deck chairs around on the Titanic-- you're still sinking, but the act of reorganizing fools people into thinking that they're doing something useful when the reality is that a more substantial approach is required)."

Until Alaska adequately funds tourism marketing, restructuring efforts like the one in SB 107 are just deck chair maneuvers on the Titanic. The state needs a marketing program of at least \$10 million in order to reverse the decline in market share Alaska has experienced. SB 107 does nothing to improve the funding picture. In fact, it probably delays a real solution to the funding problem by a year or two while the industry reorganizes and attempts to collect the voluntary contributions they have promised.

Given existing financial pressures on local governments, it is unlikely that convention and visitors bureaus will be able to come up with their sizable "voluntary" contribution called for in the New Millennium Plan. As in Alberta, many small tourism operators in Alaska are suspicious of an AVA sponsored organization which favors the big players and are likely to withhold contributions. It is highly unlikely the industry in Alaska will ever be able to realize the contributions it has promised the legislature.

The legislature should set bench marks for industry contributions this next year with the understanding that, if those goals are not met, a new mandatory revenue plan for the industry will be put in place next year.

Alaska State House of Representatives
Twenty-First Legislature
First Session

RCS# 329
Item 11

05-05-99
11:17:03

CSSB 107(FIN)
Third Reading
Final Passage

Yeas:	32	Austerman, Barnes, Berkowitz, Brice, Coghill, Cowdery, Croft, Davies, Davis, Dyson, Green, Grussendorf, Halcro, Harris, Hudson, Joule, Kemplen, Kohring, Kott, Masek, Morgan, Moses, Mulder, Murkowski, Phillips, Porter, Rokeberg, Sanders, Smalley, Therriault, Whitaker, Williams
Nays:	3	Cissna, Kerttula, Ogan
Excused:	4	Bunde, James, Kapsner, Kookesh
Absent:	1	Foster

Kerttula reconsidered



Official Business

Alaska State Legislature

SENATE LABOR & COMMERCE COMMITTEE

State Capitol
Juneau, AK 99801-1182

(907)465-3844

SECTIONAL FOR

CSSB 107 (L&C), Relating to Tourism and Tourism Marketing

Section 1. The section establishes the intent of the legislature to contract all tourism marketing functions of the state to achieve efficiency and more effectiveness.

Section 2. A technical section that eliminates the citation of the executive director of the Alaska Tourism Marketing Council in AS 23.20, the Alaska Employment Security Act.

Section 3. A tourism marketing contract awarded under AS 44.33.125 in section 7 of this act is exempt from the state procurement code.

Section 4. The purpose section for the Alaska division of tourism is condensed from eight goals and objectives to five.

Section 5. The duties of the Alaska division of tourism in AS 44.33.120 are re-enacted to generally define its responsibilities to advocate, cooperate and coordinate tourism development within the public and private sectors and to administer visitor information centers and a tourism marketing contract under AS 44.33.125.

Section 6. A new subsection is added to the Alaska division of tourism duties that prohibits the execution of multiple tourism marketing contracts when a contract with a qualified trade association under AS 44.33.125 is in force.

Section 7. A new section, AS 44.33.125, describes the purpose, terms, and conditions for a division of tourism contract with a qualified trade association to conduct a destination marketing campaign.

Section 8. Subsection AS 44.33.125 (a) in section 7 above is re-enacted to increase the trade association contribution toward the cost of a marketing campaign from 30 to 60 percent. This provision is effective in 2002.

Section 9. The citation of the executive director for the Alaska Tourism Marketing Council is deleted from the State Personnel Act and the conflict of interest statute. The Alaska Tourism Marketing Council statutes are repealed.

Sections 10 and 11. Effective dates.

FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. CSSB107(L&C)

Revision Date/Time (Note if correction) _____ Dept. Affected DCED
 Title An Act relating to tourism and tourism marketing; BRU Tourism
eliminating the ATMC Component Tourism Development
 Sponsor Mackie ATMC
 Requester Sen. Finance Component Serial No. 1026 & 2278

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	(219.0)	(219.0)	(219.0)	(219.0)	(219.0)
Travel	0.0	(53.4)	(53.4)	(53.4)	(53.4)	(53.4)
Contractual	20.0	(1,027.5)	(1,027.5)	(1,027.5)	(1,027.5)	(1,027.5)
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	20.0	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)

CAPITAL EXPENDITURES	0.0					
-----------------------------	------------	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	20.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat. Designated PR	0.0	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)
TOTAL	20.0	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time		(6)	(6)	(6)	(6)	(6)
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Eliminates the 3 ATMC positions and transfers ATMC personal services (219.0) and travel (53.4) to contractual. Eliminates AVA match to ATMC funding, because bill takes match off budget. Eliminates 3 positions in the Division of Tourism Inquiry Section and transfers personal services (114.4) to contractual.

One time contractual cost of 20.0 in FY00 to conduct a feasibility study on the contracting out of the inquiry section function, "determining the potential costs and benefits which would result from contracting out the work in question," per Article 13 of the GGU Agreement.

Prepared by Tom Lawson, Director Phone 465-2506
 Division Administrative Services Date/Time 4/12/99 11:04 AM
 Approved by Commissioner Deborah B. Sedwick Date 4.12.99
 Agency Commerce and Economic Development

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FISCAL NOTE

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

BILL NO. SB107

Revision Date/Time (Note if correction) _____	Dept. Affected <u>DCED</u>
Title <u>An Act relating to tourism and tourism marketing; eliminating the ATMC</u>	BRU <u>Tourism</u>
Sponsor <u>Mackie</u>	Component <u>Tourism Development</u>
Requester <u>Sen. Labor & Commerce</u>	Component Serial No. <u>1026 & 2278</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	(219.0)	(219.0)	(219.0)	(219.0)	(219.0)
Travel	0.0	(53.4)	(53.4)	(53.4)	(53.4)	(53.4)
Contractual	20.0	(1,027.5)	(1,027.5)	(1,027.5)	(1,027.5)	(1,027.5)
Supplies						
Equipment						
Land & Structures						
Grants & Claims		(60.0)	(60.0)	(60.0)	(60.0)	(60.0)
Miscellaneous						
TOTAL OPERATING	20.0	(1,359.9)	(1,359.9)	(1,359.9)	(1,359.9)	(1,359.9)
CAPITAL EXPENDITURES	0.0					
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	20.0	(60.0)	(60.0)	(60.0)	(60.0)	(60.0)
1005 GF/Program Receipts						
1037 GF/Mental Health						
1108 Stat. Designated PR	0.0	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)	(1,299.9)
TOTAL	20.0	(1,359.9)	(1,359.9)	(1,359.9)	(1,359.9)	(1,359.9)

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time		(6)	(6)	(6)	(6)	(6)
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Eliminates the 3 ATMC positions and transfers ATMC personal services (219.0) and travel (53.4) to contractual. Eliminates AVA match to ATMC funding, because bill takes match off budget. Eliminates 3 positions in the Division of Tourism Inquiry Section and transfers personal services (114.4) to contractual. Eliminates grant to Rural Tourism Center because bill repeals Division of Tourism's granting authority.

