

HB

148

# Alaska State Legislature

REPRESENTATIVE  
MARK BOYER

HOUSE FINANCE COMMITTEE



House of Representatives

FAIRBANKS

1098 LAKEVIEW TERRACE  
FAIRBANKS ALASKA 99701  
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JUNEAU

PO BOX V  
STATE CAPITOL  
JUNEAU, ALASKA 99811  
19071 465 3466

## M E M O R A N D U M

TO: Representative Peter Goll  
Representative Max Gruenberg  
Co-Chairs House Judiciary

FROM: Representative Mark Boyer *MR*

DATE: February 13, 1989

SUBJECT: PROPOSED AMENDMENT TO HB 148 - 1989 REVISOR'S BILL

It has been brought to my attention by my politically correct staff that in a few places in our state statutes we continue to use the term "policeman" which is not a sex neutral term to designate the position of police officer. The same problem also exists with the term "fireman".

In order to make our statutes sex neutral and to recognize the contributions of the women who work in these positions, I am respectfully requesting that you add my proposed amendments to the Revisor's Bill.

Thank you.

A M E N D M E N T

OFFERED IN THE HOUSE JUDICIARY COMMITTEE

BY ROYER

TO: HB 148

Page 18, after line 18:

Insert a new bill section to read:

"\* Sec. 39. The revisor of statutes shall substitute "police officer" or "police officers" for "policeman" or "policemen" in AS 23.10.037, AS 23.-30.092, 23.30.220, 23.30.265, and AS 28.35.070."

Renumber remaining bill sections accordingly.

A M E N D M E N T

OFFERED IN THE HOUSE JUDICIARY COMMITTEE

BY BOYER

TO: HB 148

Page 18, after line 18:

Insert a new bill section to read:

"\* Sec. 39. The revisor of statutes shall substitute "fire fighter" or "fire fighters" for "fireman" or "firemen" in AS 18.60.395, AS 23.30.092, 23.30.220, 23.30.243, 23.30.265, AS 28.35.180, AS 39.35.160, 39.35.360, 39.35.370, 39.35.527, and 39.35.680."

Renumber remaining bill sections accordingly.

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 3, 1989

FURTHER REFERRALS:

Date of Committee Action: 3/6/89

The JUDICIARY Committee recommends that:

HOUSE BILL NO. 148

[1989 REVISOR'S BILL]

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

[] be replaced with CS HB 148 (JUD) [] the same title  
[] a new title

[ ] have attached amendment(s)

- [ ] do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [ ] fiscal impact
- [] zero fiscal note
- [ ] zero with analysis

APPROVES PREVIOUS:

- [ ] fiscal note(s) published: \_\_\_\_\_
- [ ] zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

Peter J. ...  
Max ...  
Mike ...  
J. ...  
Harry ...  
Cliff ...

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

Mike Miller  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Peter J. ... / Max ...  
 chairman's signature

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act making corrective amend-  
ments to the Alaska Statutes as recommended...  
Sponsor: House Judiciary  
Requestor: House Judiciary

Affect Agency Legislative Affairs Agency  
BRU: Legislative Council  
Components Legal Services

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
<b>TOTAL</b>	0	0	0	0	0	0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

NO FISCAL IMPACT

Prepared By: Pamela Stoops, Director

Division: Administrative Services

*Pamela Stoops*

Phone: 465-3850

Date: 3/6/89

Approved By: Warren Endicott, Executive Director

Agency: Legislative Affairs Agency

*Warren Endicott*

Date: 3/6/89

DISTRIBUTION (BY PREPARER)  
LEGISLATIVE FINANCE  
LEGISLATIVE SPONSOR

REQUESTOR  
OFFICE OF MANAGEMENT & BUDGET  
AGENCY (IES)

6-0391E  
Dierdorff  
2/28/89

Original sponsor: Rules/Legislative Council

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 148 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making corrective amendments to the Alaska  
7 Statutes as recommended by the revisor of statutes;  
8 and providing for an effective date."

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

10 \* Section 1. AS 04.16.051(b) is amended to read:

11 (b) This section does not prohibit the furnishing or delivery of  
12 an alcoholic beverage

13 (1) by a parent to the parent's child, by a guardian to the  
14 guardian's ward, or by a person to the legal spouse of that person if  
15 the furnishing or delivery occurs off licensed premises; or

16 (2) by a licensed physician or nurse to a patient in the  
17 course of administering medical treatment.

18 \* Sec. 2. AS 05.05.030(c) is amended to read:

19 (c) Each member of the commission [COMMISSIONER] shall attend  
20 and supervise all boxing and wrestling events in the member's [COMMIS-  
21 SIONER'S] area unless an official inspector attends the event under  
22 AS 05.10.110. A member may attend [, AND] other athletic events in  
23 the member's [THAT] area that [WHICH] the member [COMMISSIONER] con-  
24 siders necessary. A member [AND] may provide for the attendance of a  
25 physician whose fees shall be paid for by the promoter or manager of  
26 the event [PROGRAM].

27 \* Sec. 3. AS 05.05.040 is amended to read:

28 Sec. 05.05.040. MEETINGS AND COMPENSATION OF ATHLETIC COMMIS-  
29 SION. The commission may meet at least once a year at the call of the

1 governor. When called, the members of the commission may, at the  
2 election of the governor, receive travel expenses incurred in carrying  
3 out the purposes of this chapter. A member [THE COMMISSIONERS] may  
4 receive the per diem allowance for time spent at meetings allowed by  
5 law or by executive order.

6 \* Sec. 4. AS 08.84.030(a) is amended to read:

7 (a) To be eligible for licensure by the board as a physical  
8 therapist or physical therapy assistant, an applicant, unless a gradu-  
9 ate of a foreign school of physical therapy located outside the United  
10 States, shall

11 (1) [REPEALED

12 (2)] have graduated from a school of physical therapy  
13 approved by the Council on Medical Education and Hospitals of the  
14 American Medical Association, or the American Physical Therapy Associ-  
15 ation;

16 (2) [(3)] pass to the satisfaction of the board an examina-  
17 tion prepared by [THE PROFESSIONAL EXAMINATION SERVICE ASSOCIATION OR  
18 BY] a national testing service approved by the board to determine the  
19 applicant's fitness for practice as a physical therapist or physical  
20 therapy assistant, or be entitled to licensure without examination as  
21 provided in AS 08.84.060;

22 (3) [(4)] meet qualifications for licensure established in  
23 regulations adopted by the board under AS 08.84.010(b)(8).

24 \* Sec. 5. AS 09.10.050 is amended to read:

25 Sec. 09.10.050. ACTIONS TO BE BROUGHT IN SIX YEARS. A [NO]  
26 person may not bring an action (1) upon a contract or liability,  
27 express or implied, excepting those mentioned in AS 09.10.040 [OR  
28 09.10.055]; (2) for waste or trespass upon real property; or (3) for  
29 taking, detaining, or injuring personal property, including an action

1 for its specific recovery [, EXCEPT THOSE MENTIONED IN AS 09.10.055];  
2 unless commenced within six years.

3 \* Sec. 6. AS 09.20.040 is amended to read:

4 Sec. 09.20.040. COMPLIANCE WITH STATUTE. The selection of  
5 jurors shall be made in substantial compliance with AS 09.20.040 -  
6 09.20.090 [THE FOLLOWING PROVISIONS]. A failure in substantial com-  
7 pliance which prejudices the rights of a party is reversible error.

8 \* Sec. 7. AS 09.30.170 is amended to read:

9 Sec. 09.30.170. DEFINITIONS. In AS 09.30.100 - 09.30.180

10 (1) "foreign state" means a governmental unit other than  
11 the United States, or a state, district, commonwealth, territory, or  
12 insular possession thereof [, OR THE PANAMA CANAL ZONE, THE TRUST  
13 TERRITORY OF THE PACIFIC ISLAND, OR THE RYUKYU ISLANDS];

14 (2) "foreign judgment" means a judgment of a foreign state  
15 granting or denying recovery of a sum of money other than a judgment  
16 for taxes, a fine or other penalty, or a judgment for support in  
17 matrimonial or family matters.

18 \* Sec. 8. AS 10.06.343 is amended to read:

19 Sec. 10.06.343. STOCK RIGHTS AND OPTIONS. Subject to a pro-  
20 vision in its articles, a corporation may create and issue, whether or  
21 not in connection with the issuance and sale of any of its shares or  
22 other securities, rights, or options entitling the holders of the  
23 rights or options [SHARES] to purchase from the corporation shares of  
24 any class or classes. These rights or options shall be evidenced in  
25 the manner the board approves and, subject to the provisions of the  
26 articles, shall set out the terms upon which, the time within which,  
27 and the price at which the shares may be purchased from the corpo-  
28 ration upon the exercise of the right or option. If the rights or  
29 options are to be issued to directors, officers, or employees of the

1 corporation or of a subsidiary of the corporation and not to the  
2 shareholders generally, their issuance shall be authorized by the  
3 approval of the outstanding shares or shall be consistent with a plan  
4 so approved or ratified. In the absence of fraud in the transaction,  
5 the judgment of the board as to the adequacy of the consideration  
6 received for the rights or options is conclusive.

7 \* Sec. 9. AS 10.06.833 is amended to read:

8 Sec. 10.06.833. FEES AND PENALTIES PAYABLE ON WITHDRAWAL OF  
9 FOREIGN CORPORATION. A registered foreign corporation may withdraw  
10 from this state upon payment of all biennial corporation taxes and  
11 penalties due at the time of desired withdrawal and by filing with the  
12 department an application for a certificate of withdrawal signed by  
13 its proper officers and under its corporate seal. The fee for filing  
14 the application [CERTIFICATE] with the commissioner shall be estab-  
15 lished by the department by regulation.

16 \* Sec. 10. AS 10.06.870 is amended to read:

17 Sec. 10.06.870. IDENTIFICATION CODE. The commissioner [OF  
18 COMMERCE AND ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF REVENUE]  
19 shall [JOINTLY] establish and adopt a coded list of business activi-  
20 ties and shall make the list available to the public.

21 \* Sec. 11. AS 10.15.255 is amended to read:

22 Sec. 10.15.255. TERMINATION OF RECORDED CONTRACT. When a  
23 contract recorded under AS 10.15.230 - 10.15.260 has been terminated  
24 in any manner, the cooperative shall upon demand, give a statement of  
25 termination to the member party to the contract, who may record the  
26 statement in the office of the recorder where the contract was orig-  
27 inally recorded. The recorder shall stamp "expired" after the name of  
28 the member in the alphabetical record. The fee for the recording and  
29 stamping shall be established by the department by regulation [SUBJECT

1 TO AS 10.05.773).

2 \* Sec. 12. AS 10.15.260 is amended to read:

3 Sec. 10.15.260. RECORDING OF LIST OF TERMINATED CONTRACTS. A  
4 cooperative may record in the office of the recorder where the con-  
5 tract was originally recorded a sworn list of the names of all persons  
6 whose contracts have been terminated in a manner other than by expira-  
7 tion of their term. The recorder shall stamp "expired" after the name  
8 of each of those persons in the alphabetical record. The fee for the  
9 recording and stamping shall be established by the department by  
10 regulation [SUBJECT TO AS 10.05.773].

11 \* Sec. 13. AS 10.15.325 is amended to read:

12 Sec. 10.15.325. FORM OF BIENNIAL REPORT; DELINQUENT REPORTS.  
13 The biennial report shall be made on forms furnished by the depart-  
14 ment. The information contained in the biennial report shall be given  
15 as of June 30 of the reporting year. [THE FIRST BIENNIAL REPORT FOR  
16 CORPORATIONS REQUIRED TO FILE IN ODD-NUMBERED YEARS MUST BE FILED  
17 BEFORE JULY 2, 1981. THE FIRST BIENNIAL REPORT FOR CORPORATIONS  
18 REQUIRED TO FILE IN EVEN-NUMBERED YEARS MUST BE FILED BEFORE JULY 2,  
19 1982.] The biennial report is delinquent if not filed before August 1  
20 of each odd or even year as provided in this section. A corporation  
21 that is delinquent is [DELINQUENT RETURNS ARE] subject to involuntary  
22 dissolution under [THE PENALTY PRESCRIBED IN] AS 10.15.505.

23 \* Sec. 14. AS 10.15.535 is amended to read:

24 Sec. 10.15.535. DETERMINATION OF LICENSE FEE FOR COOPERATIVE  
25 AUTHORIZED TO ISSUE CAPITAL STOCK. The license fee of each coopera-  
26 tive authorized by its articles to issue capital stock shall be estab-  
27 lished by the department by regulation [SUBJECT TO AS 10.05.773]. The  
28 license fee shall be based on the amount of authorized capital stock.

29 \* Sec. 15. AS 10.15.545 is amended to read:

1           Sec. 10.15.545. LICENSE FEE FOR COOPERATIVE WITHOUT CAPITAL  
2 STOCK. The license fee of each cooperative having no authorized  
3 shares of capital stock shall be established by the department by  
4 regulation [SUBJECT TO AS 10.05.773].

5 \* Sec. 16. AS 10.15.555 is amended to read:

6           Sec. 10.15.555. MISCELLANEOUS FEES AND CHARGES. (a) The de-  
7 partment shall establish by regulation [SUBJECT TO AS 10.05.773] and  
8 charge and collect from a cooperative fees for filing

9           (1) articles of incorporation or articles of consolidation  
10 for a new cooperative;

11           (2) articles of amendment, restated articles, or articles  
12 of merger, and, if the articles provide for an increase of the amount  
13 of authorized capital stock of the cooperative, the filing cooperative  
14 shall also pay the proportionate part of the annual license fee for  
15 the succeeding fraction of the fiscal year, payable by a cooperative  
16 whose authorized shares equal the newly increased authorized shares of  
17 the filing cooperative, less the annual license fee already paid for  
18 the succeeding fraction of the fiscal year by the filing cooperative;  
19 but filing articles decreasing the authorized shares does not reduce  
20 the annual license fee of the filing cooperative until the beginning  
21 of the fiscal year following that in which the articles were filed;

22           (3) statement of intent to dissolve;

23           (4) statement of revocation of voluntary dissolution pro-  
24 ceedings;

25           (5) articles of dissolution;

26           (6) all other statements.

27           (b) The department may by regulation charge each cooperative  
28 corporation subject to this chapter a fixed fee in place of charging  
29 cooperative corporations the various fees specified in this chapter,

1 with the exception of AS 10.15.535, (a)(1) of this section, and for  
2 routine administrative services rendered to the cooperative corpora-  
3 tion by the department. [AN INCREASE IN THE AMOUNT OF A FIXED FEE  
4 CHARGED UNDER THIS SUBSECTION IS SUBJECT TO AS 10.05.773.]

5 \* Sec. 17. AS 10.20.530 is amended to read:

6 Sec. 10.20.530. SERVICE ON COMMISSIONER. When a foreign corpo-  
7 ration authorized to transact business in the state, or not authorized  
8 to transact business in the state but doing so, fails to appoint or  
9 maintain a registered agent in the state, or when a registered agent  
10 cannot with reasonable diligence be found at the registered office, or  
11 when the certificate of authority of a foreign corporation is sus-  
12 pended or revoked, the commissioner is an agent upon whom process,  
13 notice, or demand may be served. Service on the commissioner shall be  
14 made by delivering to and leaving with the commissioner, or a designee  
15 in the corporation division of the department, duplicate copies of the  
16 process, notice or demand, accompanied by a fee established by the  
17 department by regulation [SUBJECT TO AS 10.05.773]. The commissioner  
18 shall immediately have one copy forwarded by registered or certified  
19 mail, addressed to the corporation at its principal office in the  
20 state or country under whose laws it is incorporated. Service on the  
21 commissioner is returnable in not less than 30 days.

