

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2998

HSA

SB

466

-

SB

549

2998

After the aesthetic portion was scored the financial sixty percent of the evaluation would be done. This portion would be based on lowest life-cycle cost with that cost being based on rental rates, operating costs and escalation factors provided by the bidders.

The scores for aesthetic and financial segments would be combined, the bid would be awarded, and contracts would be signed.

The structure would include approximately 350,000 net square feet of office space, 60,000 square feet of commercial space, a 1000 car parking garage and enough systems furniture to furnish the office space. The furniture was included for two primary reasons. The space requirements were based on the utilization of systems furniture so if it were not used we anticipated the need for substantial additional space. Secondly we realized there was little likelihood of securing a capital appropriation for the \$12-\$14 million necessary to buy the furniture.

At present we are completing the bid package in case there is a determination to return to this approach to procuring the structure. The only revision remaining involves clarifying the calculation of operating costs for the purposes of bid evaluation and completing the lease.

The consultant's "good ball-park" estimate of the cost required to construct a building which meets our performance requirements is \$100,000,000 unfurnished, \$114,000,000 furnished.

To convert our package from its present private financing to an ASHA financed approach would take approximately thirty working days if all policy decisions could be handled in a timely manner. Neither lease would be required in their present forms. The bid evaluation would be revised to eliminate life-cycle cost calculations as we would expect ASHA to require some form of "triple net lease". Any revisions could be accomplished under our existing contract with our consultant-William J. King and Assoc.

February 1, 1984

ANCHORAGE OFFICE COMPLEX
DATA SHEET

- The Department of Administration currently manages approximately 903,000 sq. ft. of leased and warehouse office space in Anchorage.
- This space is spread among 71 different locations in Anchorage.
- The Anchorage Office Complex will consolidate 37 of those leases into a new facility of approximately 350,000 square feet of usable office space.
- Only offices which are compatible with location in a general office building are to be located in the AOC.
- Specialized functions such as public health labs, animal carcass incinerators, scientific laboratories, computer centers and so forth are not included in the AOC.
- * ◦ AOC will be built on state owned land which was jointly selected by the Municipality of Anchorage and the State of Alaska, located between "A" and Cordova and between 5th and 6th Avenue in downtown Anchorage.
- AOC will be built by a private developer using private financing and then leased to the State.
- AOC project documents will permit the developer to include a limited amount of retail space in order to enhance the mixed use potential of the project.
- Approximately 1,000 spaces of on-site parking are required in the project.
- The State anticipates shared use of the parking spaces to support after-hours meetings and cultural events held in the nearby vicinity.

* The site has been condemned and cleared. Not all purchases have been settled

December 27, 1983

ABSTRACT OF GROUND LEASE

(State leases its real property to a developer for purpose of having a building built upon it for the States use)

- 40 year term, no renewal option
- States's Option: A. Improvements revert to State at termination of lease at no cost; or
 - B. State can require removal of improvements from our property at no cost.
- Rental rate for land set by State based on current value (rate unsettled yet)
- To be determined by bid - intent is that States land rental rate is escalated same way as commercial lease
- Land rent owed to State is offset against commercial rent owed to developer
- Developer pays all taxes to appropriate taxing authority
- Requires developer to build the AOC² or be in default on the ground lease
- \$100 million performance bond
- Liquidated damages set at 1% of annual rent for each day of delayed occupancy
- Developer will maintain the premises
- Major maintenance, repairs, alterations require States approval
- Developer will insure the premises to State requirements
- Lease may be assigned to others with an equal or better financial standing than that of the developer
- Assignment or sublease requires approval of State

8/RECV/DW.3601

December 27, 1983

ABSTRACT OF COMMERCIAL LEASE

(State leases the commercial office space from the developer)

- 40 year term, no option to renew
- Rental rate for building set by bid process
- Rental rate escalation set by bid process
- Operating cost pass thru set by bid process
- Developer to provide all maintenance, utilities, and services
- State can assign and sublease to others at its discretion
- Developer will keep premises insured to State requirements
- Developer will share proceeds of condemnation
- Developer will periodically renovate premises
- If developer sells or transfers premises to another, the lease shall remain in effect for the new owner

8/RECV/DW.3601

1983 DEC 27 A 9:18
DIVISION OF
GENERAL SERVICES & SUPPLY

LEASES IN EXCESS OF \$1,000,000. — (Rounded)

June ① lease # 1444 Capitol Office Park fish & Game

Neg. START: Dec 1, 1981 \$1,020,941. — year

B.W.