One time contractual cost of 20.0 in FY00 to conduct a feasibility study on the contracting out of the inquiry section function, "determining the potential costs and benefits which would result from contracting out the work in question," per Article 13 of the GGU Agreement. ~~(continued below)~~

Prepared by <u>Tom Lawson, Director</u>	Phone <u>465-2506</u>
Division <u>Administrative Services</u>	Date/Time <u>3/29/99 4:33 PM</u>
Approved by Commissioner <u>Deborah B. Sedwick</u>	Date <u>3-29-99</u>
Agency <u>Commerce and Economic Development</u>	

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4/13/99

CS FOR SENATE BILL NO. 107(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tourism and tourism marketing; eliminating the Alaska
2 Tourism Marketing Council; and providing for an effective date."

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

4 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that it is important for
5 the state to continue to work cooperatively with the private sector visitor industry to promote
6 Alaska as a tourist destination for the benefit of the citizens of the state.

7 (b) It is the intent of the legislature that all tourism marketing functions currently
8 performed by the Alaska Tourism Marketing Council and the Alaska division of tourism be
9 consolidated and performed under a contract with a single qualified trade association and that
10 the association provide a significant financial contribution to this cooperative tourism
11 marketing program, with the Alaska division of tourism performing primarily planning,
12 governmental coordination, and advocacy for tourism development.

13 * Sec. 2. AS 23.20.526(d)(8) is amended to read:

14 (8) in the employ of the state or a political subdivision of the state if

1 the service is performed by an individual in the exercise of duties

2 (A) as a judicial officer, the governor, the lieutenant governor,
3 a person hired or appointed as the head or deputy head of a department in the
4 executive branch, a person hired or appointed as the director of a division of
5 a department in the executive branch, an assistant to the governor, a chair or
6 member of a state commission or board, state investment officers and the state
7 comptroller in the Department of Revenue, [THE EXECUTIVE DIRECTOR
8 OF THE ALASKA TOURISM MARKETING COUNCIL,] an appointed or
9 elected municipal officer, any other elected official, the fiscal analyst of the
10 legislative finance division, the legislative auditor of the legislative audit
11 division, the executive director of the Legislative Affairs Agency, and the
12 directors of the divisions within the Legislative Affairs Agency;

13 (B) as a member of the Alaska Army National Guard or Alaska
14 Air National Guard or Alaska Naval Militia;

15 (C) as an employee serving on only a temporary basis in case
16 of fire, storm, snow, earthquake, flood, or similar emergency; or

17 (D) as an election official or election worker if the amount of
18 remuneration received by the individual during the calendar year for services
19 as an election official or election worker is less than \$1,000;

20 * Sec. 3. AS 36.30.850(b) is amended by adding a new paragraph to read:

21 (41) a tourism marketing contract awarded under AS 44.33.125.

22 * Sec. 4. AS 44.33.119 is amended to read:

23 **Sec. 44.33.119. Purposes.** The purposes of AS 44.33.119 - 44.33.135 [AND
24 AS 44.33.700 - 44.33.735] are to

25 (1) encourage the expansion and growth of the state's visitor industry
26 for the benefit of the citizens of the state;

27 (2) ensure that the economic benefits to be derived from tourism in the
28 state are retained in the state, to the greatest extent possible;

29 (3) ensure that a maximum number of residents of the state are
30 employed in the tourism industry;

31 (4) [PROMOTE COOPERATION BETWEEN THE STATE AND

1 PRIVATE SECTOR IN THE PLANNING AND EXECUTION OF A GENERIC
2 VISITOR MARKETING CAMPAIGN IN THE PUBLIC INTEREST;

3 (5) PROMOTE THE DEVELOPMENT OF VISITOR INDUSTRY
4 FACILITIES, BOTH IN THE PUBLIC SECTOR AND THE PRIVATE SECTOR,
5 THROUGH THE USE OF STATE RESOURCES, AS APPROPRIATE;

6 (6) ENSURE THAT THE VISITORS' EXPERIENCE IN THE STATE
7 IS AND CONTINUES TO BE SATISFACTORY AND LEADS TO WORD-OF-
8 MOUTH ADVERTISING AND RETURN VISITS TO THE STATE;

9 (7)] ensure that consideration is given in the development and
10 implementation of the tourism program to local community goals and objectives, to
11 impacts on existing private enterprises, and to impacts on recreational and subsistence
12 opportunities for the residents of the state;

13 (5) [(8)] promote the development of tourism opportunities throughout
14 the state, including along the highway system of the state, [INCLUDING] the marine
15 highway, and in rural areas of the state.

16 * Sec. 5. AS 44.33.120(b) is repealed and reenacted to read:

17 (b) The Alaska division of tourism shall

18 (1) cooperate with organizations in the private sector for the promotion
19 and development of tourism into and within the state;

20 (2) coordinate with municipal, state, and federal agencies for the
21 development of tourism resources in the state;

22 (3) promote and develop the state's tourist industry;

23 (4) cooperate with the private sector in the planning and execution of
24 a destination tourism marketing campaign under AS 44.33.125 that is in the public
25 interest;

26 (5) promote the development of visitor industry facilities, both in the
27 public sector and the private sector, through the use of state resources as appropriate;

28 (6) plan and advocate for tourism and tourism development in
29 coordination with the private sector, municipalities, state, and federal agencies;

30 (7) administer and evaluate the tourism marketing contract program
31 under AS 44.33.125;

- 1 (8) administer a visitor information center^S located in Tok; and
2 (9) conduct research related to tourism.

3 * Sec. 6. AS 44.33.120 is amended by adding a new subsection to read:

4 (d) During the term of a contract with a qualified trade association under
5 AS 44.33.125(a), the Department of Commerce and Economic Development may not
6 execute another tourism marketing campaign except as provided under
7 AS 44.33.125(b), (c), or (d).

8 * Sec. 7. AS 44.33 is amended by adding a new section to read:

9 **Sec. 44.33.125. Tourism marketing contracts.** (a) Subject to appropriations
10 for the purpose, the Department of Commerce and Economic Development shall, on
11 or before August 1 of each year, contract with a single qualified trade association for
12 the purpose of planning and executing a destination tourism marketing campaign. The
13 contract may be awarded only if the qualified trade association provides matching
14 funds equal to at least 30 percent of the costs of the marketing campaign described in
15 the contract. The marketing campaign may promote distinct segments of tourism, such
16 as highway tourism, seasonal tourism, ecotourism, cultural tourism, regional tourism,
17 and rural tourism. Before the contract is executed, the marketing campaign plan must
18 be approved by the department.

19 (b) The tourism marketing contract awarded under (a) of this section must
20 include essential components identified by the department and may include media
21 advertising, establishing and operating a system for responding to visitor inquiries,
22 publishing and distributing information regarding vacation planning, establishing and
23 maintaining Internet sites that provide tourism information, conducting market research,
24 and other activities related to tourism that the department may designate in the
25 contract. If the qualified trade association refuses a contract component requested by
26 the department, the department may award a contract to another person to perform that
27 component but only if the terms are not materially different from those offered to the
28 qualified trade association.

29 (c) A qualified trade association that has been awarded a tourism marketing
30 contract under (a) of this section has, while the contract is in effect, the right of first
31 refusal for every other tourism marketing contract offered by the department. The

1 qualified trade association is required to provide matching funds for a contract awarded
2 under this subsection only if matching funds are required by the contract offer. If the
3 qualified trade association refuses a contract offer under this subsection or fails to
4 accept the offer within a reasonable time, the department may award the contract to
5 another person but only under terms not materially different from those offered to the
6 qualified trade association.