22 \* Sec. 18. AS 10.20.635 is amended to read:

23 Sec. 10.20.635. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFI-  
24 CATES. (a) The commissioner shall establish by regulation and [SUB-  
25 JECT TO AS 10.05.773,] charge and collect fees for filing

26 (1) [FILING] articles of incorporation and issuing a certi-  
27 ficate of incorporation;

28 (2) [FILING] articles of amendment and issuing a certifi-  
29 cate of amendment;

1 (3) [FILING] restated articles of incorporation and issuing  
2 a restated certificate of incorporation;

3 (4) [FILING] articles of merger or consolidation and issu-  
4 ing a certificate of merger or consolidation;

5 (5) [FILING] a statement of change of address of registered  
6 office or change of registered agent, or both;

7 (6) [FILING] articles of dissolution;

8 (7) [FILING] an application of a foreign corporation for a  
9 certificate of authority to conduct affairs in this state and issuing  
10 a certificate of authority;

11 (8) [FILING] an application of a foreign corporation for an  
12 amended certificate of authority to conduct affairs in this state and  
13 issuing an amended certificate of authority;

14 (9) [FILING] a copy of an amendment to the articles of  
15 incorporation of a foreign corporation holding a certificate of au-  
16 thority to conduct affairs in this state;

17 (10) [FILING] a copy of articles of merger of a foreign  
18 corporation holding a certificate of authority to conduct affairs in  
19 this state;

20 (11) [FILING] an application for withdrawal of a foreign  
21 corporation and issuing a certificate of withdrawal;

22 (12) [FILING] any other statement or report, including a  
23 biennial report, of a domestic or foreign corporation.

24 (b) The department may by regulation charge each corporation  
25 subject to this chapter a fixed fee in place of the various fees  
26 specified in this chapter, with the exception of (a)(1) of this sec-  
27 tion, and for routine administrative services rendered to the corpo-  
28 ration by the department. [AN INCREASE IN THE FIXED FEE CHARGED UNDER  
29 THIS SUBSECTION IS SUBJECT TO AS 10.05.773.]

1 \* Sec. 19. AS 10.20.640 is amended to read:

2       Sec. 10.20.640. FEE FOR CERTIFIED COPIES OF INSTRUMENTS. The  
3 fee for furnishing a certified copy of any instrument shall be estab-  
4 lished by the department by regulation [SUBJECT TO AS 10.05.773].

5 \* Sec. 20. AS 10.25.530(a) is amended to read:

6       (a) The commissioner shall establish by regulation and [SUBJECT  
7 TO AS 10.05.773,] charge and collect [FILING] fees for

- 8           (1) filing articles of incorporation;  
9           (2) filing articles of amendment;  
10          (3) filing articles of consolidation or merger;  
11          (4) filing articles of conversion;  
12          (5) filing certificate of election to dissolve;  
13          (6) filing articles of dissolution;  
14          (7) filing certificate of change of principal office and  
15 designation or change of registered office and registered agent; and  
16          (8) acting as agent for service of process.

17 \* Sec. 21. AS 10.25.530(b) is amended to read:

18       (b) The department may by regulation charge each cooperative  
19 subject to this chapter a fixed fee in place of the various fees  
20 specified in this chapter, with the exception of (a)(1) of this sec-  
21 tion, and for the routine administrative services rendered to the  
22 corporation by the department. [AN INCREASE IN THE FIXED FEE CHARGED  
23 UNDER THIS SUBSECTION IS SUBJECT TO AS 10.05.773.]

24 \* Sec. 22. AS 10.35.060 is amended to read:

25       Sec. 10.35.060. FEE FOR AND DURATION OF REGISTERED NAME. The  
26 fee for the initial registration of a business name shall be estab-  
27 lished by the department by regulation [SUBJECT TO AS 10.05.773]. The  
28 year in which the registration becomes effective is considered a full  
29 year of registration and the registration is effective until the close

1 of the fifth calendar year beginning with the year of initial registra-  
2 tion.

3 \* Sec. 23. AS 10.35.070 is amended to read:

4 Sec. 10.35.070. RENEWAL OF REGISTERED NAME. A registered busi-  
5 ness name may be renewed every five years if an application for re-  
6 newal is filed. An application for renewal must set out the facts  
7 required in an original application for registration and be accom-  
8 panied by a renewal fee to be established by the department by regu-  
9 lation [SUBJECT TO AS 10.05.773]. An application for renewal may be  
10 filed between October 1 and December 31 of any year. The renewal of  
11 the registration extends the registration for the following five  
12 calendar years.

13 \* Sec. 24. AS 10.40.140(a) is amended to read:

14 (a) Any document required to be filed with the commissioner  
15 under this chapter shall be accompanied by a fee to be established by  
16 the department by regulation [SUBJECT TO AS 10.05.773].

17 \* Sec. 25. AS 11.41.432 is amended to read:

18 Sec. 11.41.432. DEFENSES [DEFENSE]. (a) It is a defense to a  
19 crime charged under AS 11.41.410(a)(3), 11.41.420(a)(2), 11.41.-  
20 420(a)(3), or 11.41.425 that the offender is

21 (1) mentally incapable; or

22 (2) married to the person and neither party has filed with  
23 the court for a separation, divorce, or dissolution of the marriage.

24 (b) Except as provided in (a) of this section, in a prosecution  
25 under AS 11.41.410 or 11.41.420, it is not a defense that the victim  
26 was, at the time of the alleged offense, the legal spouse of the  
27 defendant.

28 \* Sec. 26. AS 11.41.470(2) is amended to read:

29 (2) "mentally incapable" means suffering [A PERSON WHO

1           SUFFERS] from a mental disease or defect that renders the person  
2           incapable of understanding the nature of consequences of the person's  
3           conduct, including the potential for harm to that person;

4 \* Sec. 27. AS 12.36.050(a) is amended to read:

5           (a) A claimant seeking remission of [, OR REMITTANCE OF THE  
6           VALUE OF,] the claimant's interest in a weapon ordered forfeited under  
7           AS 12.55.015(a)(9) shall prove to the court by a preponderance of evi-  
8           dence that the claimant

9                   (1) has a valid interest in the weapon, acquired in good  
10           faith;

11                   (2) did not knowingly participate in the commission of the  
12           crime in which the weapon was used; and

13                   (3) did not know or have reasonable cause to believe that  
14           the weapon was used or would be used to commit a crime.

15 \* Sec. 28. AS 14.03.085 is amended to read:

16           Sec. 14.03.085.       PROCUREMENT PREFERENCE FOR RECYCLED ALASKA  
17           PRODUCTS. A school district shall comply with AS 29.71.050, except  
18           that in AS 29.71.050(b), "AS 29.71.040" is read as "AS 36.15.050," and  
19           in AS 29.71.050(a) - (c) and (e) [AS 29.71.050(a) - (e) and (g)],  
20           "municipal" and "municipality" are read as "school district." In this  
21           section, "school district" does not include regional educational  
22           attendance areas.

23 \* Sec. 29. AS 14.25.220(20) is amended to read:

24           (20) "member contribution account" means the total maintain-  
25           ed by the system of the member's mandatory contributions, indebtedness  
26           principal and interest payments [CONTRIBUTIONS], interest credited to  
27           each of those accounts, and adjustments to the account in accordance  
28           with AS 14.25.173 [AS 14.25.170];

29 \* Sec. 30. AS 15.13.040(d) is amended to read:

1 (d) Every individual, person or group making a contribution or  
2 expenditure shall make a full report, upon a form prescribed by the  
3 commission, of the following contributions or expenditures:

4 (1) any contribution of cash, goods or services valued at  
5 more than \$250 [\$100] a year to any group or candidate; or

6 (2) any expenditure whatsoever for advertising in newspa-  
7 pers, on radio or on television; or, for the publication, distribution  
8 or circulation of brochures, flyers, or other campaign material for  
9 any candidate or ballot proposition or question.

10 \* Sec. 31. AS 15.25.030(a)(6) is amended to read:

11 (6) the full residence [RESIDENT] address of the candidate;

12 \* Sec. 32. AS 16.43.210(a) is amended to read:

13 (a) Pending the establishment of the maximum number of entry  
14 permits under AS 16.43.240 and the issuance of entry permits under AS  
15 16.43.270, the commission shall issue interim-use permits under regu-  
16 lations adopted by the commission for each fishery, to all applicants  
17 who can establish their present ability to participate actively in the  
18 fishery for which they are making application [, EXCEPT AS PROVIDED  
19 UNDER (e) OF THIS SECTION].

20 \* Sec. 33. AS 21.84.590 is amended to read:

21 Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the  
22 provisions contained in this chapter, the following [OTHER CHAPTERS  
23 AND] provisions of this title [SHALL] apply to fraternal benefit  
24 societies [,] to the extent applicable and not in conflict with the  
25 express provisions of this chapter and the reasonable implications of  
26 this chapter [THEREOF, AS FOLLOWS]:

27 (1) AS 21.03

28 (2) AS 21.06

29 (3) AS 21.09.050 and 21.09.100

1 (4) AS 21.33 [AS 21.33.010]

2 (5) AS 21.36

3 (6) AS 21.42.290 and 21.42.355

4 (7) AS 21.69.370 and 21.69.640

5 (8) AS 21.78

6 (9) AS 21.89.060.

7 \* Sec. 34. AS 22.15.210(b) is amended to read:

8 (b) A magistrate, while holding office, may not hold office in a  
9 political party. A magistrate may hold any other office or position  
10 of profit under the United States, the state or its political subdivi-  
11 sions, or engage in the conduct of any profession or business that  
12 [WHICH] does not interfere with the performance of the judicial duties  
13 of the magistrate or require that the magistrate is repeatedly dis-  
14 qualified, on the magistrate's own motion, [DISQUALIFY HIMSELF OR  
15 HERSELF] from judicial service because of a conflict of interest  
16 caused thereby.

17 \* Sec. 35. AS 22.20.020(c) is amended to read:

18 (c) If a judicial officer is disqualified on the officer's own  
19 motion [DISQUALIFIES HIMSELF OR HERSELF] or consents to disqualifica-  
20 tion, the presiding judge of the district shall immediately transfer  
21 the action to another judge of that district to which the objections  
22 of the parties do not apply or are least applicable and if there is no  
23 such judge, the chief justice of the supreme court shall assign a  
24 judge for the hearing or trial of the action. If a judicial officer  
25 denies disqualification the question shall be heard and determined by  
26 another judge assigned for the purpose by the presiding judge of the  
27 next higher level of courts or, if none, by the other members of the  
28 supreme court. The hearing may be ex parte and without notice to the  
29 parties or judge.

1 \* Sec. 36. AS 24.08.330(a) is amended to read:

2 (a) The Department of Education is responsible for making offi-  
3 cial distribution of the Alaska Statutes to state executive branch  
4 agencies. The administrative director of the court system is respon-  
5 sible for distribution to the court system. Distribution shall be  
6 made on the basis of written lists submitted by the department and the  
7 court system to the Legislative Affairs Agency within 90 days after  
8 the last day of each regular session of the legislature [REQUESTS AND  
9 JUSTIFICATIONS SUBMITTED BY THE EXECUTIVE OFFICER OF EACH AGENCY TO  
10 THE LEGISLATIVE AFFAIRS AGENCY AND APPROVED BY THE EXECUTIVE DIRECTOR  
11 OF THE LEGISLATIVE AFFAIRS AGENCY]. A legislator is entitled to  
12 receive one set of the statutes for the member's personal use, and  
13 this entitlement is restricted to the one set issued during a member's  
14 entire legislative service. The commissioner of education may deposit  
15 one set of the statutes in each free public library within the state.  
16 The right of sale to persons and organizations remains exclusively  
17 with the publisher.

18 \* Sec. 37. AS 25.23.040(a) is amended to read:

19 (a) Unless consent is not required under AS 25.23.050, a petition  
20 to adopt a minor may be granted only if written consent to a particu-  
21 lar adoption has been executed by

22 (1) the mother of the minor;

23 (2) the father of the minor, if the father was married to  
24 the mother at the time the minor was conceived or at any time after  
25 conception, the minor is the father's child by adoption, or the father  
26 has otherwise legitimated the minor under the laws of the state;

27 (3) any person lawfully entitled to custody of the minor or  
28 empowered to consent;

29 (4) the court having jurisdiction to determine custody of

1 the minor, if the legal guardian or custodian of the person of the  
2 minor is not empowered to consent to the adoption;

3 (5) the minor, if [MORE THAN] 10 years of age or older,  
4 unless the court in the best interest of the minor dispenses with the  
5 minor's consent; and

6 (6) the spouse of the minor to be adopted.

7 \* Sec. 38. AS 33.32.015(b)(5) is amended to read:

8 (5) subject to the provisions of AS 36.30 (State Procure-  
9 ment Code) [AS 37.05], enter into joint cooperative ventures with  
10 private industry for the establishment and operation of "Free Venture"  
11 industries under AS 33.32.017, if the Correctional Industries Commis-  
12 sion determines at the time of inception that the "Free Venture"  
13 industry will not compete with an existing private industry or labor  
14 force in the state.

15 \* Sec. 39. AS 37.14.210 is amended to read:

16 Sec. 37.14.210. POWERS AND DUTIES OF THE COMMISSIONER OF REVE-  
17 NUE. The commissioner of revenue is the treasurer of the fund and has  
18 the power and duty to:

19 (1) act as official custodian of the cash and investments  
20 belonging to the fund by securing adequate and safe custodial facil-  
21 ities;

22 (2) receive all items of cash and investments belonging to  
23 the fund;

24 (3) collect the principal and income from investments owned  
25 or acquired by the fund and deposit the amounts in separate principal  
26 and income accounts for the fund;

27 (4) invest and reinvest the assets of the fund as provided  
28 in this section and as provided for the investment of [SURPLUS  
29 PENSION] funds under AS 14.25.180(c) and AS 37.14.170 [FORMER AS 39.-

1 35.110(a), (c), (e), (f), (h) AND (i)];

2 (5) exercise the powers of an owner with respect to the  
3 assets of the fund;

4 (6) maintain accounting records of the fund in accordance  
5 with investment accounting principles and with distinction between the  
6 principal and income accounts of the fund;

7 (7) engage an independent firm of certified public accoun-  
8 tants to annually audit the financial condition of the fund's invest-  
9 ments and investment transactions;

10 (8) enter into and enforce contracts or agreements  
11 considered necessary for the investment purposes of the fund;

12 (9) report to the board the condition and investment perfor-  
13 mance of the fund;

14 (10) do all acts, whether or not expressly authorized, that  
15 the commissioner of revenue considers necessary or proper in adminis-  
16 tering the assets of the fund.

17 \* Sec. 40. AS 37.15.300 is amended to read:

18 Sec. 37.15.300. BORROWING IN ANTICIPATION OF SALE OF BONDS  
19 PERMITTED. When the state bond committee considers it in the best  
20 interests of the state, it may borrow money in anticipation of the  
21 sale of general obligation and revenue bonds if money to be derived  
22 from the sale of the bonds has been appropriated by the legislature  
23 and

24 (1) in the case of revenue bonds, the bonds to be sold have  
25 been authorized by law; or

26 (2) in the case of [(1) THE] general obligation bonds, the  
27 bonds to be sold have been

28 (A) authorized by law and ratified by a majority vote  
29 of the qualified voters of the state who vote on the question; or

1                   (B) [(2) THE GENERAL OBLIGATION BONDS TO BE SOLD HAVE  
2 BEEN] authorized by law for the purpose of meeting natural disas-  
3 ters, repelling invasion, suppressing insurrection, or defending  
4 the state in war [; OR

5                   (3) THE REVENUE BONDS TO BE SOLD HAVE BEEN AUTHORIZED BY  
6 LAW; AND

7                   (4) MONEY TO BE DERIVED FROM THE SALE OF GENERAL OBLIGATION  
8 AND REVENUE BONDS HAS BEEN APPROPRIATED BY THE LEGISLATURE].