7 (d) If, during the term of a contract awarded under (a) of this section, funds
8 from any source are appropriated to the department for tourism marketing activities in
9 addition to the funds already committed under the contract, the contract may be
10 amended to include the additional funds and the additional tourism marketing
11 activities. The department may require the qualified trade association to provide
12 matching funds in any amount for the additional funds, or the department may impose
13 no matching requirement for the additional funds. If the qualified trade association
14 refuses the additional funds, the department may use the additional funds to award a
15 contract to another person but only under terms not materially different from those
16 offered to the qualified trade association.

17 (e) The marketing campaign conducted under a tourism marketing contract
18 awarded under (a) of this section must be directed by a group within the qualified
19 trade association that is broadly representative of the various sectors of the visitor
20 industry in the state and whose members are

21 (1) involved in a visitor industry business or have experience in tourism
22 marketing; or

23 (2) officers or senior staff members of a state agency, a local
24 government, or a nonprofit enterprise established to promote the visitor industry.

25 (f) Materials produced and marketing information and tourism related data
26 generated by the qualified trade association under a contract awarded under (a) or (c)
27 of this section are the joint property of the qualified trade association and the
28 department. However, the qualified trade association may, but only for the purpose
29 of promoting the state, use, sell, or lease the materials, information, and data. In
30 addition, the qualified trade association may only permit the use by or sale to another
31 person of the materials, information, or data if the use by the other person is also for

1 the purpose of promoting the state. The qualified trade association may impose other
2 restrictions on the right of another person to use the materials, information, or data.
3 If a qualified trade association provides the right to use a mailing list generated under
4 a contract awarded under (a) or (c) of this section, the list must be made available to
5 every person at the same price, except that a person who is not a participant in the
6 qualified trade association's marketing program may be charged an additional amount
7 based on the amount of the qualified trade association's participation fee attributable
8 to a participant's right of access to mailing lists. The qualified trade association retains
9 all revenue generated by the association under a contract awarded under (a) or (c) of
10 this section.

11 (g) A qualified trade association shall provide to the department, on request,
12 materials produced and marketing information and tourism related data generated by
13 the qualified trade association under a contract awarded under (a) or (c) of this section.
14 The information and tourism related data provided to the department under this
15 subsection are not public records under AS 09.25.100 - 09.25.220.

16 (h) A qualified trade association may not use money from a contract awarded
17 under (a) or (c) of this section

18 (1) to lobby a municipality or an agency of a municipality or to lobby
19 the state or an agency of the state, as those terms are defined in AS 44.99.030(b);

20 (2) to raise funds that will be used to lobby a municipality or an agency
21 of a municipality or to lobby the state or an agency of the state, as those terms are
22 defined in AS 44.99.030(b); or

23 (3) for administrative or overhead costs that directly support any effort
24 to lobby a municipality or an agency of a municipality or to lobby the state or an
25 agency of the state, as those terms are defined in AS 44.99.030(b).

26 (i) A qualified trade association may, pursuant to the performance of a tourism
27 marketing contract awarded under (a) or (c) of this section, award a subcontract only
28 on a competitive basis after providing adequate notice of the availability of the
29 subcontract and considering all responses.

30 (j) In this section, "qualified trade association" means a private, nonprofit
31 organization whose primary purposes include the promotion of tourism within the state

1 and encouraging tourists to visit the state and that has a statewide membership
2 consisting of representatives of all major sectors of the visitor industry, including
3 hotels, airlines, cruise lines, wholesale and retail travel agencies, visitor attractions,
4 convention and visitors bureaus, bed and breakfast enterprises, wilderness lodges and
5 outfitters, and charter operations.

6 * Sec. 8. AS 44.33.125(a) is amended to read:

7 (a) Subject to appropriations for the purpose, the Department of Commerce and
8 Economic Development shall, on or before August 1 of each year, contract with a
9 single qualified trade association for the purpose of planning and executing a
10 destination tourism marketing campaign. The contract may be awarded only if the
11 qualified trade association provides matching funds equal to at least 60 [30] percent
12 of the costs of the marketing campaign described in the contract. The marketing
13 campaign may promote distinct segments of tourism, such as highway tourism,
14 seasonal tourism, ecotourism, cultural tourism, regional tourism, and rural tourism.
15 Before executing the contract, the marketing campaign plan must be approved by the
16 department.

17 * Sec. 9. AS 44.33.135 is amended by adding a new subsection to read:

18 (c) A grant awarded under this section may not be used for tourism marketing.

19 * Sec. 10. AS 39.25.110(27); AS 39.50.200(a)(8)(G), 39.50.200(b)(49); AS 44.33.700,
20 44.33.705, 44.33.710, 44.33.715, 44.33.720, 44.33.723, 44.33.725, 44.33.727, 44.33.730,
21 44.33.733, 44.33.735; AS 44.66.010(a)(15); and AS 44.99.030(a)(14) are repealed.

22 * Sec. 11. Sections 1 - 7, 9, and 10 of this Act take effect July 1, 2000.

23 * Sec. 12. Section 8 of this Act takes effect July 1, 2002.

SPONSOR STATEMENT

SB 107, Abolishing the Tourism Marketing Council.

Senate Bill 107 initiates a fundamental change in the manner and method of state government involvement in promoting Alaskan tourism. Under provisions of the legislation, the state's current participation in the marketing of Alaska as a tourism destination would be accomplished through a contract with a single qualified trade association to provide the planning and execution of the marketing program.

Heretofore, the state has appropriated substantial amounts of public funds to participate in a cooperative marketing effort with representatives of the tourism industry. Combined with matching funds from the industry itself, the effort is a jointly managed, coordination of public and private resources to promote the entire state as a tourism destination. The coordination of this effort is accomplished through the activities of the Alaska Tourism Marketing Council.

It is the intent of SB 107 that all of the state's tourism marketing functions are consolidated and performed under contract to achieve a more efficient and effective result. The legislation would dissolve the Alaska Tourism Marketing Council and eliminate other tourism

marketing functions in the Division of Tourism. In its stead, the state would pursue its marketing goals contractually. The contractor must be a qualified trade association that initially contributes at least 30 percent of the costs of the contracted marketing campaign. In three years time, the association's contribution to the campaign increases to at least 60 percent of the cost. The Division of Tourism retains its oversight, governmental coordination, and advocacy functions for tourism development.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. CSSB107 (L&C)

Revision Date/Time (Note if correction) _____	Dept. Affected <u>DCED</u>
Title <u>An Act relating to tourism and tourism marketing; eliminating the ATMC</u>	BRU <u>Tourism</u>
Sponsor <u>Mackie</u>	Component <u>Tourism Development</u>
Requester <u>Senate Finance</u>	Component Serial No. <u>2278</u>

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	673.6	559.2	559.2	559.2	559.2	559.2
Travel	71.1	71.1	71.1	71.1	71.1	71.1
Contractual	1,281.2	5,200.0	4,700.0	4,200.0	4,200.0	4,200.0
Supplies	12.0	12.0	12.0	12.0	12.0	12.0
Equipment						
Land & Structures						
Grants & Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous						
TOTAL OPERATING	2,097.9	5,902.3	5,402.3	4,902.3	4,902.3	4,902.3

CAPITAL EXPENDITURES	0.0					
-----------------------------	------------	--	--	--	--	--

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,815.4	5,619.8	5,119.8	4,619.8	4,619.8	4,619.8
1005 GF/Program Receipts	155.3	155.3	155.3	155.3	155.3	155.3
1037 GF/Mental Health						
1007 Interagency Receipts	127.2	127.2	127.2	127.2	127.2	127.2
TOTAL	2,097.9	5,902.3	5,402.3	4,902.3	4,902.3	4,902.3

Estimate of any current year (FY99) cost: _____

POSITIONS

Full-time	11	8	8	8	8	8
Part-time	3	3	3	3	3	3
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Eliminates 3 positions in the Division of Tourism Inquiry Section and transfers personal services (114.4) to contractual.