9 \* Sec. 41. AS 38.04.910(4) is amended to read:

10                   (4) 'long-term lease' means a lease for a term of more than  
11 10 years [OR MORE];

12 \* Sec. 42. AS 38.05.965(21) is amended to read:

13                   (21) "tideland" means land that [WHICH] is periodically  
14 covered by tidal water between the elevation of mean high water and  
15 mean low water [TIDES];

16 \* Sec. 43. AS 43.05.120 is amended to read:

17                   Sec. 43.05.120. CONCEALING PROPERTY OR EVIDENCE. A person,  
18 upon conviction, is punishable by a fine of not more than \$5,000 or by  
19 imprisonment for not more than one year, or by both, if, in connection  
20 with a compromise under AS 43.05.070 or offer of a compromise or in  
21 connection with a closing agreement under AS 43.05.060 [AS 43.05.010 -  
22 43.05.130] or offer to enter a closing agreement, the person wilfully

23                   (1) conceals from an officer or employee of the state prop-  
24 erty belonging to the estate of the taxpayer or other person liable  
25 for the tax; or

26                   (2) receives, destroys, mutilates, or falsifies a book,  
27 document, or record or makes a false statement under oath relating to  
28 the estate or the financial condition of the taxpayer or to the person  
29 liable for the tax.

1 \* Sec. 44. AS 43.55.012(b) is amended to read:

2 (b) The cents-per-barrel amount set out in AS 43.55.011(c) [AS  
3 ADJUSTED BY (a) OF THIS SECTION] applies to oil of 27 degrees API  
4 gravity. For each degree of API gravity less than 27 degrees the  
5 cents-per-barrel amount shall be reduced by \$.005 and for each degree  
6 of API gravity greater than 27 degrees the cents-per-barrel amount  
7 shall be increased by \$.005 except that oil above 40 degrees API  
8 gravity shall be taxed as 40 degree oil. In applying the gravity  
9 adjustment under this subsection, fractional degrees of API gravity  
10 shall be disregarded.

11 \* Sec. 45. AS 43.55.020(a) is amended to read:

12 (a) The [GROSS] production tax on oil or gas shall be paid  
13 monthly. The tax is due on the 20th day of each calendar month on oil  
14 or gas produced from each lease or property during the preceding  
15 month. If the tax is not paid before the end of the month in which it  
16 becomes due, the tax becomes delinquent.

17 \* Sec. 46. AS 43.55.020(b) is amended to read:

18 (b) The [GROSS] production tax on oil or gas shall be paid by or  
19 on behalf of the producer.

20 \* Sec. 47. AS 44.19.257(a) is amended to read:

21 (a) The commission is composed of the senior science advisor in  
22 the governor's office who serves as chairperson and director of the  
23 commission, the executive director of the Alaska Science and Tech-  
24 nology Foundation established under AS 37.17, and six [EIGHT] members  
25 appointed by the governor as follows:

26 (1) one member [IS TO BE APPOINTED] from individuals from  
27 the academic institutions in the state with expertise in areas of  
28 research relating to the state, including the physical, biological,  
29 health, environmental, social, and behavioral sciences;

1 (2) one member [IS TO BE APPOINTED] from individuals who  
2 are engaged in activities furthering the welfare of the human and  
3 physical environment and who have expertise in areas of research  
4 relating to the state, including the physical, biological, health,  
5 environmental, social, and behavioral sciences;

6 (3) one member [IS TO BE APPOINTED] from state departments  
7 with research needs;

8 (4) one member [IS TO BE APPOINTED] from individuals famil-  
9 iar with the state and representative of the needs and interests of  
10 private industry;

11 (5) one member [IS TO BE APPOINTED] from individuals with  
12 experience in national and international research programs; and

13 (6) one member [IS TO BE APPOINTED] from the general public  
14 [;

15 (7) THE EXECUTIVE DIRECTOR OF THE ALASKA SCIENCE AND TECH-  
16 NOLOGY FOUNDATION ESTABLISHED UNDER AS 37.17; AND

17 (8) THE SENIOR SCIENCE ADVISOR IN THE GOVERNOR'S OFFICE,  
18 WHO SERVES AS CHAIRPERSON AND DIRECTOR OF THE COMMISSION].

19 \* Sec. 48. AS 44.21.230(c) is amended to read:

20 (c) The commission may not investigate, review, or undertake any  
21 responsibility for the longevity bonus program (AS 47.45.010 - 47.-  
22 45.170) or, except for activities of the office of the long term care  
23 ombudsman, the Alaska Pioneers' Homes (AS 47.25.010 - 47.25.100).

24 \* Sec. 49. AS 45.75.010 is amended to read:

25 Sec. 45.75.010. SYSTEMS OF WEIGHTS AND MEASURES. The system of  
26 weights and measures in customary use in the United States and the  
27 metric system of weights and measures are jointly recognized, and one  
28 or the other of these systems shall be used for all commercial pur-  
29 poses in the state. The definitions of basic units of weight and

1 measure, the tables of weight and measure, and weight and measure  
2 equivalents, as published by the National Bureau of Standards or its  
3 successor organization, the National Institute of Standards and Tech-  
4 nology, govern weighing and measuring equipment and transactions in  
5 the state.

6 \* Sec. 50. AS 45.75.020 is amended to read:

7       Sec. 45.75.020. STATE STANDARDS OF WEIGHT AND MEASURE. The  
8 weights and measures obtained by the state in conformity with them and  
9 certified by the National Bureau of Standards or its successor orga-  
10 nization, the National Institute of Standards and Technology, are the  
11 state standards of weight and measure. The state standards shall be  
12 kept in a safe and suitable place in the office or laboratory of the  
13 state division of weights and measures. They may not be removed from  
14 the office or laboratory except for repairs or for certification.  
15 [THE STATE STANDARDS SHALL BE SUBMITTED AT LEAST ONCE IN 10 YEARS TO  
16 THE NATIONAL BUREAU OF STANDARDS FOR CERTIFICATION.] The state stan-  
17 dards shall be used only in verifying the office standards and for  
18 scientific purposes.

19 \* Sec. 51. AS 45.75.050(d) is amended to read:

20       (d) The specifications, tolerances, and regulations for commer-  
21 cial weighing and measuring devices, together with amendments to them,  
22 as recommended by the National Bureau of Standards or its successor  
23 organization, the National Institute of Standards and Technology, and  
24 published in the National Bureau of Standards or its successor orga-  
25 nization, the National Institute of Standards and Technology, Handbook  
26 44 and supplements to it, or in any publication revising or supersed-  
27 ing Handbook 44, are the specifications, tolerances, and regulations  
28 for commercial weighing and measuring devices of the state, except as  
29 specifically modified, amended, or rejected by a regulation adopted by

1 the director.

2 \* Sec. 52. AS 46.03.299(a) is amended to read:

3 (a) The department shall adopt [DEVELOP] regulations under the  
4 Administrative Procedure Act (AS 44.62) for the identification and  
5 management of hazardous waste as defined by the Environmental Protec-  
6 tion Agency and hazardous waste that exhibits the characteristic of  
7 toxicity, persistence, or carcinogenicity. [THE DEPARTMENT SHALL  
8 ADOPT THESE REGULATIONS NOT LATER THAN JULY 1, 1986, IN ACCORDANCE  
9 WITH THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62). THESE REGULATIONS  
10 SHALL TAKE EFFECT JULY 1, 1987.]

11 \* Sec. 53. AS 47.10.090(a) is amended to read:

12 (a) The court shall make and keep records of all cases brought  
13 before it. The court's official records may be inspected only with  
14 the court's permission and only by persons having a legitimate inter-  
15 est in them. All information and social records pertaining to a minor  
16 and prepared by an employee of the court or by a federal, state or  
17 city agency in the discharge of the employee's or agency's official  
18 duty, including [TRAFFIC OFFENSES AND] driver's license action under  
19 AS 28.15.185, are privileged and may not be disclosed directly or  
20 indirectly to anyone without the court's permission. However, a state  
21 or city law-enforcement agency shall disclose information regarding a  
22 case which is needed by the person or agency charged with making a  
23 preliminary investigation for the information of the court. The court  
24 shall forward a record of adjudication of a violation of an offense  
25 listed in AS 28.15.185(a) to the Department of Public Safety, if the  
26 court imposes a license revocation under AS 28.15.185. Within 30 days  
27 of the date of a minor's 18th birthday or, if the court retains juris-  
28 diction of a minor past the minor's 18th birthday, within 30 days of  
29 the date on which the court relinquishes jurisdiction over the minor,

1 the court shall order sealed all the court's official records, infor-  
2 mation and social records pertaining to that minor, as well as records  
3 of all driver's license proceedings under AS 28.15.185, criminal  
4 proceedings against the minor and punishments assessed against the  
5 minor except for traffic offenses. A person may not use these sealed  
6 records for any purpose except that the court may order their use for  
7 good cause shown or may order their use by an officer of the court in  
8 making a presentencing report for the court.

9 \* Sec. 54. Section 10, ch. 166, SLA 1988 is amended by adding a new  
10 subsection to read:

11 (c) Notwithstanding (a) of this section, an amendment to the  
12 articles of incorporation of a corporation organized under 43 U.S.C.  
13 1601 - 1628 (Alaska Native Claims Settlement Act) and incorporated  
14 under former AS 10.05.005 to add a provision eliminating or limiting  
15 the personal liability of a director to the corporation or its stock-  
16 holders for monetary damages under AS 10.06.210(1)(N) may be adopted  
17 by the affirmative vote of a majority of the shares represented at the  
18 regular or special meeting at which a quorum is present in person or  
19 by proxy.

20 \* Sec. 55. Section 11, ch. 166, SLA 1988 is amended to read:

21 Sec. 11. INDEMNIFICATION BY A CORPORATION. AS 10.06.490, as  
22 enacted by sec. 1 of this Act, governs a proposed indemnification by a  
23 corporation after the effective date of this Act, whether the events  
24 upon which the indemnification is based occurred before or after the  
25 effective date of this Act. A statement relating to indemnification  
26 contained in the articles or bylaws of a corporation on the effective  
27 date of this Act may limit the indemnification permitted by AS 10.06.-  
28 490 if [UNLESS] the statement expressly states that indemnification is  
29 limited.

1 \* Sec. 56. The revisor of statutes shall substitute "police officer" or  
2 "police officers" for "policeman" or "policemen" in AS 23.10.037, AS 23.-  
3 30.092, 23.30.220, 23.30.265, and AS 28.35.070.

4 \* Sec. 57. The revisor of statutes shall substitute "fire fighter" or  
5 "fire fighters" for "fireman" or "firemen" in AS 18.60.395, AS 23.30.092,  
6 23.30.220, 23.30.243, 23.30.265, AS 28.35.180, AS 39.35.160, 39.35.360,  
7 39.35.370, 39.35.527, and 39.35.680.

8 \* Sec. 58. AS 09.10.055; AS 10.40.130(c); AS 11.41.443; AS 14.07.-  
9 030(9); AS 16.05.632(d); AS 19.45.001(7); AS 38.05.184(c), 38.05.184(d),  
10 38.05.184(e), 38.05.184(f), 38.05.184(g); AS 44.47.560(1), 44.47.560(2);  
11 AS 44.83.425(1), 44.83.425(4); and AS 46.03.299(e) are repealed.

12 \* Sec. 59. Sections 8 - 12, 14 - 24, 54, and 55 of this Act take effect  
13 July 1, 1989.

14 \* Sec. 60. Except for secs. 8 - 12, 14 - 24, 54, and 55, this Act takes  
15 effect immediately under AS 01.10.070(c).

**Sec. 09.10.055. Certain actions relating to construction in six years.** (a) No action, whether in contract (oral or written, sealed or unsealed), in tort or otherwise, to recover damages (1) for a deficiency in the design, planning, supervision or observation of construction or construction of an improvement to real property; (2) for injury to property, real or personal, arising out of a deficiency; or (3) for injury to the person or for wrongful death arising out of such deficiency, may be brought against a person performing or furnishing the design, planning, supervision or observation of construction, or construction of an improvement more than six years after substantial completion of an improvement.

(b) Notwithstanding the provisions of (a) of this section, in the case of an injury to property or the person or an injury causing wrongful death, which injury occurred during the sixth year after substantial completion, an action in tort to recover damages for the injury may be brought within two years after the date on which the injury occurred. In no event may action be brought more than eight years after the substantial completion of construction of an improvement.

(c) Nothing in this section shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

(d) The limitation prescribed by this section shall not be asserted by way of defense by a person in actual possession or control, as owner, tenant, or otherwise of an improvement at the time a deficiency in an improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action.

(e) In this section, "person" means an individual, corporation, partnership, business trust, unincorporated organization, association, or joint-stock company. (§ 2 ch 61 SLA 1967)

**Sec. 10.40.130. Service of process.**

(c) Corporations organized under this chapter have until January 31, 1977, to comply with this section. (§ 58 ch 170 SLA 1976)

**Sec. 11.41.443. Spousal relationship no defense.** In a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant. (§ 1 ch 43 SLA 1985)

**Sec. 14.07.030. Powers of the department.** The department may (9) exercise disapproval power under AS 14.08.101;

**Sec. 16.05.632. Identification of shellfish pots or buoys, or both, used in the taking of king crab and requirements for buoys.**

(d) Upon conviction of a person of a violation of (a) or (b) of this section or a regulation adopted under (a) or (b) of this section, the court shall, in addition to any other penalty imposed by law, revoke the violator's shellfish pot license for a period of not less than 12 consecutive months nor more than five years and, in addition, restrict the boat used in a violation of (a) of this section from being used in the taking of king crab for the same period as the shellfish pot license is revoked. After the restriction is imposed, if the boat is used in the taking of king crab within the period of restriction, it shall be seized and forfeited to the state as provided in AS 16.05.195.

**Sec. 44.47.560. Definitions.** In AS 44.47.370 — 44.47.560,

- (1) "commissioner" means the commissioner of the Department of Community and Regional Affairs;
- (2) "department" means the Department of Community and Regional Affairs;

**Sec. 44.83.425. Definitions.** In AS 44.83.380 — 44.83.425,

- (1) "bus bar" means the substation that serves as the delivery point from the generation and transmission system of the authority to the transmission and distribution system of the utility;
- (4) "industrial consumer" means a customer of a utility which customer has a peak power demand in excess of 500 kilowatts and uses the power principally for
  - (A) manufacturing;
  - (B) pipeline transportation;
  - (C) the recovery or processing of minerals;
  - (D) the processing of timber, agricultural, or seafood products or their by-products; or
  - (E) the operation of facilities owned by the federal government;

**Sec. 46.03.299. Regulation of hazardous waste.**

- (e) During the period July 1, 1986, through June 30, 1987, the department shall conduct a program to inform persons of their responsibilities under regulations adopted under (a) of this section. (§ 10 ch 93 SLA 1981; am § 1 ch 77 SLA 1984)

# Alaska State Legislature



## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

### M E M O R A N D U M

To: All Members  
Alaska State House of Representatives

From: Rep. Peter Goll, Co-Chairman *Peter*  
Rep. Max Gruenberg, Co-Chairman *MG*  
House Judiciary Committee

Date: March 8, 1989

Re: HB 148 - 1989 Revisor's Bill

The 1989 Revisor's bill will be on the floor on Friday, March 10. To assist members in reviewing this document, we have attached a copy of the bill and a sectional analysis.