One time contractual cost of 20.0 in FY00 to conduct a feasibility study on the contracting out of the inquiry section function, "determining the potential costs and benefits which would result from contracting out the work in question," per Article 13 of the GGU Agreement.

Prepared by <u>Tom Lawson, Director</u>	Phone <u>465-2506</u>
Division <u>Administrative Services</u>	Date/Time <u>4/13/99 8:58 AM</u>
Approved by Commissioner _____	Date <u>4/13/99</u>
Agency <u>Commerce and Economic Development</u>	

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FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 136

Title: "An Act relating to tourism and tourism marketing; eliminating the Alaska Tourism..."
 Sponsor: REPRESENTATIVE Gene Therriault
 Requestor: House FIN Committee

Dept. Affected: Commerce and Economic Dev
 BRU: Tourism
 Components: Tourism Development
 Serial # _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
Personal Services	573.6	400.0	400.0	400.0	400.0	400.0
Travel	71.1	30.0	30.0	30.0	30.0	30.0
Contractual	1361.2	5200.0	4700.0	4200.0	4200.0	4200.0
Supplies	12.0	10.0	10.0	10.0	10.0	10.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	60.0	60.0	60.0	60.0	60.0	60.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	2077.9	5700.0	5200.0	4700.0	4700.0	4700.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	2011.1	5700.0	5200.0	4700.0	4700.0	4700.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	94.9	0.0	0.0	0.0	0.0	0.0
TOTAL	2106.0	5700.0	5200.0	4700.0	4700.0	4700.0

POSITIONS:

Full-Time	11	0	0	0	0	0
Part-Time	3	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

See attached sheet for additional details.

Prepared by: _____

Date: _____
 Phone: _____
 Phone: _____

SB

121



Official Business

Alaska State Legislature

SENATE LABOR & COMMERCE COMMITTEE

State Capitol
Juneau, AK 99801-1182

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AGENDA

~~HB 123, Minimum Wage and Overtime Exemptions~~

SB 78, Use of Drugs by Optometrists

SB 121, Excise Taxes on Transient Lodging

SB 122, Tourism Development and Marketing Council

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 121

Revision Date/Time (Note if correction) April 13, 1999 Dept. Affected Revenue
 Title Visitor Industry Stabilization Act BRU Revenue Operations
 Component Income and Excise Audit
 Sponsor Senator Elton
 Requester (S) L&C Component Serial No. 113

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services		49.6	49.6	49.6	49.6	49.6
Travel		5.0	5.0	5.0	5.0	5.0
Contractual	22.5	14.3	14.3	14.3	14.3	14.3
Supplies		1.3	1.3	1.3	1.3	1.3
Equipment		15.0				
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	22.5	85.2	70.2	70.2	70.2	70.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (Increase)	0.0	13,768.7	14,457.1	14,457.1	14,457.1	14,457.1
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	22.5	85.2	70.2	70.2	70.2	70.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	22.5	85.2	70.2	70.2	70.2	70.2

Estimate of current year (FY99) cost: 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

** see attached analysis

Prepared by Brett Fried, Economist Phone 465-3682
 Division Income and Excise Audit Date/Time April 13, 1999
 Approved by Wilson L. Condon Date April 13, 1999
 Commissioner [Signature]
 Agency Department of Revenue

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**SECTIONAL ANALYSIS BY THE DEPARTMENT OF REVENUE
OF SB 121 - VISITOR INDUSTRY STABILIZATION ACT
(OVERNIGHT ACCOMODATIONS EXCISE TAX)**

Section 1 provides a short title for Chapter 52, the "Visitor Industry Stabilization Act".

Section 2 amends AS 43 by adding a new excise tax chapter (Chapter 52) with the following articles:

- Article 1. Excise Tax Administration.
- Article 2. Excise Tax on Transient Lodging Rentals.
- Article 3. Excise Tax on All-Inclusive Tour Packages.
- Article 4. Excise Tax on Overnight Accommodations on Commercial Passenger Vessels.
- Article 5. Definitions.

Article 1. Excise Tax Administration

AS 43.52.010 provides that the Department of Revenue shall administer the excise taxes in chapter 52, prescribe and furnish forms, and adopt necessary regulations.

AS 43.52.020 provides that, subject to legislative appropriation, 25% of the tax revenue shall be distributed to local governments as provided in Articles 2, 3 and 4. The balance of the tax may be appropriated for tourism development and marketing and grants for promotion or development of visitor travel.

Article 2. Excise Tax on Transient Lodging Rentals

AS 43.52.100 imposes an excise tax on transient lodging rentals from May 1 through September 30 of each year. AS 43.52.110 provides that the tax is 2% of the amount charged. "Transient lodging" is defined in AS 43.52.499(5) to mean lodging or space provided in a hotel, motel, bed and breakfast, rooming or apartment house, or similar lodging facility or under a similar arrangement that provides temporary lodging or living quarters.

AS 43.52.120 provides that the tax is due and payable by the person, including the state and a municipality, who provides the lodging. The department is to provide by regulation when the tax is due and how it is to be paid. Municipalities that collect a sales or local transient lodging tax must collect the state excise tax from the person providing the lodging and remit it to the department. If a municipality does not collect a sales or local transient lodging tax, the person providing the lodging must directly remit the tax to the department.

AS 43.52.130 provides that the tax does not apply to a lease or rental subject to the Uniform Residential Landlord and Tenant Act; lodging at an institution that is incidental to educational, training, or similar services; occupancy by an employee where conditioned

upon employment; lodging aboard a vessel; or, all-inclusive tour packages subject to the tax in Article 3. All-inclusive tour packages are defined in Article 5 to mean a package of food, transportation, and accommodations for a single price.

AS 43.52.140 provides that the state tax is in addition to local bed taxes and sleeping accommodation taxes.

AS 43.52.150 provides that subject to legislative appropriation a unified municipality and city located in the unorganized borough shall receive 25% of the tax on rentals within that municipality or city; a city located within a borough shall receive 12.5% of the tax on rentals in that city; and a borough except the unorganized borough shall receive 25% of the tax on the rental of lodging in the area of the borough outside the city and 12.5% of the tax on the rental of lodging in cities located within the borough.

Article 3. Excise Tax on All-Inclusive Tour Packages

AS 43.52.200 imposes an excise tax on overnight accommodations from May 1 through September 30 of each year that are provided as part of an all-inclusive tour package. AS 43.52.210 provides that the tax is \$2 a night for each person accommodated in the package. An "all-inclusive tour package" is defined in AS 43.52.499(1) to mean food, transportation, overnight accommodations, and tours, fishing, hunting, and other services and experiences sold together to visitors as a package for a single price. A "night" is defined in AS 43.52.499(3) to mean the period from 9 p.m. to 6 a.m. Alaska time, or any portion of that period.

AS 43.52.220 provides that the tax is due and payable by the person, including the state and a municipality, who provides the overnight accommodation. The department is to provide by regulation when the tax is due and how it is to be paid. Municipalities that collect a sales or local transient lodging tax must collect the state excise tax from the person providing the lodging and remit it to the department. If a municipality does not collect a sales or local transient lodging tax, the person providing the lodging must directly remit the tax to the department.

AS 43.52.230 provides that the tax does not apply to a lease or rental subject to the Uniform Residential Landlord and Tenant Act; lodging at an institution that is incidental to educational, training, or similar services; occupancy by an employee where conditioned upon employment; lodging aboard a vessel; or, transient lodging subject to the tax in Article 2.

AS 43.52.240 provides that the state tax is in addition to local bed taxes and sleeping accommodation taxes.

AS 43.52.250 provides that subject to legislative appropriation a unified municipality and city located in the unorganized borough shall receive 25% of the tax on overnight accommodations within that municipality or city; a city located within a borough shall receive 12.5% of the tax on overnight accommodations in that city; and a borough except the unorganized borough shall receive 25% of the tax on overnight accommodations in the area of the borough outside the city and 12.5% of the tax on overnight accommodations in cities located within the borough.

Article 4. Excise Tax on Overnight Accommodations on Commercial Passenger Vessels.

AS 43.52.300 imposes an excise tax on overnight accommodations provided on commercial passenger vessels in Alaska waters. Unlike the taxes under Articles 2 and 3 that apply to overnight accommodations from May 1 through September 30, this tax applies during the entire calendar year. AS 43.52.310 provides that the tax is \$3 a night for each passenger. A "commercial passenger vessel" is defined in AS 43.52.499(2) to mean a boat or vessel that is used in the common carriage of passengers in commerce that provides overnight accommodations for 15 or more passengers. A "passenger" is defined in AS 43.52.499(4) to mean a person whom a common carrier has contracted to carry from one place to another. A "night" is defined in AS 43.52.499(3) to mean the period from 9 p.m. to 6 a.m. Alaska time, or any portion of that period.

AS 43.52.320 provides that the tax is due and payable by the person who provides the overnight accommodation aboard a commercial vessel. The department is to provide by regulation when the tax is due and how it is to be paid. AS 43.52.330 provides that the tax does not apply aboard vessels of the Alaska marine highway system. Municipalities are precluded from imposing a tax on overnight accommodations aboard commercial passenger vessels by AS 43.52.340.

AS 43.52.350 deals with the disposition of the revenue from the tax and provides that the department must determine the total number of visitors arriving in each municipality on commercial passenger vessels providing overnight accommodations. This figure is the numerator of the ratio that is determined for each municipality. [Based on the sharing percentages, it appears the term municipality includes a borough as well as a city.] The denominator of the ratio is the total number of visitors arriving in all municipalities on commercial passenger vessels providing overnight accommodations. This ratio is then applied to the total tax revenue collected statewide on commercial passenger vessels providing overnight accommodations to determine the portion attributable to each municipality.

Subject to legislative appropriation, a unified municipality and city located in the unorganized borough shall receive 25% of the tax on overnight accommodations on commercial passenger vessels; a city located within a borough shall receive 12.5% of the tax on overnight accommodations on commercial passenger vessels and the borough where the city is located shall also receive 12.5% of the tax; an organized borough shall

also receive 25% of the tax based on the combined ratio for the borough, less the ratio for all cities within the borough.

Article 5. Definitions

AS 43.52.499 defines the terms "all-inclusive tour package", "commercial passenger vessel", "night", "passenger", and "transient lodging" as used in Chapter 52.

Section 3 provides that the tax is effective only if the Tourism Development and Marketing Council is established by the 21st legislature.

Section 4 provides the effective date of the bill is the effective date of the bill establishing the Tourism Development and Marketing Council.

SUMMARY

The department will have to promulgate regulations in order to implement the bill. For example, the bill does not provide due dates or other procedures regarding the payment, collection, and remittance of the taxes, expressly leaving these details to the discretion of the department in the regulation process. The bill also does not address who is responsible for assessing a tax deficiency, or assessing penalties and interest if the tax is delinquent, paid late or understated, as well as collecting these amounts, and whether the municipalities are subject to penalties and interest for an untimely remittance. The bill does not address the type of reporting, if any, that is required of municipalities in addition to the remittance of the tax. The bill further does not provide whether the audit function is the responsibility of the municipalities in those instances where they collect the tax or the state in all instances.

Generally, the department can expect municipalities to be responsible for collecting most of the transient lodging and all-inclusive tour package taxes. It is envisioned that the "amount charged for occupancy or use of the transient lodging" is intended to have the same meaning as the tax base upon which each municipality imposes its own taxes. The state may need to define the term for purposes of direct reporting.

Regardless, there will be a level of reporting from persons providing these accommodations that are outside the jurisdiction of the municipalities. The department will also receive all the returns from commercial passenger vessel accommodations.

A person who provides all-inclusive tour packages and commercial passenger vessels will have to account by night for each municipality. This could result in audits by each municipality regarding the all-inclusive tour packages. The state may also need to audit commercial passenger vessels to verify the accounting for each municipal night for revenue sharing purposes.

Visitor Industry Stabilization Act

SB 121

April 13, 1999

Page 6 of 7

The tax on overnight accommodations on commercial passenger vessels applies while the vessel is in "Alaska waters". The department interprets this term to mean the internal waters of the state including rivers, streams, lakes and ponds, the tidal zone of the state from mean higher high water to mean lower low water, and those waters extending three miles seaward as provided in 5 AAC 39.975(13). However, revenue sharing is based upon the number of visitors to each municipality. It may be difficult to determine the point at which a passenger visits a municipality unless the passenger disembarks the vessel or the vessel is in a port subject to municipal regulation.

The ratio for revenue sharing on overnight accommodations on commercial passenger vessels is based upon the number of visitors in each municipality compared to the number of visitors in all municipalities. One individual may well be counted as a visitor in many municipalities. The tax, however, is based upon the number of nights. Revenue sharing thus assumes that a visitor will spend equal nights in each municipality. Further, the department is ill equipped to determine the number of visitors to each municipality as required by the bill. This is a complex mechanism that serves only a revenue sharing purpose that the department believes should be simplified.

OPERATING EXPENDITURES

The Department of Revenue (DOR) does anticipate additional costs for administering the provisions of this bill. Start-up costs will include contracting out for regulations and programming. This is expected to cost approximately \$22,500 for 150 hours of work.

There are an estimated 60 Alaska municipalities and boroughs that have hotels or other lodging places and a sales and/or a bed tax. These communities will collect the revenue from the transient lodging rental tax and the all-inclusive-tour-package tax and remit it to the Department of Revenue. The Department of Revenue will then check the accuracy of the information provided, account for the collections, address compliance issues, and provide information to the public. Additionally, DOR will assume all duties, including data capturing returns and collecting revenue from lodgings (an estimated 83) that are located outside of communities with either a sales or a bed tax.