STATE OF ALASKA  
THE LEGISLATURE

POUCH # STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

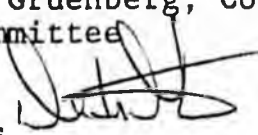
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 8, 1989

SUBJECT: Sectional Analysis of  
CSHB 148(Jud)(Revisor's Bill)

TO: Representative Peter Goll, Co-Chair  
Representative Max Gruenberg, Co-Chair  
House Judiciary Committee

FROM: David R. Dierdorff   
Revisor of Statutes

This memorandum discusses CSHB 148 (Judiciary), the 1989 revisor's bill as adopted by the House Judiciary Committee.

The bill was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes shall

. . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state.

SUMMARY OF EFFECT

To assist in understanding the draft, I have summarized the contents by grouping sections that have similar effects.

Sections that delete or repeal obsolete provisions: Sections 4, 5, 7, 10 - 24, 32, 44 - 46, 52, and 58 delete or repeal provisions that have become obsolete either through the passage of time or other legislative action.

Sections that update obsolete or archaic provisions, or improve the style of the statutes: Sections 3, 6, 26, 29, 31, 33 - 36, 39, 40, 43, 47, 49 - 51, 56, and 57 substitute new provisions for provisions that are obsolete, archaic, or otherwise outdated, including improvements in the style of language for purposes of clarity.

Sections that eliminate conflicts with other laws: Sections 2, 25, 28, 30, 37, 41, 42, 48, and 54 resolve conflicts between laws or otherwise harmonize laws dealing with the same subjects.

Sections that correct errors or oversights: Sections 1, 8, 9, 27, 38, 53, and 55 correct errors or oversights in drafting.

### SECTIONAL ANALYSIS

Section 1. The addition of "or delivery" to AS 04.16.-05T(b)(1) by the amendment proposed in sec. 1 conforms the language of the paragraph to the introductory language of the subsection as amended by sec. 8, ch. 156, SLA 1988. The need for this change was noted by the Department of Law when the 1988 Act was reviewed for the governor.

Sec. 2. The amendment to AS 05.05.030(c) proposed in this section would remove a conflict with the provisions of AS 05.10.110. Existing AS 05.05.030(c) requires that a member of the athletic commission attend every boxing and wrestling event. However, AS 05.10.110 provides for the appointment of official inspectors to attend in the absence of a member of the commission. The amendment would simply recognize that commissioners need not attend if official inspectors have been provided for the event. The amendment also substitutes "member of the commission" for "commissioner" to be consistent with other usage in AS 05.05 and to eliminate confusion between the duties of the members of the commission and the duties of the athletic commissioner.

Sec. 3. The amendment substitutes "A member" for "The commissioners" to clarify that the provision is dealing with members of the commission and not the athletic commissioner, and conform the usage to that found elsewhere in AS 05.05.

Sec. 4. The proposed amendment to AS 08.84.030(a) deletes a reference to the Professional Examination Service Association because, effective August, 1988, the association is no longer administering the exam for physical therapists. The amendment was requested by the division of occupational licensing.

Sec. 5. This amendment is required if AS 09.10.055 is repealed, as proposed in sec. 58 of this draft. It deletes two references to the section that would be repealed.

Sec. 6. This section proposes the substitution of a reference to specific, relevant provisions of AS 09.20 for an archaic reference to "the following provisions."

Sec. 7. Since the 1972 enactment of AS 09.30.100 - 09.30.-180 (Uniform Foreign Money-Judgments Recognition Act), the United States' relationship with former trust territories has substantially changed. For example, the Ryukyu Islands (Okinawa and its neighbors) are now governed by Japan rather than by an American military government. Rather than name specific jurisdictions in this definitional provision, it appears to be wiser to rely on a generic listing of jurisdictions that would logically be considered "domestic" rather than "foreign."

Sec. 8. This section corrects a drafting error in the new corporations code (AS 10.06) enacted last session. This section and secs. 9 and 10 are given a July 1, 1989 effective date by sec. 59 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Sec. 9. As enacted, AS 10.06.833 provided for the filing of a certificate of withdrawal by certain foreign corporations. However, the corporation would not have a certificate of withdrawal to file; the corporation files an application for a certificate and the Department of Commerce and Economic Development issues a certificate to the corporation. The amendment corrects this error. It was requested by the corporations supervisor in the department.

Sec. 10. Last year, by Executive Order and a companion bill, the responsibility for administering business licenses was transferred from the Department of Revenue to the Department of Commerce and Economic Development. The proposed amendment to AS 10.06.870 reflects that transfer.

Secs. 11, 12, and 14 - 24. AS 10.05.773 is repealed, effective July 1, 1989, by ch. 166, SLA 1988. These sections delete references to the repealed provision. Sections 11 and 12 appeared in HB 148 as secs. 8 and 9. When originally drafted they would have substituted the substance of the repealed provision for the obsolete reference. Upon further review, it was determined that the approach taken in secs. 11 and 12, and new secs. 14 - 24, was more appropriate, because the former approach actually changed existing law. The sections are given a July 1, 1989 effective date by

sec. 59 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Sec. 13. This section proposes amendments to AS 10.15.325 to delete material that has become obsolete through the passage of time and to rewrite the last sentence for clarity.

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Secs. 49 - 51. The amendments proposed by these sections reflect a change in the name of the National Bureau of Standards (by last year's Omnibus Trade and Competitiveness Act). Also, in sec. 50, an obsolete provision is proposed for deletion.

Sec. 52. This amendment deletes obsolete time-dated material.

Sec. 53. The amendment proposed by this section conforms the provisions of AS 47.10.090(a), as amended by sec. 4, ch. 130, SLA 1988, to the other substantive provisions of ch. 130, SLA 1988. As enacted, AS 28.15.185 did not include any references to traffic offenses, although earlier versions of the bill did encompass certain traffic offenses. When the references to traffic offenses were removed from AS 28.15.185, the reference within AS 47.10.090(a) should also have been changed. This amendment was suggested by the Department of Law in connection with its review of the 1988 Act for the governor.

Sec. 54. Last year the legislature enacted ch. 148, SLA 1988, relating to the liability of corporate directors. In that Act, two provisions in AS 10.05 were amended. AS 10.05 is repealed, effective July 1, 1989, by ch. 166, SLA 1988, enacting the new corporations code. To give effect to legislative intent in enacting ch. 148, the provisions of sec. 1 of that Act were editorially incorporated into AS 10.06.-210(1)(N). The provisions of sec. 2 of that Act were not editorially incorporated. because the revisor mistakenly believed that they were no longer needed because of other changes made in the new code as it relates to ANSCA corporations. The revisor had overlooked sec. 10 of ch. 166, which grandfathers the two-thirds voting requirements of AS 10.05.276 for corporations incorporated under AS 10.05 before July 1, 1989. Because sec. 2 of ch. 148, SLA 1988 enacted an exception to the two-thirds requirement for ANSCA corporations that desired to amend their articles to eliminate or limit director liability as allowed under ch. 148, that exception needs to be continued in connection with the grandfather clause.

This could probably be accomplished editorially, but that change would not be disseminated to the public until the 1989 statutory materials are distributed this fall. Further, while it is easy to communicate editorial changes in the codified Alaska Statutes, there is no equivalent way to communicate editorial changes made in Temporary Law provisions if those changes are made after publication of the session laws. (It has been done, on rare occasion, by including a letter from the revisor in the Journals of the next legislative session.) Section 54 of CSHB 148(Jud) amends sec. 10, SLA 1988 to continue the exception that had been enacted as AS 10.05.276(b). The problem was called to the revisor's attention on February 27 by an attorney for a Native Corporation.

Sec. 55. This amendment corrects a drafting error in one of the transitional provisions of ch. 166, SLA 1988, enacting the new corporations code. This section and sec. 54 are given a July 1, 1989 effective date by sec. 59 of this draft to correspond with the effective date of ch. 166. The error was brought to our attention by the Hon. Ralph Stemp.

Secs. 56 and 57. These sections propose that the revisor substitute "police officer" and "fire fighter" for "policeman" and "fireman," respectively, in those provisions in which the latter terms still appear. The change was

requested by Representative Boyer, by amendments presented to the subcommittee.

Sec. 58. This section proposes the repeal of several obsolete provisions.

AS 09.10.055 was held unconstitutional by the Alaska supreme court in Turner Const. Co. v. Scales, 752 P.2d 467 (1988).

AS 10.40.130(c) was a 1977 deadline for compliance with a provision in AS 10.40.

AS 11.41.443 would be obsolete if sec. 25 of this draft is enacted, and the need for repeal of the provision is discussed in connection with sec. 25 of this draft.

AS 14.07.030(9) was rendered obsolete by 1975 legislation and should have been repealed then.

AS 16.05.632(d) should have been repealed when the provisions relating to shellfish pot licenses were repealed in 1977.

AS 19.45.001(7) defines a term that is not used in AS 19 except in a section catchline, which is not law (see AS 01.05.006).

AS 38.05.184(c)-(g) were all related to the procedures to be followed to implement the ban on further oil and gas leasing in Katchemak Bay (contained in AS 38.05.-184(b)). The Department of Natural Resources advises that all of the provisions have been fully executed and are now obsolete. This information was received by the revisor immediately following the subcommittee meeting.

AS 44.47.560(1) and (2) contain definitions that are redundant to those found in AS 44.47.998(1) and (3).

AS 44.83.425(1) and (4) define terms that were deleted from AS 44.83 in 1984, making the definitions obsolete.

AS 46.03.299(e) relates to a duty that was imposed only from July 1, 1986 through June 30, 1987.

Representative Peter Goll

Page 10

March 8, 1989

The text of all provisions proposed for repeal is attached as an appendix to this memo. Section 39 of HB 148 had proposed the repeal of only five provisions.

Sec. 59. Gives a July 1, 1989 effective date to those sections relating to the new corporations code.

Sec. 60. Gives an immediate effective date to the remainder of this draft.

DRD:mi  
wkg7/1118

Enclosure

cc: Art Peterson, Department of Law



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

March 1, 1989

### M E M O R A N D U M

TO: House Judiciary Committee

FR: House State Affairs Committee

RE: Proposed Amendments to HB 140

The intent of the House State Affairs committee in introducing HB 140 is to provide candidates protection from political lawsuits charging them with violation of the Open Meetings Act.

We are referring to malicious, not frivolous, lawsuits. Suits brought with the sole intention of creating harm and slandering a candidate's character, particularly during the campaign season.

Our intent is to provide a reasonable balance between the public's right to know and an individual's right to be protected from malicious acts.

Unfortunately, Alaska's Open Meetings Act presents the opportunity for individuals or political organizations to pervert good public policy into political gamesmanship.

Imagine a scenario whereby a candidate in a hotly contested race is suddenly faced with a barrage of lawsuits days before an election. The painful facts are that lawsuits charging legislators with violating the Open Meetings Act is front page headline news. A story explaining that the courts found the suit to be without merit gets buried on the back page, after the election, when the harm has already been done.

Both candidates and the public need to have some protection from this kind of action. HB 140 seeks to provide that protection.

The exact language of HB 140 is less important than making sure that: 1) legislators are protected from malicious acts and 2) the public is protected against false accusations which deprive them of the ability to choose their representatives with the full facts before them.

However, the committee feels there may be other ways to provide this protection and asks that the House Judiciary committee carefully consider alternatives to prevent Alaska's Open Meetings Act from being potentially used as a political tool.

You should note that HB 140 passed the House State Affairs committee with 5 do pass - those members absent support the Bill as written.

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

COPY

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

MEMORANDUM

February 20, 1989

SUBJECT: Policy Questions in CSHB 148(Jud)

TO: Representative Peter Goll  
Chair, House Judiciary Subcommittee on HB 148

FROM: David R. Dierdorff  
Revisor of Statutes

The purpose of this memo is to call your attention to those provisions of this year's revisor's bill that involve a policy decision that should be addressed by the subcommittee. As you know, it is often impossible to resolve technical problems in the statutes without making a policy judgment. Usually the choice is obvious and without controversy. There are instances, however, when that is not the case and the legislature needs to consider the alternatives available, including the possibility of deleting the proposal from the revisor's bill and addressing the problem in a separate, substantive bill.

In draft CSHB 148(Jud), prepared for your subcommittee, I believe the following sections may present policy questions for your consideration:

Sec. 7. Any unilateral amendment to a uniform law presents the basic question of whether the deviation from the model text is justified. An updated version of the Uniform Foreign Money-Judgments Recognition Act has not been promulgated by the commissioners. Different states, depending primarily upon the date of enactment, have treated the provision found at AS 09.30.170 differently. The question for the subcommittee is whether the proposal in sec. 7 is consistent with the purpose of AS 09.30.100 - 09.30.180.

Sec. 25. This section does not present a policy question per se, but it is important that the subcommittee review the proposed amendment carefully to ensure that it accurately reflects the effect on AS 11.41.443 of the enactment of AS 11.41.432 last year.

Sec. 31. Even though the amendment proposed for AS 15.13.040(d) conforms the law to actual practice, the subcommittee should review this proposal to ensure that actual practice accurately reflects the legislature's intent in its 1975 amendments to AS 15.13.

Sec. 38. As pointed out in the sectional analysis, instead of amending AS 25.23.040(a) to include minors 10 years of age in the category of those who must consent to an adoption, the legislature could amend AS 25.23.125(a) to provide that the court is required to consider the desires of a minor 10 years of age.

Sec. 39. As suggested in the sectional analysis, you may wish to further amend AS 33.32.015(b)(5) by deleting the reference to AS 37.05. I believe that the reference was there only because, before the enactment of AS 36.30, the provisions relating to competitive bidding, etc., were located in AS 37.05. Because of AS 37.05.990(2), the definition of "state agency," the Correctional Industries Commission is subject to AS 37.05 whether or not this reference is retained.

Secs. 42 and 43. Both sections propose amendments to harmonize inconsistent or conflicting provisions. In both cases, the proposed amendments in draft CSHB 148(Jud) reflect the preferences of the Departments of Law and Natural Resources. You may prefer the alternative resolutions available.

Sec. 49. The sectional analysis covers the issue raised in this section. Suffice to say, the subcommittee needs to consider each of the two possible solutions to the existing conflict between provisions.

Sec. 50. There are two issues raised by sec. 50. The first is whether the law as enacted in fact represented a conscious decision by the legislature or was the result of a drafting change by our office that was not considered by the legislature. The second issue is raised if the first is resolved in favor of retaining the proposed amendment. As pointed out in the sectional analysis, existing AS 44.88.-545(2) needs to be changed if the amendment to (1) is to have any substantive effect.

Sec. 56. The only question here is whether the revisor's bill is the right place to deal with the problem. It may well be that a separate bill would be preferable. Also, of

Representative Peter Goll  
Page 3  
February 20, 1989

course, there are a number of alternative solutions to the problem raised as a result of changed circumstances after the enactment of ch. 6, SLA 1986.

Sec. 58. The proposed repeal of AS 09.10.055, while responsive to the supreme court's opinion that the provision is unconstitutional, raises the question of the continuing validity of other statutes of repose found in the Alaska Statutes. Perhaps the Judiciary Committee should review Alaska's statutes of limitations during the interim to ensure that they have continued validity. The proposed repeal of AS 16.05.632(d) has been reviewed by the Department of Law (and was suggested in lieu of an amendment to the provision), but the subcommittee should conduct its own review to ensure that AS 16.05.710 - 16.05.723 provide adequate authority for a court to impose equivalent sanctions against a person who violates the provisions of AS 16.05.632.

I look forward to meeting with the subcommittee at your earliest convenience.

DRD:kb:gc  
wkk2/028

cc: Representative Mike Davis  
Representative Max Gruenberg  
Representative Terry Martin  
Art Peterson

STATE OF ALASKA  
THE LEGISLATURE

STATE OF ALASKA  
LEGISLATIVE AGENCY  
907 465 8000


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 28, 1979

SUBJECT: Sectional Analysis of draft  
CSHB 148(Jud)(Revisor's Bill)

TO: Representative Peter Goll, Co-Chair  
Representative Max Gruenberg, Co-Chair  
House Judiciary Committee

FROM: David R. Dierdorff   
Revisor of Statutes

I have prepared the enclosed draft CSHB 148(Jud) for the consideration of your committee. The draft incorporates all changes requested by the subcommittee and two changes made by the revisor after the subcommittee meeting.

SUMMARY OF SUBCOMMITTEE CHANGES TO HB 148

Sections 15, 31, and 37 of HB 148 were deleted by the subcommittee. Section 32 of HB 148 was deleted by the revisor at the request of the Department of Commerce and Economic Development.

Sections 8, 9, 23, 27, 30, and 39 of HB 148, which appear in CSHB 148(Jud) as secs. 11, 12, 38, 42, 48, and 58, respectively, have been modified in varying degrees. The changes will be discussed within the sectional analysis which follows.

The following sections of CSHB 148(Jud) did not appear in HB 148: secs. 5, 9, 10, 13 - 24, 33, 44 - 46, 52, 54, 56, and 57. Except for secs. 56 and 57, these sections were added at the request of the revisor. Sections 56 and 57 were added through an amendment submitted by Representative Boyer.

CHANGES MADE BY REVISOR AFTER SUBCOMMITTEE MEETING

After the subcommittee meeting, two provisions were added to CSHB 148(Jud), based upon information received by the re-

visor after that meeting. Section 54, amending one of the transitional provisions of the new corporations code is the first of the two. The other is the addition of the proposed repeal of AS 38.05.184(c)-(g) to the repealers in sec. 58. Both items are discussed in the sectional analysis.

Also, a change was made in sec. 39, relating to certain powers of the commissioner of revenue. Because the provisions cited on page 15, line 29 do not really deal with surplus pension funds, those words are deleted on line 14.

#### SUMMARY OF EFFECT

To assist in understanding the draft, I have summarized the contents by grouping sections that have similar effects.

Sections that delete or repeal obsolete provisions: Sections 4, 5, 7, 10 - 24, 32, 44 - 46, 52, and 58 delete or repeal provisions that have become obsolete either through the passage of time or other legislative action.

Sections that update obsolete or archaic provisions, or improve the style of the statutes: Sections 3, 6, 26, 29, 31, 33 - 36, 39, 40, 43, 47, 49 - 51, 56, and 57 substitute new provisions for provisions that are obsolete, archaic, or otherwise outdated, including improvements in the style of language for purposes of clarity.

Sections that eliminate conflicts with other laws: Sections 2, 25, 28, 30, 37, 41, 42, 48, and 54 resolve conflicts between laws or otherwise harmonize laws dealing with the same subjects.

Sections that correct errors or oversights: Sections 1, 8, 9, 27, 38, 53, and 55 correct errors or oversights in drafting.

#### SECTIONAL ANALYSIS

Section 1. The addition of "or delivery" to AS 04.16.-051(b)(1) by the amendment proposed in sec. 1 conforms the language of the paragraph to the introductory language of the subsection as amended by sec. 8, ch. 156, SLA 1988. The need for this change was noted by the Department of Law when the 1988 Act was reviewed for the governor.

Sec. 2. The amendment to AS 05.05.030(c) proposed in this section would remove a conflict with the provisions of AS 05.10.110. Existing AS 05.05.030(c) requires that a member of the athletic commission attend every boxing and wrestling event. However, AS 05.10.110 provides for the appointment of official inspectors to attend in the absence of a member of the commission. The amendment would simply recognize that commissioners need not attend if official inspectors have been provided for the event. The amendment also substitutes "member of the commission" for "commissioner" to be consistent with other usage in AS 05.05 and to eliminate confusion between the duties of the members of the commission and the duties of the athletic commissioner.

Sec. 3. The amendment substitutes "A member" for "The commissioners" to clarify that the provision is dealing with members of the commission and not the athletic commissioner, and conform the usage to that found elsewhere in AS 05.05.

Sec. 4. The proposed amendment to AS 08.84.030(a) deletes a reference to the Professional Examination Service Association because, effective August, 1988, the association is no longer administering the exam for physical therapists. The amendment was requested by the division of occupational licensing.

Sec. 5. This amendment is required if AS 09.10.055 is repealed, as proposed in sec. 58 of this draft. It deletes two references to the section that would be repealed.

Sec. 6. This section proposes the substitution of a reference to specific, relevant provisions of AS 09.20 for an archaic reference to "the following provisions."

Sec. 7. Since the 1972 enactment of AS 09.30.100 - 09.30.-180 (Uniform Foreign Money-Judgments Recognition Act), the United States' relationship with former trust territories has substantially changed. For example, the Ryukyu Islands (Okinawa and its neighbors) are now governed by Japan rather than by an American military government. Rather than name specific jurisdictions in this definitional provision, it appears to be wiser to rely on a generic listing of jurisdictions that would logically be considered "domestic" rather than "foreign."

Sec. 8. This section corrects a drafting error in the new corporations code (AS 10.06) enacted last session. This

section and secs. 9 and 10 are given a July 1, 1989 effective date by sec. 59 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Sec. 9. As enacted, AS 10.06.833 provided for the filing of a certificate of withdrawal by certain foreign corporations. However, the corporation would not have a certificate of withdrawal to file; the corporation files an application for a certificate and the Department of Commerce and Economic Development issues a certificate to the corporation. The amendment corrects this error. It was requested by the corporations supervisor in the department.

Sec. 10. Last year, by Executive Order and a companion bill, the responsibility for administering business licenses was transferred from the Department of Revenue to the Department of Commerce and Economic Development. The proposed amendment to AS 10.06.870 reflects that transfer.

Secs. 11, 12, and 14 - 24. AS 10.05.773 is repealed, effective July 1, 1989, by ch. 166, SLA 1988. These sections delete references to the repealed provision. Sections 11 and 12 appeared in HB 148 as secs. 8 and 9. When originally drafted they would have substituted the substance of the repealed provision for the obsolete reference. Upon further review, it was determined that the approach taken in secs. 11 and 12, and new secs. 14 - 24, was more appropriate, because the former approach actually changed existing law. The sections are given a July 1, 1989 effective date by sec. 59 of the draft to correspond with the effective date of ch. 166, SLA 1988.

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Sec. 41. Section 2, ch. 123, SLA 1988 added a definition of "long-term lease" to AS 38.04. Unfortunately, the definition overlapped the existing definition of "short-term lease" (found in AS 38.04.910(8)) in that both definitions included a 10 year lease. The amendment to AS 38.04.910(4) proposed by this section would resolve this overlap by defining long-term leases as leases for more than 10 years, which is consistent with other relevant provisions of the public land laws. See, for example, AS 38.05.070(b).

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Sec. 48. The amendment proposed by this section is intended to resolve a conflict between AS 44.21.240(2), enacted by sec. 3, ch. 108, SLA 1988, and AS 44.21.230(c). The latter provision (enacted in 1981) prohibits the Older Alaskans Commission from investigating, reviewing, or undertaking any responsibility for the Alaska Pioneers' Home. The 1988 legislation establishes the long term care ombudsman program within the commission, and defined "long term care facility" in such a way that it includes the Alaska Pioneers' Home (the pioneers' home is included within the definition of

"nursing home" in AS 08.70.180). The amendment resolves the conflict by excluding activities of the long term care ombudsman from the prohibition contained in AS 44.21.230(c). The problem was brought to our attention by the Department of Law when the 1988 Act was reviewed for the governor. This approach to resolving the conflict is different from that contained in sec. 30 of HB 148.

Secs. 49 - 51. The amendments proposed by these sections reflect a change in the name of the National Bureau of Standards (by last year's Omnibus Trade and Competitiveness Act). Also, in sec. 50, an obsolete provision is proposed for deletion.

Sec. 52. This amendment deletes obsolete time-dated material.

Sec. 53. The amendment proposed by this section conforms the provisions of AS 47.10.090(a), as amended by sec. 4, ch. 130, SLA 1988, to the other substantive provisions of ch. 130, SLA 1988. As enacted, AS 28.15.185 did not include any references to traffic offenses, although earlier versions of the bill did encompass certain traffic offenses. When the references to traffic offenses were removed from AS 28.15.185, the reference within AS 47.10.090(a) should also have been changed. This amendment was suggested by the Department of Law in connection with its review of the 1988 Act for the governor.

Sec. 54. Last year the legislature enacted ch. 148, SLA 1988, relating to the liability of corporate directors. In that Act, two provisions in AS 10.05 were amended. AS 10.05 is repealed, effective July 1, 1989, by ch. 166, SLA 1988, enacting the new corporations code. To give effect to legislative intent in enacting ch. 148, the provisions of sec. 1 of that Act were editorially incorporated into AS 10.06.-210(1)(N). The provisions of sec. 2 of that Act were not editorially incorporated, because the revisor mistakenly believed that they were no longer needed because of other changes made in the new code as it relates to ANSCA corporations. The revisor had overlooked sec. 10 of ch. 166, which grandfathers the two-thirds voting requirements of AS 10.05.276 for corporations incorporated under AS 10.05 before July 1, 1989. Because sec. 2 of ch. 148, SLA 1988 enacted an exception to the two-thirds requirement for ANSCA corporations that desired to amend their articles to eliminate or limit director liability as allowed under ch. 148,

that exception needs to be continued in connection with the grandfather clause.

This could probably be accomplished editorially, but that change would not be disseminated to the public until the 1989 statutory materials are distributed this fall. Further, while it is easy to communicate editorial changes in the codified Alaska Statutes, there is no equivalent way to communicate editorial changes made in Temporary Law provisions if those changes are made after publication of the session laws. (It has been done, on rare occasion, by including a letter from the revisor in the Journals of the next legislative session.) Section 54 of CSHB 148(Jud) amends sec. 10, SLA 1988 to continue the exception that had been enacted as AS 10.05.276(b). The problem was called to the revisor's attention on February 27 by an attorney for a Native Corporation.

Sec. 55. This amendment corrects a drafting error in one of the transitional provisions of ch. 166, SLA 1988, enacting the new corporations code. This section and sec. 54 are given a July 1, 1989 effective date by sec. 59 of this draft to correspond with the effective date of ch. 166. The error was brought to our attention by the Hon. Ralph Stemp.

Secs. 56 and 57. These sections propose that the revisor substitute "police officer" and "fire fighter" for "policeman" and "fireman," respectively, in those provisions in which the latter terms still appear. The change was requested by Representative Boyer, by amendments presented to the subcommittee.

Sec. 58. This section proposes the repeal of several obsolete provisions.

AS 09.10.055 was held unconstitutional by the Alaska supreme court in Turner Const. Co. v. Scales, 752 P.2d 467 (1988).

AS 10.40.130(c) was a 1977 deadline for compliance with a provision in AS 10.40.

AS 11.41.443 would be obsolete if sec. 25 of this draft is enacted, and the need for repeal of the provision is discussed in connection with sec. 25 of this draft.

AS 14.07.030(9) was rendered obsolete by 1975 legislation and should have been repealed then.

Representative Peter Goll  
Representative Max Gruenberg  
Page 10  
February 28, 1987

AS 16.05.632(d) should have been repealed when the provisions relating to shellfish pot licenses were repealed in 1977.

AS 19.45.001(7) defines a term that is not used in AS 19 except in a section catchline, which is not law (see AS 01.05.006).

AS 38.05.184(c)-(g) were all related to the procedures to be followed to implement the ban on further oil and gas leasing in Katchemak Bay (contained in AS 38.05.-184(b)). The Department of Natural Resources advises that all of the provisions have been fully executed and are now obsolete. This information was received by the revisor immediately following the subcommittee meeting.

AS 44.47.560(1) and (2) contain definitions that are redundant to those found in AS 44.47.998(1) and (3).

AS 44.83.425(1) and (4) define terms that were deleted from AS 44.83 in 1984, making the definitions obsolete.

AS 46.03.299(e) relates to a duty that was imposed only from July 1, 1986 through June 30, 1987.

The text of all provisions proposed for repeal is attached as an appendix to this memo. Section 39 of HB 148 had proposed the repeal of only five provisions.

Sec. 59. Gives a July 1, 1989 effective date to those sections relating to the new corporations code.

Sec. 60. Gives an immediate effective date to the remainder of this draft.

DRD:kb  
wkk2/054

Enclosure

cc: Art Peterson, Department of Law

COPY

STATE OF ALASKA  
THE LEGISLATURE

FOUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 1800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 14, 1989

SUBJECT: Sectional Analysis of draft  
CSHB 148(Jud)(Revisor's Bill)

TO: Representative Peter Goll  
Chair, House Judiciary Subcommittee  
on HB 148

FROM: David R. Dierdorff  
Revisor of Statutes

I have prepared the enclosed draft CSHB 148(Jud) for the consideration of your subcommittee. The draft incorporates the amendment I prepared for the committee.

In addition, the provisions of sec. 31 in the bill as introduced have been deleted. A proposed amendment to AS 44.88.545 was substituted for the deleted material (see sec. 50 of the draft CS).

Finally, sec. 32 of HB 148, dealing with trademark classifications, was deleted at the request of the Department of Commerce and Economic Development.

SUMMARY OF EFFECT

To assist in understanding the draft, I have summarized the contents by grouping sections that have similar effects.

Sections that delete or repeal obsolete provisions:  
Sections 4, 5, 7, 10-24, 33, 45-47, 54, and 58 delete or repeal provisions that have become obsolete either through the passage of time or other legislative action.

Sections that update obsolete or archaic provisions, or improve the style of the statutes: Sections 3, 6, 26, 29, 32, 34-37, 40, 41, 44, 48, 51-53, and 56 substitute new provisions for provisions that are obsolete, archaic, or

otherwise outdated, including improvements in the style of language for purposes of clarity.

Sections that eliminate conflicts with other laws: Sections 2, 25, 28, 30, 31, 38, 42, 43, and 49 resolve conflicts between laws or otherwise harmonize laws dealing with the same subjects.

Sections that correct errors or oversights: Sections 1, 8, 9, 27, 39, 50, 55, and 57 correct errors or oversights in drafting.

#### SECTIONAL ANALYSIS

Section 1. The addition of "or delivery" to AS 04.16.-051(b)(1) by the amendment proposed in sec. 1 conforms the language of the paragraph to the introductory language of the subsection as amended by sec. 8, ch. 156, SLA 1988. The need for this change was noted by the Department of Law when the bill was reviewed for the governor.

Sec. 2. The amendment to AS 05.05.030(c) proposed in this section would remove a conflict with the provisions of AS 05.10.110. Existing AS 05.05.030(c) requires that a member of the athletic commission attend every boxing and wrestling event. However, AS 05.10.110 provides for the appointment of official inspectors to attend in the absence of a member of the commission. The amendment would simply recognize that commissioners need not attend if official inspectors have been provided for the event. The amendment also substitutes "member of the commission" for "commissioner" to be consistent with other usage in AS 05.05 and to eliminate confusion between the duties of the members of the commission and the duties of the athletic commissioner.