DOR will also data capture returns, account for collections, check for accuracy, address compliance issues, and provide general public and specific taxpayer information for the tax on commercial passenger vessels. DOR will then share 25% of the revenue from the tax on transient lodging rentals, all-inclusive-tour packages and overnight accommodations on commercial passenger vessels to an estimated 60 municipalities and boroughs. We estimate that it will take one full-time tax examiner (Range 12) and one temporary support staff person (3 months at a range 8) to administer the provisions of this tax.

REVENUE

The attached analysis estimates the revenue increase as a result of passage of this Act.

Visitor Industry Stabilization Act

SB 121

April 13, 1999

Page 7 of 7

Source: Department of Commerce and Economic Development

Annual tourism growth rate through FY 01.	5%	Vessel tax per passenger per night	\$3.00
Statewide transient room tax rate.	2%	Package tour tax per participant per night	\$2.00
Percentage of visitors May 1-Sept. 30	85%	Percentage shared to communities	25%
		Percentage allocated to Tourism Marketing	75%

Revenue Increase						
	FY 00	FY 01	FY 02	FY 03	FY 04	FY 05
TOURISM DEVELOPMENT AND MARKETING (GF) REVENUE						
Commercial Passenger Vessel Tax	\$0	\$7,066,060	\$7,419,363	\$7,419,363	\$7,419,363	\$7,419,363
Transient Room Tax	\$0	\$3,221,087	\$3,382,141	\$3,382,141	\$3,382,141	\$3,382,141
All-Inclusive Tour Packages Tax	\$0	\$39,375	\$41,344	\$41,344	\$41,344	\$41,344
Total Tourism Marketing Revenue	\$0	\$10,326,522	\$10,842,848	\$10,842,848	\$10,842,848	\$10,842,848
MUNICIPAL GOVERNMENT (GF) REVENUE						
Commercial Passenger Vessel Tax	\$0	\$2,355,353	\$2,473,121	\$2,473,121	\$2,473,121	\$2,473,121
Transient Room Tax	\$0	\$1,073,696	\$1,127,380	\$1,127,380	\$1,127,380	\$1,127,380
All-Inclusive Tour Packages Tax	\$0	\$13,125	\$13,781	\$13,781	\$13,781	\$13,781
	\$0	\$3,442,174	\$3,614,283	\$3,614,283	\$3,614,283	\$3,614,283
TOTAL INCREASE IN REVENUE	\$0	\$13,768,696	\$14,457,131	\$14,457,131	\$14,457,131	\$14,457,131

Notes and Assumptions:

Assumes all tourism sectors grow at the same rate.

Estimates for non-hotel tour package receipts are very approximate.

Although SB 121 has an effective date of January 2000, revenues would not be collected until FY 2001.

Sources used by DCED:

McDowell Group tourism analyses, 1993 through 1998.

U.S. Bureau of Labor Statistics

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 121

Revision Date: _____ Dept Affected: Natural Resources
 Title: An Act levying and providing for the collection BRU: Parks & Recreation Management
of excise taxes on transient lodging. Component: Park Management
 Sponsor: Senator Elton
 Requestor: (S) L&C Component Serial No. #452

Expenditures/Revenues (Inflation not included unless otherwise noted below)

(Thousands of Dollars)

OPERATING EXPENDITURES	FY2000	FY2001	FY2002	FY2003	FY2004	FY2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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

CHANGE IN REVENUES (1005)	3.2	3.2	3.2	3.2	3.2	3.2
---------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL						

Estimate of any current year (FY99) cost: \$ none

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS:

(Attach a separate page if necessary)

The bill imposes an excise tax of 2 percent of the amount charged for occupancy or use of transient lodging and provides a definition of transient lodging. The bill requires the tax be paid by state and municipal agencies that operate transient lodging, such as public use cabins. Alaska State Parks operate approximately 40 public use cabins which will be affected by this legislation. The \$3.2 identified in this fiscal note is the estimated amount of tax revenue that Alaska State Parks will collect under this legislation from the public who use our public use cabins.

DNR will collect the tax and deposit it directly to Dept. of Revenue's account.

Prepared by: Jim Stratton, Director Phone: 269-8700
 Division: Parks and Outdoor Recreation Date: 4/13/1999
 Approved by Commissioner: [Signature] Date: 4-14-99
 Agency: Natural Resources

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ANCHORAGE OFFLINE



SENATOR KIM ELTON

SB 121 • The VISA Plan

Visitor Industry Stabilization Act

Sponsor Statement

The Visitor Industry Stabilization Act is designed to produce a stable stream of revenue for the development, promotion and marketing of the Alaska visitor industry through a variety of seasonal visitor fees and taxes. They are:

- Bed tax of 2% on transient lodging and accommodations;
- All-inclusive tour package tax of \$2 per person, per night;
- Cruise ship berth fee of \$3 per person, per night in Alaska waters.

Given the current and growing number of visitors to Alaska, the proposed fees are estimated to yield approximately \$14.5 million in revenue in a full year of operation. Local communities would receive 25% of all revenues collected, or \$3.63 million. Approximately \$10.87 million would be available for tourism marketing and development. This is more than double the state's current appropriation for tourism marketing.

It is important to increase Alaska's appropriations for tourism marketing because we are already losing market share in the visitor industry. The state has cut its appropriations for tourism marketing in half since 1990, in contrast to other states which spend five to ten times the amount Alaska does on visitor marketing.

Bed tax

Taxes on overnight accommodations are the most popular method of funding tourism marketing in other states. Bed taxes are popular because they export the cost of tourism marketing to the visitor, and do not place an additional tax burden on local tax payers.

Forty-seven of 50 states levy sales taxes on hotel rooms. Currently, 21 states impose some type of state bed tax as well; these taxes are in addition to other state and local taxes. Alaska is one of just three states which receive no tax revenue from room sales. Among the 47 states that levy bed taxes, the average tax rate is 6.1%. Since visitors encounter similar charges in almost all states, the small Alaska tax will not be a disincentive to Alaska travel.

Local governments already levying a bed tax on transient lodging may, in light of the revenue to be gained from the local share of these tax revenues, choose to lower or eliminate the local bed tax. Every community has the ability to adjust its own tax rates on transient lodging to accommodate the local market.

ALASKA SENATE

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SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

All-inclusive tour package tax

The proposed \$2 per person, per night tax on all-inclusive tour packages is a tax on the overnight accommodations portion of the tour package. Since the total cost of the package is substantially larger than the overnight lodging portion, the flat \$2 rate was selected as the most equitable way to impose a tax commensurate with the 2% bed tax on hotels, motels and B&Bs. Like the bed tax, this is a seasonal tax from May 1 through September 30 of each year.

Passenger ship berth fee:

Alaska is perhaps unique in its relationship to the cruise industry. In the Lower 48, cruise ships on both east and west coasts typically travel outside the 3-mile limit and thus are not subject to state taxation. The ships which cruise Alaska's Inside Passage are within state waters and subject to the state's powers of taxation.