Sec. 3. The amendment substitutes "A member" for "The commissioners" to clarify that the provision is dealing with members of the commission and not the athletic commissioner, and conform the usage to that found elsewhere in AS 05.05.

Sec. 4. The proposed amendment to AS 08.84.030(a) deletes a reference to the Professional Examination Service Association because, effective last August, the association is no longer administering the exam for physical therapists. The amendment was requested by the division of occupational licensing.

Sec. 5. This amendment is required if AS 09.10.055 is repealed, as proposed in sec. 58 of this draft. It deletes two references to the section that would be repealed.

Sec. 6. This section proposes the substitution of a reference to specific, relevant provisions of AS 09.20 for an archaic reference to "the following provisions."

Sec. 7. Since the 1972 enactment of AS 09.30.100 - 09.30.180 (Uniform Foreign Money-Judgments Recognition Act), the United States' relationship with former trust territories has substantially changed. For example, the Ryukyu Islands (Okinawa and its neighbors) are now governed by Japan rather than by an American military government. Rather than name specific jurisdictions in this definitional provision, it appears to be wiser to rely on a generic listing of jurisdictions that would logically be considered "domestic" rather than "foreign."

Sec. 8. This section corrects a drafting error in the new corporations code (AS 10.06) enacted last session. This section and secs. 9 and 10 are given a July 1, 1989 effective date by sec. 59 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Sec. 9. As enacted, AS 10.06.833 provided for the filing of a certificate of withdrawal by certain foreign corporations. However, the corporation would not have a certificate of withdrawal to file; the corporation files an application for a certificate and the Department of Commerce and Economic Development issues a certificate to the corporation. The amendment corrects this error. It was requested by the corporations supervisor in the department.

Sec. 10. Last year, by Executive Order and a companion bill, the responsibility for administering business licenses was transferred from the Department of Revenue to the Department of Commerce and Economic Development. The proposed amendment to AS 10.06.870 reflects that transfer.

Secs. 11, 12, and 14-24. AS 10.05.773 was repealed July 1, 1989 by ch. 166, SLA 1988. These sections delete references to the repealed provision. The sections are given a July 1, 1989 effective date by sec. 59 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Sec. 13. This section proposes amendments to AS 10.15.325 to delete material that has become obsolete through the passage of time and to rewrite the last sentence for clarity.

Sec. 25. AS 11.41.432, enacted last session, partially repeals AS 11.41.443 by implication. This section of the draft enacts the substance of AS 11.41.443 as a new subsection (b) of AS 11.41.432, with additional language to clarify the interaction of the two provisions. In sec. 58, AS 11.41.443 is proposed for repeal.

Sec. 26. This section proposes an amendment to the definition of "mentally incapable" (enacted by sec. 5, ch. 96, SLA 1988) for grammatical consistency.

Sec. 27. Last session, the legislature enacted AS 12.36.050, relating to the remission of a forfeited weapon. At one time, the bill that enacted the provision had provided for a court order compensating a claimant for the monetary value of the claimant's interest in the weapon, or an order returning the weapon to a claimant. That provision (in AS 12.36.050(b)) was amended in committee to delete the authority to order compensation. The amendment to subsection (a) proposed by this section of the draft should have been made at that time, but it was overlooked until after the bill passed both houses and was being enrolled.

Sec. 28. The amendment proposed by this section harmonizes a provision enacted by ch. 63, SLA 1988, with related provisions enacted by ch. 64, SLA 1988.

Sec. 29. The amendment to the definition of "member contribution account" for the Teachers' Retirement System law is proposed to conform the language to actual practice. Members do not make "contributions" toward their indebtedness, they make "payments." The amendment was requested by the Department of Law. The internal reference to AS 14.25.-170 is changed to a reference to AS 14.25.173 to correct what appears to be an error.

Sec. 30. Section 11, ch. 60, SLA 1988, amended AS 14.30.-070(a) to allow chiropractors to conduct certain required school examinations. However, subsection (c) of that section was not amended, and without the amendment proposed

by this section of the draft, conflicts with amended (a). The amendment was suggested by the Department of Law.

Sec. 31. This section proposes an amendment to AS 15.13.-040(d) to conform the dollar amount to other law and actual practice. In 1975, AS 15.13.080, which requires the filing with APOC of statements of contributions by persons and groups other than political action committees, was amended to require the statements when more than \$250 (rather than \$100) had been contributed. Even though AS 15.13.040(d)(1) was not amended at that time, such an amendment would have been consistent with the intent of the 1975 change. Therefore, since 1975 APOC has requested the filing of statements under AS 15.13.040(d)(1) only at the point when more than \$250 has been given in a year to a candidate or political group. The amendment proposed by this section was requested by APOC.

Sec. 32. This amendment is proposed to conform the language to the style of the statutes.

Sec. 33. The amendment proposed by this section deletes a reference to a subsection that was repealed in 1984.

Secs. 34. The purpose of this amendment is to replace a reference to a repealed provision with an appropriate reference to current law. In addition, the introductory language of the section is cleaned up to conform with current style.

Secs. 35 and 36. These amendments are proposed to substitute alternate language for gender-indicating personal pronouns.

Sec. 37. This section proposes amendments to AS 24.08.-330(a), relating to the distribution of the Alaska Statutes, to reflect actual practice.

Sec. 38. Under AS 25.23.125(a), enacted in 1986, the court is required to consider the desires of a person under the age of 10 who is adopted (if the person is "of sufficient age and intelligence to state desires"). Under AS 25.23.-040(a), enacted in 1974, a minor over the age of 10 must consent to an adoption, unless the court determines that it would be in the best interest of the minor to dispense with that requirement. The upshot of this is that a minor who is

exactly 10 is not required to consent, nor is the court required to consider the minor's desires. Obviously, the gap could be closed by amending either of the conflicting provisions. The amendment proposed by this section amends AS 25.23.040(a) to require consent from a minor 10 years or older, using the age cutoff most recently enacted by the legislature.

Sec. 39. The suggested amendment to AS 33.32.015(b)(5), relating to the powers of the commissioner of corrections with respect to the correctional industries program, adds a reference to the new state procurement code. The legislature may wish to delete the reference to AS 37.05 (the Fiscal Procedures Act), as was done in 1986 in AS 33.32.015(b)(1) in connection with the enactment of the procurement code.

Sec. 40. This amendment substitutes relevant current references for references rendered obsolete by the 1988 repeal of AS 39.35.110. The amendment was requested by the commissioner of revenue.

Sec. 41. This amendment rewrites AS 37.15.300, relating to borrowing by the state bond committee in anticipation of the sale of bonds, to update the style and clarify the language. There are no substantive changes.

Sec. 42. Section 2, ch. 123, SLA 1988 added a definition of "long-term lease" to AS 38.04. Unfortunately, the definition overlapped the existing definition of "short-term lease" (found in AS 38.04.910(8)), in that both definitions included a 10 year lease. The amendment to AS 38.04.910(4) proposed by this section would resolve this overlap by defining long-term leases as leases for more than 10 years, which is consistent with other relevant provisions of the public land laws. See, for example, AS 38.05.070(b).

Sec. 43. This section proposes an amendment to harmonize the definitions of "submerged land" and "tideland" for AS 38.05. Because the two types of land share a common boundary, the language used to define each should be the same.

Sec. 44. This amendment substitutes a reference to the only relevant statute for a spanned reference to clarify the law establishing a criminal provision in the tax laws. The amendment was suggested by the Department of Law.

Sec. 45. The amendment made by this section deletes a reference to a provision that was repealed in 1981.

Secs. 46 and 47. The amendments proposed in these sections are proposed to conform to the 1977 repeal of the gross production tax. The current tax is simply the "production tax."

Sec. 48. This section rewrites, for clarity, the law describing the membership of the science and engineering advisory commission.

Sec. 49. The amendment proposed by this section is intended to resolve a conflict between AS 44.21.240(2), enacted by sec. 3, ch. 108, SLA 1988, and AS 44.21.230(c). The latter provision (enacted in 1981) prohibits the Older Alaskans Commission from investigating, reviewing, or undertaking any responsibility for the Alaska Pioneers' Home. The 1988 legislation established the long-term care ombudsman program within the commission, and defined "long-term care facility" in such a way that it includes the Alaska Pioneers' Home (the pioneers' home is included within the definition of "nursing home" in AS 08.70.180). The amendment resolves the conflict by excluding the Alaska Pioneers' Home from the definition. Alternatively, the legislature could decide to resolve the conflict by excluding investigations by the long-term care ombudsman from the prohibition contained in AS 44.21.230(c). The problem was brought to our attention by the Department of Law when the bill was reviewed for the governor.

Sec. 50. Last year the legislature enacted ch. 162, SLA 1988, which derived from SB 471. When introduced, that bill provided that the authority (AIDEA) could not make a guarantee in excess of \$1,000,000 per loan. In a later version of the bill, prepared for Senate Finance, that language was changed from "more than \$1,000,000 per loan" to "a loan of more than \$1,000,000." This change was not requested by the Senate Finance Committee, but as made by our office to make the language of AS 44.88.545(1) consistent with that of paragraph (2) of that section. (Paragraph (2) provides that the authority may not guarantee "loans to an individual borrower that cumulatively exceed \$1,000,000 of indebtedness.") The proposed amendment would restore the language of the provision as introduced. I should point out that the existing language of (2) prevents the change having any substantive effect, because as long as

a borrower's total indebtedness is limited to \$1,000,000 by AS 44.88.545(2), the amount of a guarantee would never exceed \$700,000.

Secs. 51 - 53. The amendments proposed by these sections reflect a change in the name of the National Bureau of Standards (by last year's Omnibus Trade and Competitiveness Act). Also, in sec. 52, an obsolete provision is proposed for deletion.

Sec. 54. This amendment deletes obsolete time-dated material.

Sec. 55. The amendment proposed by this section conforms the provisions of AS 47.10.090(a), as amended by sec. 4, ch. 130, SLA 1988, to the other substantive provisions of ch. 130, SLA 1988. As enacted, AS 28.15.185 did not include any references to traffic offenses, although earlier versions of the bill did encompass certain traffic offenses. When the references to traffic offenses were removed from AS 28.15.185, the reference within AS 47.10.090(a) should also have been changed. This amendment was suggested by the Department of Law in connection with its review of the bill for the governor.

Sec. 56. This amendment of the provision establishing the effective date for the repeal of the Winter Olympic funding program is proposed to reflect (1) the fact that there will not be a 1996 Winter Olympics, but rather a 1998 Olympics, and (2) the fact that the site for the 1992 games has been announced.

Sec. 57. This amendment corrects a drafting error in one of the transitional provisions of ch. 166, SLA 1988, enacting the new corporations code. This section is given a July 1, 1989 effective date by sec. 59 of this draft to correspond with the effective date of ch. 166. The error was brought to our attention by the Hon. Ralph Stemp.

Sec. 58. This section proposes the repeal of several obsolete provisions. AS 09.10.055 was held unconstitutional by the Alaska supreme court in Turner Const. Co. v. Scales, 752 P.2d 467 (1988). AS 10.40.130(c) was a 1977 deadline for compliance with a provision in AS 10.40. AS 11.41.443 would be obsolete if sec. 25 of this draft is enacted, and the need for repeal of the provision is discussed in connection with sec. 25 of this draft. AS 14.07.030(9) was

Representative Peter Goll  
Page 9  
February 14, 1989

rendered obsolete by 1975 legislation and should have been repealed then. AS 16.05.632(d) should have been repealed when the provisions relating to shellfish pot licenses were repealed in 1977. AS 19.45.001(7) defines a term that is not used in AS 19 (except in a section catchline, which is not law; see AS 01.05.006). AS 44.47.560(1) and (2) contain definitions that are redundant to those found in AS 44.47.-998(1) and (3). AS 44.83.425(1) and (4) define terms that were deleted from AS 44.83 in 1984, making the definitions obsolete. AS 46.03.299(e) relates to a duty that was imposed only from July 1, 1986 through June 30, 1987. The text of all provisions proposed for repeal is attached as an appendix to this memo.

Sec. 59. Gives a July 1, 1989 effective date to those sections relating to the new corporations code.

Sec. 60. Gives an immediate effective date to the remainder of this draft.

DRD:gc  
WKG7/028

Enclosure

cc: Representative Mike Davis  
Representative Max Gruenberg  
Representative Terry Martin  
Art Peterson, Department of Law

**Sec. 09.10.055. Certain actions relating to construction in six years.** (a) No action, whether in contract (oral or written, sealed or unsealed), in tort or otherwise, to recover damages (1) for a deficiency in the design, planning, supervision or observation of construction or construction of an improvement to real property; (2) for injury to property, real or personal, arising out of a deficiency; or (3) for injury to the person or for wrongful death arising out of such deficiency, may be brought against a person performing or furnishing the design, planning, supervision or observation of construction, or construction of an improvement more than six years after substantial completion of an improvement.

(b) Notwithstanding the provisions of (a) of this section, in the case of an injury to property or the person or an injury causing wrongful death, which injury occurred during the sixth year after substantial completion, an action in tort to recover damages for the injury may be brought within two years after the date on which the injury occurred. In no event may action be brought more than eight years after the substantial completion of construction of an improvement.

(c) Nothing in this section shall be construed as extending the period prescribed by the laws of this state for the bringing of any action.

(d) The limitation prescribed by this section shall not be asserted by way of defense by a person in actual possession or control, as owner, tenant, or otherwise of an improvement at the time a deficiency in an improvement constitutes the proximate cause of the injury or death for which it is proposed to bring an action.

(e) In this section, "person" means an individual, corporation, partnership, business trust, unincorporated organization, association, or joint-stock company. (§ 2 ch 61 SLA 1967)

**Sec. 10.40.130. Service of process.**

(c) Corporations organized under this chapter have until January 31, 1977, to comply with this section. (§ 58 ch 170 SLA 1976)

**Sec. 11.41.443. Spousal relationship no defense.** In a prosecution under AS 11.41.410 or 11.41.420, it is not a defense that the victim was, at the time of the alleged offense, the legal spouse of the defendant. (§ 1 ch 43 SLA 1985)

**Sec. 14.07.030. Powers of the department.** The department may

(9) exercise disapproval power under AS 14.08.101;

**Sec. 16.05.632. Identification of shellfish pots or buoys, or both, used in the taking of king crab and requirements for buoys.**

(d) Upon conviction of a person of a violation of (a) or (b) of this section or a regulation adopted under (a) or (b) of this section, the court shall, in addition to any other penalty imposed by law, revoke the violator's shellfish pot license for a period of not less than 12 consecutive months nor more than five years and, in addition, restrict the boat used in a violation of (a) of this section from being used in the taking of king crab for the same period as the shellfish pot license is revoked. After the restriction is imposed, if the boat is used in the taking of king crab within the period of restriction, it shall be seized and forfeited to the state as provided in AS 16.05.195.