Ships which cruise Alaska waters frequently sail in Bermuda's waters during other parts of the year. Bermuda strictly regulates the type and number of cruise operators and imposes various taxes and fees, including a \$60 per passenger "head" tax between April and October. In addition, last year Bermuda instituted a passenger cabin tax of \$8 per stateroom, per day, regardless of whether a stateroom is occupied or not. That tax increases by \$2 this year, and by another \$2 in 2000. Although these taxes are among the world's highest, they have not affected Bermuda's popularity as a destination.

Bermuda justifies its tax rates as necessary for the small island to maximize the value of cruise ship port calls. Land vacationers, arriving by air, contribute far more to the island's economy. The same may be said of Alaska's independent travelers who arrive by air or ferry. Cruise passengers have an enormous impact on small Southeast communities ill-equipped to handle a flood of visitors, a cost which generally outweighs the financial benefits to the community itself.

SB 121 prohibits local governments from levying their own berth fee on passenger ships, a provision which is in the interest of the communities themselves. In the past, when a community tried to assess a head tax, passenger ships were able to avoid the tax by making, or threatening to make, modest adjustments to their schedules and avoiding that particular port of call. A state tax on passenger ships ensures that every community presents the same liability to the cruise industry, so each is protected. In addition, the prohibition on local head taxes reassures the cruise industry that the berth fee will not be duplicated by other government entities.

Like the bed tax and the all-inclusive tour package tax, 25% of berth fees collected will be returned to each port of call. (An explanation of the formula used to calculate each community's share is attached.) While the local share can be used for any legal expenditure, these fees will go a long way to assist local government to market its own community, to cope with the effects of visitors on

the community, and to assist local entrepreneurs wishing to develop their share of the market.

The specifics relating to each proposed tax and fee are attached.

The VISA Plan

Visitor Industry Stabilization Act

In this proposal, tourism marketing funding is shifted to visitors via a transient accommodation charge and a passenger ship head tax. These charges are based on the assumption that most visitors spend at least one night in Alaska and most residents and family visitors do not regularly use commercial lodging or tour packages. As a result, primarily non-resident visitors pay the charge. Revenues are deposited into the Tourism Development and Marketing Fund in the general fund.

Transient room tax:

- A statewide tax of 2% is imposed on lodging and accommodations for stays of less than 30 days.
- This tax will be assessed from May 1 through September 30 of each year.
- Effective date of tax is January 1, 2000.
- Twenty-five percent (25%) of revenues shall be shared with local communities where the tax is incurred. Collections in the unorganized borough go to the state.
- Transient room tax shall be collected by local governments where a sales or room tax is already collected; in other communities, and in communities where there is no local government, the transient room tax shall be collected by the state.

Estimated revenue from transient room tax:

\$1.2 million in FY 00 (effective date of 1/1/00)
\$4.2 million in FY 01
\$4.5 million in FY 02

Wilderness camps, lodges and all-inclusive tour packages tax:

- A tax of \$2 per person, per night is imposed on wilderness lodges and non-hotel tour packages.
- This tax will be assessed from May 1 through September 30 of each year.
- Effective date is January 1, 2000.
- Twenty-five percent of these revenues shall be shared with local governments, boroughs and second class cities where collected.
- This tax shall be collected by local governments which already collect a sales or room tax; in other communities, and in communities where there is no local government, the all-inclusive tour tax shall be collected by the state.

Estimated revenue from all-inclusive tour package tax: inconclusive.

Passenger ship head tax:

- A tax of \$3 per person, per night shall be imposed on passenger ships in Alaska waters which provide overnight accommodations for 15 or more passengers.
- Effective date of tax is January 1, 2000.
- Twenty-five percent of revenues shall be shared with the local communities which are ports of call, based on the number of passengers per docking in that community.
- Local government is prohibited from assessing any form of "head tax" on the cruise industry.

Estimated revenue from passenger ship head tax:

\$2.6 million for FY 00 (effective date 1/1/00)
\$9.4 million for FY 01
\$9.8 million for FY 02

Total estimated revenue:

\$3.9 million in FY 00
\$13.7 million in FY 01
\$14.5 million in FY 02

Visitor Industry Stabilization Act

SB 121 • The VISA Plan

The passenger ship berth fee: \$3 per person, per night in Alaska waters.

Potential revenue: \$12,600,000

Last year Alaska received almost 600,000 visitors traveling on cruise ships. Assuming each visitor is aboard ship approximately 7 days in Alaska waters, the revenue calculation is:

$$600,000 \text{ passengers} \times 7 \text{ nights} \times \$3 \text{ per night} = \$12,600,000.00$$

Local government share of passenger ship berth fees: 25% or \$3,150,000

How each community's share of the 25% is calculated:

- 1) Commissioner of Revenue determines total number of cruise ship visitors to each community. **This is the numerator.**

Example: 4 SE communities:

Ketchikan:	600,000
Sitka:	350,000
Juneau:	600,000
Skagway:	500,000

- 2) Add together the number of visitors to each community for a total number of visits. **This is the denominator.**

$$\text{Total number of visits} = 2,050,000$$

- 3) Multiply each community's ratio times the total revenue: \$12,600,000

$$\text{Ketchikan's share} = \frac{600,000}{2,050,000} = 29\% \text{ of } \$12.6 \text{ million} = \$913,500$$

$$\text{Sitka's share} = \frac{350,000}{2,050,000} = 17\% \text{ of } \$12.6 \text{ million} = \$535,500$$

$$\text{Juneau's share} = \frac{600,000}{2,050,000} = 29\% \text{ of } \$12.6 \text{ million} = \$913,500$$

$$\text{Skagway's share} = \frac{500,000}{2,050,000} = 24\% \text{ of } \$12.6 \text{ million} = \$756,000$$

SB 121 • The VISA Plan
Visitor Industry Stabilization Act

Sectional Analysis

Section 1. Names the act the Visitor Industry Stabilization Act.

Section 2. Adds a new chapter establishing excise taxes on the visitor industry.

Article 1. Excise Tax Administration.

Sec. 43.52.010. Administration of tax.

- (a) Authorizes the Department of Revenue to administer the new taxes imposed by this act.
- (b) Directs the department to furnish necessary forms and adopt necessary regulations for the taxes imposed.

Sec. 43.52.020. Disposition of Receipts.

- (a) Authorizes 25% of the tax revenue collected under this chapter to be distributed to local governments where the taxes were incurred or collected.
- (b) Authorizes the legislature to use the remaining tax revenues for appropriations under AS 44.33.135 to the Tourism Development and Marketing Council for tourism development and marketing (see SB 122).

Article 2. Excise Tax on Transient Lodging Rentals.

Sec. 43.52.100. Levy of transient lodging rental tax.

Imposes an excise tax on the rental of transient lodging from May 1 through September 30 of each year.

Sec. 43.52.110. Rate of transient lodging rental tax.

Imposes an excise tax of two percent of the amount charged for transient lodging.

Sec. 43.52.120. Liability for payment of transient lodging rental tax.

- (a) The tax is payable:

- (1) by the person who provides the transient lodging; "person" includes state or municipal agency;
 - (2) in the manner and at times prescribed by regulation.
- (b) In municipalities that collect a sales tax or local lodging rental tax, the state's transient room tax shall be collected by the municipality and remitted to the department. In all other cases, the tax shall be remitted directly to the department by the person who provides transient lodging.