**Sec. 19.45.001. Definitions.** In AS 19.05 — AS 19.40

(7) "excess land" means land acquired by the state in excess of land required for a highway, when the remaining portion of a parcel of land so acquired is left in a shape or condition that is of little or no value to its owner, or to give rise to claims or litigation concerning severance or other damage;

**Sec. 44.47.560. Definitions.** In AS 44.47.370 — 44.47.560,

(1) "commissioner" means the commissioner of the Department of Community and Regional Affairs;

(2) "department" means the Department of Community and Regional Affairs;

**Sec. 44.83.425. Definitions.** In AS 44.83.380 — 44.83.425,

(1) "bus bar" means the substation that serves as the delivery point from the generation and transmission system of the authority to the transmission and distribution system of the utility;

(4) "industrial consumer" means a customer of a utility which customer has a peak power demand in excess of 500 kilowatts and uses the power principally for

- (A) manufacturing;
- (B) pipeline transportation;
- (C) the recovery or processing of minerals;
- (D) the processing of timber, agricultural, or seafood products or their by-products; or
- (E) the operation of facilities owned by the federal government;

**Sec. 46.03.299. Regulation of hazardous waste.**

(e) During the period July 1, 1986, through June 30, 1987, the department shall conduct a program to inform persons of their responsibilities under regulations adopted under (a) of this section. (§ 10 ch 93 SLA 1981; am § 1 ch 77 SLA 1984)

STATE OF ALASKA  
THE LEGISLATURE

FOUCH V. STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 6, 1989

SUBJECT: Amendment for HB 148 (1989 Revisor's Bill)

TO: Representative Peter Goll, Co-Chair  
Representative Max Gruenberg, Co-Chair  
House Judiciary Committee

FROM: David R. Dierdorff  
Revisor of Statutes 

I have prepared the enclosed amendment to HB 148 (the 1989 revisor's bill) for the consideration of your committee. If you prefer, I will prepare a draft CS incorporating this amendment and consolidate the following sectional analysis with the analysis of the bill as introduced.

SUMMARY OF EFFECT

To assist in understanding the draft amendment, I have summarized the contents by grouping sections that have similar effects.

Sections that delete or repeal obsolete provisions:

Sections 5, 10, 13, 24, 45, 47, 55, and 59 delete or repeal provisions that have become obsolete either through the passage of time, other legislative action, or judicial decision.

Sections that update obsolete or archaic provisions, or improve the style of the statutes:

Section 34 substitutes a new provision for one that is obsolete.

Sections that eliminate conflicts with other laws:

Section 43 harmonizes two provisions that deal with the same subject.

Sections that correct errors or oversights:

Section 9 corrects a drafting error.

#### SECTIONAL ANALYSIS

Sec. 5. This amendment is required of AS 09.10.055 is repealed, as proposed in sec. 59 of this draft.

Sec. 9. As enacted, AS 10.06.833 provided for the filing of a certificate of withdrawal by certain foreign corporations. However, the corporation would not have a certificate of withdrawal to file; the corporation files an application for a certificate and the Department of Commerce and Economic Development issues a certificate to the corporation. The amendment corrects this error. It was requested by the corporations supervisor in the department.

Sec. 10. Last year, by Executive Order and a companion bill, the responsibility for administering business licenses was transferred from the Department of Revenue to the Department of Commerce and Economic Development. The proposed amendment to AS 10.06.870 reflects that transfer.

Sec. 13. This section proposes amendments to AS 10.15.325 to delete material that has become obsolete through the passage of time and to rewrite the last sentence for clarity.

Secs. 14 - 24. These sections, and existing secs. 8 and 9 of HB 148, as amended by the instructions within this amendment, delete a reference to a provision of the old corporations code that was repealed (effective July 1, 1989) by ch. 166, SLA 1988.

Sec. 34. The purpose of this amendment is to replace a reference to a repealed provision with an appropriate reference to current law. In addition, the introductory language of the section is cleaned up to conform with current style.

Sec. 43. This section, which replaces sec. 27 in HB 148, amends the definition of "tideland" to conform to the definition of "submerged land" found in AS 38.05.965(20). (Section 27 had proposed that the definition of "submerged land" be amended; the change in approach was requested by the Department of Law.)

Sec. 45. The amendment made by this section deletes a reference to a provision that was repealed in 1981.

Representative Peter Goll, Co-Chair  
Representative Max Gruenberg, Co-Chair  
Page 3  
February 6, 1989

Secs. 46 and 47. The amendments proposed in these sections are proposed to conform to the 1977 repeal of the gross production tax. The current tax is simply the "production tax."

Sec. 55. This amendment deletes obsolete time-dated material.

Sec. 59. The amendments to this section (sec. 39 in HB 148) add five provisions to the list of obsolete provisions proposed for repeal. AS 09.10.055 was held unconstitutional by the Alaska supreme court in Turner Const. Co. v. Scales, 752 P.2d 467 (1988); AS 10.40.130(c) was a 1977 deadline for compliance with a new provision in AS 10.40; AS 16.05.632(d) should have been repealed when the provisions relating to shellfish pot licenses were repealed in 1977; AS 44.47.560(1) and (2) contain definitions that are redundant to those found in AS 44.47.998(1) and (3); and AS 46.03.299(e) relates to a duty that was imposed only from July 1, 1986 through June 30, 1987.

DRD:gc  
G6/054

Enclosure

A M E N D M E N T

OFFERED IN THE HOUSE JUDICIARY COMMITTEE

TO: HB 148

Page 2, after line 23:

Insert a new bill section to read:

"\* Sec. 5. AS 09.10.050 is amended to read:

Sec. 09.10.050. ACTIONS TO BE BROUGHT IN SIX YEARS. A [NO] person may not bring an action (1) upon a contract or liability, express or implied, excepting those mentioned in AS 09.10.040 [OR 09.10.055]; (2) for waste or trespass upon real property; or (3) for taking, detaining, or injuring personal property, including an action for its specific recovery [, EXCEPT THOSE MENTIONED IN AS 09.10.055]; unless commenced within six years."

Renumber succeeding sections accordingly.

Page 3, after line 27:

Insert new bill sections to read:

"\* Sec. 9. AS 10.06.833 is amended to read:

Sec. 10.06.833. FEES AND PENALTIES PAYABLE ON WITHDRAWAL OF FOREIGN CORPORATION. A registered foreign corporation may withdraw from this state upon payment of all biennial corporation taxes and penalties due at the time of desired withdrawal and by filing with the department an application for a certificate of withdrawal signed by its proper officers and under its corporate seal. The fee for filing

the application [CERTIFICATE] with the commissioner shall be established by the department by regulation.

\* Sec. 10. AS 10.06.870 is amended to read:

Sec. 10.06.870. IDENTIFICATION CODE. The commissioner [OF COMMERCE AND ECONOMIC DEVELOPMENT AND THE COMMISSIONER OF REVENUE] shall [JOINTLY] establish and adopt a coded list of business activities and shall make the list available to the public."

Renumber succeeding bill sections accordingly.

Page 4, lines 7 - 13:

Delete all underlined material.

Page 4, lines 22 - 27:

Delete all underlined material.

Page 4, after line 27:

Insert new bill sections to read:

"\* Sec. 13. AS 10.15.325 is amended to read:

Sec. 10.15.325. FORM OF BIENNIAL REPORT; DELINQUENT REPORTS. The biennial report shall be made on forms furnished by the department. The information contained in the biennial report shall be given as of June 30 of the reporting year. [THE FIRST BIENNIAL REPORT FOR CORPORATIONS REQUIRED TO FILE IN ODD-NUMBERED YEARS MUST BE FILED BEFORE JULY 2, 1981. THE FIRST BIENNIAL REPORT FOR CORPORATIONS REQUIRED TO FILE IN EVEN-NUMBERED YEARS MUST BE FILED BEFORE July 2,

1982.] The biennial report is delinquent if not filed before August 1 of each odd or even year as provided in this section. A corporation that is delinquent is [DELINQUENT RETURNS ARE] subject to involuntary dissolution under [THE PENALTY PRESCRIBED IN] AS 10.15.505.

\* Sec. 14. AS 10.15.535 is amended to read:

Sec. 10.15.535. DETERMINATION OF LICENSE FEE FOR COOPERATIVE AUTHORIZED TO ISSUE CAPITAL STOCK. The license fee of each cooperative authorized by its articles to issue capital stock shall be established by the department by regulation [SUBJECT TO AS 10.05.773]. The license fee shall be based on the amount of authorized capital stock.

\* Sec. 15. AS 10.15.545 is amended to read:

Sec. 10.15.545. LICENSE FEE FOR COOPERATIVE WITHOUT CAPITAL STOCK. The license fee of each cooperative having no authorized shares of capital stock shall be established by the department by regulation [SUBJECT TO AS 10.05.773].

\* Sec. 16. AS 10.15.555 is amended to read:

Sec. 10.15.555. MISCELLANEOUS FEES AND CHARGES. (a) The department shall establish by regulation [SUBJECT TO AS 10.05.773] and charge and collect from a cooperative fees for filing

(1) articles of incorporation or articles of consolidation for a new cooperative;

(2) articles of amendment, restated articles, or articles of merger, and, if the articles provide for an increase of the amount of authorized capital stock of the cooperative, the filing cooperative shall also pay the proportionate part of the annual license fee for the succeeding fraction of the fiscal year, payable by a cooperative

whose authorized shares equal the newly increased authorized shares of the filing cooperative, less the annual license fee already paid for the succeeding fraction of the fiscal year by the filing cooperative; but filing articles decreasing the authorized shares does not reduce the annual license fee of the filing cooperative until the beginning of the fiscal year following that in which the articles were filed;

(3) statement of intent to dissolve;

(4) statement of revocation of voluntary dissolution proceedings;

(5) articles of dissolution;

(6) all other statements.

(b) The department may by regulation charge each cooperative corporation subject to this chapter a fixed fee in place of charging cooperative corporations the various fees specified in this chapter, with the exception of AS 10.15.535, (a)(1) of this section, and for routine administrative services rendered to the cooperative corporation by the department. [AN INCREASE IN THE AMOUNT OF A FIXED FEE CHARGED UNDER THIS SUBSECTION IS SUBJECT TO AS 10.05.773.]

\* Sec. 17. AS 10.20.530 is amended to read:

Sec. 10.20.530. SERVICE ON COMMISSIONER. When a foreign corporation authorized to transact business in the state, or not authorized to transact business in the state but doing so, fails to appoint or maintain a registered agent in the state, or when a registered agent cannot with reasonable diligence be found at the registered office, or when the certificate of authority of a foreign corporation is suspended or revoked, the commissioner is an agent upon whom process,

notice, or demand may be served. Service on the commissioner shall be made by delivering to and leaving with the commissioner, or a designee in the corporation division of the department, duplicate copies of the process, notice or demand, accompanied by a fee established by the department by regulation [SUBJECT TO AS 10.05.773]. The commissioner shall immediately have one copy forwarded by registered or certified mail, addressed to the corporation at its principal office in the state or country under whose laws it is incorporated. Service on the commissioner is returnable in not less than 30 days.

\* Sec. 18. AS 10.20.635 is amended to read:

Sec. 10.20.635. FEES FOR FILING DOCUMENTS AND ISSUING CERTIFICATES. (a) The commissioner shall establish by regulation and [SUBJECT TO AS 10.05.773,] charge and collect fees for filing

(1) [FILING] articles of incorporation and issuing a certificate of incorporation;

(2) [FILING] articles of amendment and issuing a certificate of amendment;

(3) [FILING] restated articles of incorporation and issuing a restated certificate of incorporation;

(4) [FILING] articles of merger or consolidation and issuing a certificate of merger or consolidation;

(5) [FILING] a statement of change of address of registered office or change of registered agent, or both;

(6) [FILING] articles of dissolution;

(7) [FILING] an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing

a certificate of authority;

(8) [FILING] an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority;

(9) [FILING] a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state;

(10) [FILING] a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state;

(11) [FILING] an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal;

(12) [FILING] any other statement or report, including a biennial report, of a domestic or foreign corporation.

(b) The department may by regulation charge each corporation subject to this chapter a fixed fee in place of the various fees specified in this chapter, with the exception of (a)(1) of this section, and for routine administrative services rendered to the corporation by the department. [AN INCREASE IN THE FIXED FEE CHARGED UNDER THIS SUBSECTION IS SUBJECT TO AS 10.05.773.]

\* Sec. 19. AS 10.20.640 is amended to read:

Sec. 10.20.640. FEE FOR CERTIFIED COPIES OF INSTRUMENTS. The fee for furnishing a certified copy of any instrument shall be established by the department by regulation [SUBJECT TO AS 10.05.773]

\* Sec. 20. AS 10.25.530(a) is amended to read:

(a) The commissioner shall establish by regulation and [SUBJECT

TO AS 10.05.773,) charge and collect [FILING] fees for

- (1) filing articles of incorporation;
- (2) filing articles of amendment;
- (3) filing articles of consolidation or merger;
- (4) filing articles of conversion;
- (5) filing certificate of election to dissolve;
- (6) filing articles of dissolution;
- (7) filing certificate of change of principal office and designation or change of registered office and registered agent; and
- (8) acting as agent for service of process.

\* Sec. 21. AS 10.25.530(b) is amended to read:

(b) The department may by regulation charge each cooperative subject to this chapter a fixed fee in place of the various fees specified in this chapter, with the exception of (a)(1) of this section, and for the routine administrative services rendered to the corporation by the department. [AN INCREASE IN THE FIXED FEE CHARGED UNDER THIS SUBSECTION IS SUBJECT TO AS 10.05.773.]

\* Sec. 22. AS 10.35.060 is amended to read:

Sec. 10.35.060. FEE FOR AND DURATION OF REGISTERED NAME. The fee for the initial registration of a business name shall be established by the department by regulation [SUBJECT TO AS 10.05.773]. The year in which the registration becomes effective is considered a full year of registration and the registration is effective until the close of the fifth calendar year beginning with the year of initial registration.

\* Sec. 23. AS 10.35.070 is amended to read:

Sec. 10.35.070. RENEWAL OF REGISTERED NAME. A registered business name may be renewed every five years if an application for renewal is filed. An application for renewal must set out the facts required in an original application for registration and be accompanied by a renewal fee to be established by the department by regulation [SUBJECT TO AS 10.05.773]. An application for renewal may be filed between October 1 and December 31 of any year. The renewal of the registration extends the registration for the following five calendar years.

\* Sec. 24. AS 10.40.140(a) is amended to read:

(a) Any document required to be filed with the commissioner under this chapter shall be accompanied by a fee to be established by the department by regulation [SUBJECT TO AS 10.05.773]."

Renumber succeeding bill sections accordingly.

Page 7, after line 7:

Insert a new bill section to read:

\*\* Sec. 34. AS 21.84.590 is amended to read:

Sec. 21.84.590. OTHER PROVISIONS APPLICABLE. In addition to the provisions contained in this chapter, the following [OTHER CHAPTERS AND] provisions of this title [SHALL] apply to fraternal benefit societies [,] to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of this chapter [THEREOF, AS FOLLOWS]:

(1) AS 21.03

- (2) AS 21.06
- (3) AS 21.09.050 and 21.09.100
- (4) AS 21.33 [AS 21.33.010]
- (5) AS 21.36
- (6) AS 21.42.290 and 21.42.355
- (7) AS 21.69.370 and 21.69.640
- (8) AS 21.78
- (9) AS 21.89.060."

Renumber succeeding bill sections accordingly.

Page 11, lines 13 - 17:

Delete all material and insert:

"\* Sec. 43. AS 38.05.965(21) is amended to read:

(21) "tideland" means land that [WHICH] is periodically covered by tidal water between the elevation of mean high water and mean low water [TIDES];"

Page 12, after line 2:

Insert new bill sections to read:

"\* Sec. 45. AS 43.55.012(b) is amended to read:

(b) The cents-per-barrel amount set out in AS 43.55.011(c) [AS ADJUSTED BY (a) OF THIS SECTION] applies to oil of 27 degrees API gravity. For each degree of API gravity less than 27 degrees the cents-per-barrel amount shall be reduced by \$.005 and for each degree of API gravity greater than 27 degrees the cents-per-barrel amount

shall be increased by \$.005 except that oil above 40 degrees API gravity shall be taxed as 40 degree oil. In applying the gravity adjustment under this subsection, fractional degrees of API gravity shall be disregarded.