Sec. 43.52.130. Tax not applicable.

The transient room tax does not apply to:

- (1) occupancy subject to a lease or rental agreement subject to the Uniform Residential Landlord and Tenant Act;
- (2) lodging at a public or private institution if it is incidental to educational or training services;
- (3) occupancy by an employee whose occupancy is conditioned on the occupant's employment;
- (4) lodging aboard vessels; or
- (5) all-inclusive tour packages.

Sec. 43.52.140. Relationship to municipal levies.

The transient room tax described above is in addition to municipal taxes, including hotel and motel taxes, bed taxes or commercial sleeping accommodations taxes.

Sec. 43.52.150. Disposition of receipts.

Subject to legislative appropriation, the commissioner shall pay to each

- (1) unified municipality and to each city located in the unorganized borough 25% of the amount of tax revenue collected from the rental of transient lodging in that municipality or city;
- (2) city located within a borough 12.5% of the amount of tax revenue collected from the rental of transient lodging in that city;
- (3) borough, except the unorganized borough,
 - (A) 25% of the amount of tax revenue collected from the rental of transient lodging in the area of the borough outside cities; and
 - (B) 12.5% of the amount of tax revenue collected from the rental of transient lodging in cities located within the borough.

Article 3. Excise Tax on All-Inclusive Tour Packages.

Sec. 43.52.200. Levy of all-inclusive tour package tax.

Imposes a seasonal excise tax on the provision of overnight accommodations as part of an all-inclusive tour package, from May 1 through September 30 of each year.

Sec. 43.52.210. Rate of tax.

The all-inclusive tour package tax is \$2 per person, per night.

Sec. 43.52.220. Liability for payment of tax.

- (a) The all-inclusive tour package tax is due and payable
 - (1) by the person who provides the overnight accommodations; "person" include a state or municipal agency;
 - (2) in the manner and times required by the department.

- (b) In municipalities that collect a sales tax or a local transient lodging rental tax, the all-inclusive tour package tax shall be collected by the municipality and remitted to the department. In all other cases the tax shall be remitted directly to the department by the person who provides the accommodations.

Sec. 43.52.230. Tax not applicable.

The all-inclusive tour package tax does not apply to

- (1) occupancy under a lease or rental agreement subject to the Uniform Residential Landlord and Tenant Act;
- (2) lodging at a public or private institution if incidental to educational, training or similar services;
- (3) occupancy by an employee whose right to occupancy is conditioned on his employment;
- (4) lodging aboard vessels;
- (5) transient lodging subject to the tax in AS 43.52.100-150.

Sec. 43.52.240. Relationship to municipal levies.

The all-inclusive tour package tax is in addition to taxes which may be imposed by a municipality, including a hotel and motel tax, bed tax, or commercial sleeping accommodations tax.

Sec. 43.52.250. Disposition of receipts.

Subject to legislative appropriation, the commissioner shall pay to each

- (1) unified municipality and to each city located in the unorganized borough 25% of the all-inclusive tour package tax revenue collected in that municipality or city;
- (2) city within a borough 12.5% of the all-inclusive tour package tax revenue collected in that city;
- (3) borough, except the unorganized borough,
 - (A) 25% of the all-inclusive tour package tax revenue collected in the area of the borough outside the cities; and
 - (B) 12.5% of the all-inclusive tour package tax revenue collected in cities located within the borough.

Article 4. Excise Tax on Overnight Accommodations on Commercial Passenger Vessels.

Sec. 43.52.300. Levy of excise tax on overnight accommodations on commercial passenger vessels.

Imposes an excise tax on overnight accommodations provided on commercial passenger vessels in Alaska waters.

Sec. 43.52.310. Rate of tax.

The tax rate is \$3 per passenger, per night of accommodations.

Sec. 43.52.320. Liability for payment of tax.

The tax shall be collected and is due and payable to the department

(1) by the person who provides overnight accommodations aboard the vessel;

(2) in the manner and at times required by the department by regulation.

Sec. 43.52.330. Tax not applicable.

The commercial passenger vessel tax does not apply to persons transported on a vessel of the Alaska marine highway system.

Sec. 43.52.340. Prohibition on local levies.

Prohibits a municipality from imposing any form of tax on overnight accommodations on commercial passenger vessels. This applies to home rule and general law municipalities.

Sec. 43.52.350. Disposition of receipts.

- (a) The commissioner shall determine the total number of visitors to each municipality arriving on commercial passenger vessels subject to this tax. The commissioner shall calculate a ratio for determining each municipality's share of the passenger tax revenues collected by using the following formula: the numerator is the total number of visitors to the municipality arriving on passenger vessels, and the denominator is the total number of visitors to all municipalities arriving on commercial passenger vessels subject to this tax.
- (b) Subject to legislative appropriation, the commissioner shall pay to each
 - (1) unified municipality and to each city located in the unorganized borough that portion of 25% of the amount of commercial passenger tax revenue collected on vessels corresponding to the ratio determined under (a) of this section for that municipality.
 - (2) city within a borough one-half of that portion of 25% of the amount of commercial passenger tax revenue collect on vessels

- corresponding to the ratio for each city within the borough, as determined under (a) of this section; and
- (3) borough except the unorganized borough
 - (A) one-half of that portion of 25% of the commercial passenger tax collected on vessels corresponding to the ratio for each city within the borough, as determined under (a) of this section; and
 - (B) 25% of the commercial passenger tax collected on vessels corresponding to the ratio for the borough, as determined under (a) of this section, less the ratios for any cities within the borough, as determined under (a) of this section.

Article 5. Definitions.

Sec. 43.52.499. Definitions.

- (1) "all-inclusive tour package" means food, transportation, overnight accommodations, and tours, fishing, hunting and other services and experiences sold together to visitors as a package for a single price;
- (2) "commercial passenger vessel" means a boat or vessel that provide overnight accommodations for 15 or more passengers;
- (3) "night" means the period from 9:00 pm to 6:00 am Alaska time, or any portion of that period;
- (4) "passenger" means a person whom a common carrier has contracted to carry from one place to another;
- (5) "transient lodging" means lodging or space provided in a hotel, rooming or apartment house, motel, bed and breakfast, or similar lodging facility or under a similar arrangement that provides temporary lodging or living quarters.

Sec. 3. This act takes effect only if a bill establishing the Tourism Development and Marketing Council is passed by the Twenty-first Alaska State Legislature and becomes law.

Sec. 4. If this act takes effect, it is effective on the effective date of the bill establishing the Tourism Development and Marketing Council.

A M E N D M E N T

OFFERED IN THE SENATE
TO: SB 121

BY SENATOR ELTON

1 Page 1, following line 13:

2 Insert a new subsection to read:

3 "(c) The revenue from the taxes imposed in this chapter shall be deposited in
4 a tourism development and marketing tax account in the general fund. This
5 subsection is not intended to create a dedicated fund."

6 Page 2, line 5, following "balance of the":

7 Insert "tourism development and marketing tax"

8 Page 2, lines 5 - 7:

9 Delete "maintained under AS 37.05.142 for deposits into the general fund of the
10 proceeds of the taxes imposed by this chapter"

11 Page 2, lines 8 - 9:

12 Delete "This subsection is not intended to create a dedication in violation of art. IX,
13 sec. 7, Constitution of the State of Alaska."