\* Sec. 46. AS 43.55.020(a) is amended to read:

(a) The [GROSS] production tax on oil or gas shall be paid monthly. The tax is due on the 20th day of each calendar month on oil or gas produced from each lease or property during the preceding month. If the tax is not paid before the end of the month in which it becomes due, the tax becomes delinquent.

\* Sec. 47. AS 43.55.020(b) is amended to read:

(b) The [GROSS] production tax on oil or gas shall be paid by or on behalf of the producer."

Renumber succeeding bill sections accordingly.

Page 16, after line 28:

Insert a new bill section to read:

\*\* Sec. 55. AS 46.03.299(a) is amended to read:

(a) The department shall adopt [DEVELOP] regulations under the Administrative Procedure Act (AS 44.62) for the identification and management of hazardous waste as defined by the Environmental Protection Agency and hazardous waste that exhibits the characteristic of toxicity, persistence, or carcinogenicity. [THE DEPARTMENT SHALL ADOPT THESE REGULATIONS NOT LATER THAN JULY 1, 1986, IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62). THESE REGULATIONS

SHALL TAKE EFFECT JULY 1, 1987.]"

Renumber remaining bill sections accordingly.

Page 18, line 19:

Delete "\* Sec. 39." and insert "\* Sec. 59. AS 09.10.055, AS 10.40.-  
130(c),"

After "AS 14.07.030(9)," insert "AS 16.05.632(d),"

Delete "and" and insert "AS 44.47.560(1), 44.47.560(2),"

Page 18, line 20:

Delete "and" and insert ","

After "44.83.425(4)" insert ", and AS 46.03.299(e)"

Page 18, line 21:

Delete "7 - 9 and 38"

Insert "8 - 12, 14 - 24, and 58"

Page 18, line 22:

Delete "7 - 9 and 38"

Insert "8 - 12, 14 - 24, and 58"

STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

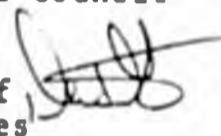
STATE OF ALASKA  
LEGISLATIVE AFFAIRS AGENCY  
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MEMORANDUM

January 11, 1989

SUBJECT: Sectional Analysis of 1989 Revisor's Bill  
(W.O. 6-0391)

TO: Representative Mike Davis  
Chair, Legislative Council

FROM: David R. Dierdorff   
Revisor of Statutes

This memorandum discusses the 1989 revisor's bill, which has been transmitted to you in draft form for the consideration of the Legislative Council for possible introduction through the House Rules Committee.

The draft was prepared under AS 01.05.036, which provides, in part, that the revisor of statutes shall

. . . prepare for submission to the legislature legislation for the correction or removal of . . . deficiencies, conflicts, or obsolete provisions, or to otherwise improve the form or substance of . . . the statute law of this state.

SUMMARY OF EFFECT

To assist in understanding the draft, I have summarized the contents by grouping sections that have similar effects.

Sections that delete or repeal obsolete provisions:  
Sections 4, 6, 18, 35, 38, and 39 delete or repeal provisions that have become obsolete either through the passage of time or other legislative action.

Sections that update obsolete or archaic provisions, or improve the style of the statutes: Sections 3, 5, 8, 9, 11, 14, 17, 19, 20, 21, 23, 24, 25, 28, 29, 32, 33, 34, 35, and

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37 substitute new provisions for provisions that are obsolete, archaic, or otherwise outdated, including improvements in the style of language for purposes of clarity.

Sections that eliminate conflicts with other laws: Sections 2, 10, 13, 15, 16, 22, 26, 27, and 30 resolve conflicts between laws or otherwise harmonize laws dealing with the same subjects.

Sections that correct errors or oversights: Sections 1, 7, 12, 31, and 36 correct errors or oversights in drafting.

#### SECTIONAL ANALYSIS

Section 1. The addition of "or delivery" to AS 04.16.051(b)(1) by the amendment proposed in sec. 1 conforms the language of the paragraph to the introductory language of the subsection as amended by sec. 8, ch. 156, SLA 1988. The need for this change was noted by the Department of Law when the bill was reviewed for the governor.

Sec. 2. The amendment to AS 05.05.030(c) proposed in this section would remove a conflict with the provisions of AS 05.10.110. Existing law requires, in AS 05.05.030(c), that a member of the athletic commission attend every boxing and wrestling event. However, AS 05.10.110 provides for the appointment of official inspectors to attend in the absence of a member of the commission. The amendment would simply recognize that commissioners need not attend if official inspectors have been provided for the event. The amendment also substitutes "member of the commission" for "commissioner" to be consistent with other usage in AS 05.05 and to eliminate confusion between the duties of the members of the commission and the duties of the athletic commissioner.

Sec. 3. The amendment substitutes "A member" for "The commissioners" to clarify that the provision is dealing with members of the commission and not the athletic commissioner, and conform the usage to that found elsewhere in AS 05.05.

Sec. 4. The proposed amendment to AS 08.84.030(a) deletes a reference to the Professional Examination Service Association because, effective last August, the association

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is no longer administering the exam for physical therapists. The amendment was requested by the division of occupational licensing.

Sec. 5. This section proposes to substitute a reference to specific, relevant provisions of AS 09.20 for an archaic reference to "the following provisions."

Sec. 6. Since the 1972 enactment of AS 09.30.100 - 09.30.180 (Uniform Foreign Money-Judgments Recognition Act), the United States' relationship with former trust territories has substantially changed. For example, the Ryukyu Islands (Okinawa and its neighbors) are now governed by Japan rather than by an American military government. Rather than name specific jurisdictions in this definitional provision, it appears to be wiser to rely on a generic listing of jurisdictions that would logically be considered "domestic" rather than "foreign."

Sec. 7. This section corrects a drafting error in the new corporations code (AS 10.06) enacted last session. This section is given a July 1, 1989 effective date by sec. 40 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Secs. 8 and 9. These sections substitute the substance of AS 10.05.773 for a reference to that section, which is repealed July 1, 1989 by ch. 166, SLA 1988. The sections are also given a July 1, 1989 effective date by sec. 40 of the draft to correspond with the effective date of ch. 166, SLA 1988.

Sec. 10. AS 11.41.432, enacted last session, partially repeals AS 11.41.443 by implication. This section of the draft enacts the substance of AS 11.41.443 as a new subsection (b) of AS 11.41.432, with additional language to clarify the interaction of the two provisions. In sec. 39, AS 11.41.443 is proposed for repeal.

Sec. 11. This section proposes an amendment to the definition of "mentally incapable" (enacted by sec. 5, ch. 96, SLA 1988) for grammatical consistency.

Sec. 12. Last session, the legislature enacted AS 12.36.050, relating to the remission of a forfeited weapon. At one time, the bill that enacted the provision had provided for a court order compensating a claimant for

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the monetary value of the claimant's interest in the weapon, or an order returning the weapon to a claimant. That provision (in AS 12.36.050(b)) was amended in committee to delete the authority to order compensation. The amendment to subsection (a) proposed by this section of the draft should have been made at that time, but it was overlooked until after the bill passed both houses and was being enrolled.

Sec. 13. The amendment proposed by this section harmonizes a provision enacted by ch. 63, SLA 1988, with related provisions enacted by ch. 64, SLA 1988.

Sec. 14. The amendment to the definition of "member contribution account" for the Teachers' Retirement System law is proposed to conform the language to actual practice. Members do not make "contributions" toward their indebtedness, they make "payments." The amendment was requested by the Department of Law. The internal reference to AS 14.25.170 is changed to a reference to AS 14.25.173 to correct what appears to be an error.

Sec. 15. Section 11, ch. 60, SLA 1988, amended AS 14.30.070(a) to allow chiropractors to conduct certain required school examinations. However, subsection (c) of that section was not amended, and without the amendment proposed by this section of the draft, conflicts with amended (a). The amendment was suggested by the Department of Law.

Sec. 16. This section proposes an amendment to AS 15.13.040(d) to conform the dollar amount to other law and actual practice. In 1975, AS 15.13.080, which requires the filing with APOC of statements of contributions by persons and groups other than political action committees, was amended to require the statements when more than \$250 (rather than \$100) had been contributed. Even though AS 15.13.040(d)(1) was not amended at that time, such an amendment would have been consistent with the intent of the 1975 change. Therefore, since 1975 APOC has requested the filing of statements under AS 15.13.040(d)(1) only at the point when more than \$250 has been given in a year to a candidate or political group. The amendment proposed by this section was requested by APOC staff.

Sec. 17. This amendment is proposed to conform the language to the style of the statutes.

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Sec. 18. The amendment proposed by this section deletes a reference to a subsection that was repealed in 1984.

Secs. 19 and 20. These amendments are proposed to substitute alternate language for gender-indicating personal pronouns.

Sec. 21. This section proposes amendments to AS 24.08.330(a), relating to the distribution of the Alaska Statutes, to reflect actual practice.

Sec. 22. Under AS 25.23.125(a), enacted in 1986, the court is required to consider the desires of a person under the age of 10 (if the person is "of sufficient age and intelligence to state desires") who is to be adopted. Under AS 25.23.040(a), enacted in 1974, a minor over the age of 10 must consent to an adoption, unless the court determines that it would be in the best interest of the minor to dispense with that requirement. The upshot of this is that a minor who is exactly 10 is not required to consent, nor is the court required to consider the minor's desires. Obviously, the gap could be closed by amending either of the conflicting provisions. The amendment proposed by this section amends AS 25.23.040(a) to require consent from a minor 10 years or older, using the age cutoff most recently enacted by the legislature.

Sec. 23. The suggested amendment to AS 33.32.015(b)(5), relating to the powers of the commissioner of corrections with respect to the correctional industries program, adds a reference to the new state procurement code. The legislature may wish to delete the reference to AS 37.05 (the Fiscal Procedures Act), as was done in 1986 in AS 33.32.015(b)(1) in connection with the enactment of the procurement code.

Sec. 24. This amendment substitutes relevant current references for references rendered obsolete by the 1988 repeal of AS 39.35.110. The amendment was requested by the commissioner of revenue.

Sec. 25. This amendment rewrites AS 37.15.300, relating to borrowing by the state bond committee in anticipation of the sale of bonds, to update the style and clarify the language. There are no substantive changes.

Sec. 26. Section 2, ch. 123, SLA 1988 added a definition of "long-term lease" to AS 38.04. Unfortunately, the

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definition overlapped the existing definition of "short-term lease" (found in AS 38.04.910(8)), in that both definitions included a 10 year lease. The amendment to AS 38.04.910(4) proposed by this section would resolve this overlap by defining long-term leases as leases for more than 10 years, which is consistent with other relevant provisions of the public land laws. See, for example, AS 38.05.070(b).

Sec. 27. This section proposes an amendment to harmonize the definitions of "submerged land" and "tideland" for AS 38.05. Because the two types of land share a common boundary, the language used to define each should be the same.

Sec. 28. This amendment substitutes a reference to the only relevant statute for a spanned reference to clarify the law establishing a criminal provision in the tax laws. The amendment was suggested by the Department of Law.

Sec. 29. This section rewrites, for clarity, the law describing the membership of the science and engineering advisory commission.

Sec. 30. The amendment proposed by this section is intended to resolve a conflict between AS 44.21.240(2), enacted by sec. 3, ch. 108, SLA 1988, and AS 44.21.230(c). The latter provision (enacted in 1981) prohibits the Older Alaskans Commission from investigating, reviewing, or undertaking any responsibility for the Alaska Pioneers' Home. The 1988 legislation established the long-term care ombudsman program within the commission, and defined "long-term care facility" in such a way that it includes the Alaska Pioneers' Home (the pioneers' home is included within the definition of "nursing home" in AS 08.70.180). The amendment resolves the conflict by excluding the Alaska Pioneers' Home from the definition. Alternatively, the legislature could decide to resolve the conflict by excluding investigations by the long-term care ombudsman from the prohibition contained in AS 44.21.230(c). The problem was brought to our attention by the Department of Law when the bill was reviewed for the governor.

Sec. 31. This amendment is proposed to resolve a problem in the 1988 law establishing the business assistance program within AIDEA. As enacted, the law placing limits on the total amount of loan guarantees that may be entered into was drafted in terms of the total indebtedness guaranteed rather

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than the total of guarantees. It is our understanding that the proposed amendment would more accurately express the intent of the legislature. The problem was brought to our attention by the prime sponsor of the 1988 legislation.

Sec. 32. This amendment would replace an obsolete listing of the classification of goods and services for trademark purposes with a reference to the current classification in use by the U.S. Patent and Trademark Office, which is also used by most states. Enactment of this amendment would obviate the necessity of legislative maintenance of the list and allow the administering agency to keep the state's classification system in step with that of other states and the federal government.

Secs. 33 - 35. The amendments proposed by these sections reflect a change in the name of the National Bureau of Standards (by last year's Omnibus Trade and Competitiveness Act). Also, in sec. 34, an obsolete provision is proposed for deletion.

Sec. 36. The amendment proposed by this section conforms the provisions of AS 47.10.090(a), as amended by sec. 4, ch. 130, SLA 1988, to the other substantive provisions of ch. 130, SLA 1988. As enacted, AS 28.15.185 did not include any references to traffic offenses, although earlier versions of the bill did encompass certain traffic offenses. When the references to traffic offenses were removed from AS 28.15.185, the reference within AS 47.10.090(a) should also have been changed. This amendment was suggested by the Department of Law in connection with its review of the bill for the governor.

Sec. 37. This amendment of the provision establishing the effective date for the repeal of the Winter Olympic funding program is proposed to reflect (1) the fact that there will not be a 1996 Winter Olympics, but rather a 1998 Olympics, and (2) the fact that the site for the 1992 games has been announced.

Sec. 38. This amendment corrects a drafting error in one of the transitional provisions of ch. 166, SLA 1988, enacting the new corporations code. This section is given a July 1, 1989 effective date by sec. 40 of this draft to correspond with the effective date of ch. 166. The error was brought to our attention by the Hon. Ralph Stemp.

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Sec. 39. This section proposes the repeal of several obsolete provisions. AS 11.41.443 would be obsolete if sec. 10 of this draft is enacted, and the need for repeal of the provision is discussed in connection with sec. 10 of this draft. AS 14.07.030(9) was rendered obsolete by 1975 legislation and should have been repealed then. AS 19.45.001(7) defines a term that is not used in AS 19 (except in a section catchline, which is not law; see AS 01.05.006). AS 44.83.425(1) and (4) define terms that were deleted from AS 44.83 in 1984, making the definitions obsolete. The text of all provisions proposed for repeal is attached as an appendix to this memo.

Sec. 40. Gives a July 1, 1989 effective date to those sections relating to the new corporations code.

Sec. 41. Gives an immediate effective date to the remainder of this draft.

DRD:kb  
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Official Business

# Alaska State Legislature

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

TO: Rep. Ben Grussendorf, Chairman  
House Rules Committee  
FROM: Rep. Mike Davis, Chairman  
Legislative Council  
DATE: February 2, 1989  
SUBJECT: 1989 Revisor's Bill

I am writing to request the introduction of the attached bill by the House Rules Committee.

In addition to correcting drafting errors and updating obsolete provisions, the 1989 revisor's bill contains several more significant policy decisions. The Legislative Council would like to bring sections 6, 16, 22, 23, 26, 27, 30, 31, and 38 to the particular attention of future committees of referral, as these are interpretations of legislative intent. Please attach this letter to the bill when it is introduced.