Firm Through 6/30/82 C.P.I. ANNUALLY

June ② lease # 1607 Blomfield/Holden Labor

Bid # 8867 START: July 1, 1982 \$1,405,420. — year

Firm Through 6/30/84 C.P.I. ANNUALLY

Arch. ③ lease # 535 Frontier Bldg. VARIOUS

Neg. START: Oct. 1, 1982 \$3,625,319. — year

Firm Through 6/30/83 Neg. Adj. ANNUALLY

June ④ lease # 1627 Goldbelt Ent. EDUCATION

Neg. START: Oct. 1, 1982 \$1,079,470. — year

Firm Through 6/30/85 C.P.I. ANNUALLY



Alaska State Legislature House of Representatives

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ANCHORAGE, ALASKA 99510
(907) 276-4506

WHILE IN JUNEAU
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JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

MEMORANDUM

DATE: March 8, 1984

TO: Senator Jan Faiks
Coordinator, Senate Anchorage Caucus

Representative Mae Tischer
Coordinator, House Anchorage Caucus

FROM: Representative Jerry Ward *JW*

RE: Position Paper and Resolution No. 2

Last week the Anchorage Caucus passed a resolution to ask the Governor to cease and desist building of the Legislative Hall in Juneau without the express permission of the the Legislature and that we wanted the Governor to know he did not have authorization and has not received it. A delegation of Representatives Bussell, Liska and myself were appointed to deliver the resolution to the Governor. We are still waiting for 3 appointees from the Senate side.

In light of the recent appointed Attorney General's opinion of March 2, we would hope to deliver the resolution by the end of the day so that the Governor will know the Anchorage Caucus's position.

3/8/84 Position Paper & Resolution # 2 / From Rep. Jerry Ward

ANCHORAGE CAUCUS
POSITION PAPER AND RESOLUTION NO. 2

WHEREAS, the Anchorage Caucus of the Alaska Legislature is made up of 10 members of the Senate and 17 members of the House of Representatives elected from Anchorage Area Districts.

WHEREAS, there are from time-to-time matters of special concern to members of the Anchorage Caucus as to which the Caucus wishes to take a collective position and have that position communicated to those most concerned; and

WHEREAS, one such matter is the construction of a legislative hall in Juneau being proposed by the borough of Juneau and the Governor of the State of Alaska without legislative approval; and

WHEREAS, by an overwhelming vote the House of Representatives has expressed its own disapproval of previously announced plans for construction of a legislative hall in Juneau, and consideration of the subject is scheduled in the Senate State Affairs Committee.

NOW, THEREFORE, BE IT RESOLVED that it is the sense of the Anchorage Caucus that the Governor and officials of the City and Borough of Juneau be, and they hereby are, respectfully requested to cease and desist from previously announced plans for the construction of a new legislative hall in Juneau or at any other location within the State without prior consultation with and express direction from the Legislature.

DRAFT

ANCHORAGE CAUCUS
POSITION PAPER AND RESOLUTION NO. 2

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WHEREAS, there are from time-to-time matters of special concern to members of the Anchorage Caucus as to which the Caucus wishes to take a collective position and have that position communicated to those most concerned; and

WHEREAS, one such matter is the construction of a legislative hall in Juneau being proposed by the borough of Juneau and the Governor of the State of Alaska without legislative approval; and

WHEREAS, Article IX, Section 9, of our Alaska constitution provides at pertinent part:

"No debt shall be contracted by any political subdivision of the state, unless . . . ratified by a majority vote of those qualified to vote and voting on the question."

and,

WHEREAS, it has come to the attention of the Anchorage Caucus that the borough of Juneau does not intend to conduct a vote permitting its voters to ratify its debt for the construction of the legislative hall within the borough of Juneau; and

WHEREAS, Article IX, Section 8, of the Alaska constitution also states at pertinent part:

"No state debt shall be contracted unless authorized by law and ratified by a majority of the qualified voters of the state."

and,

WHEREAS, the Anchorage Caucus reasonably concludes that the long-term lease/purchase being entered into between the borough of Juneau and the Governor's office, wherein the borough of Juneau is the Seller/Landlord and the Governor's office or State of Alaska is the Purchaser/Tenant, is a debt within the meaning of Article IX, Section 8 of the Alaska constitution; and

WHEREAS, the Anchorage Caucus reasons that the title of the transaction is not controlling, but that all the parameters of the

transaction must be evaluated in determining that the transaction is in fact a debt within the meaning of our constitution. Such factors include, but are not limited to:

Proposed construction of the legislative hall on land owned by the State of Alaska, and the intention of the parties to have the State of Alaska own the land at the expiration of the lease/purchase period.

WHEREAS, the Anchorage Caucus has been advised that the Governor's office does not intend to conduct an election pursuant to Article IX, Section 8 of the constitution, and therefore intends to deny the people of the State of Alaska the opportunity to vote for or against the aforescribed debt; and

WHEREAS, plans are now underway by the city and borough of Juneau to finance and construct a legislative hall to house the legislature of the State of Alaska; and

WHEREAS, it appears to be the intention of the city and borough of Juneau to enter into a long-term lease of the legislative hall with the state; and

WHEREAS, the legislature has not in any manner given its approval to these plans; and

WHEREAS, Article III, Section 22, of the constitution of the State of Alaska provides:

"All executive and administrative . . . functions, powers, and duties shall be allocated by law among and within the principle departments . . ."

and,

WHEREAS, an executive branch which determines the seat of the legislature, without approval of the legislature, disregards the Alaska constitution as aforescribed, the doctrine of powers, and violates the spirit of comity between the branches of government;

IT IS THE SENSE OF the Anchorage Caucus of the Alaska legislature, that the Honorable Bill Sheffield, as well as the city and borough of Juneau, cease and desist from any plan for the construction of a new legislative hall in Juneau or at any other location within the state, without having received the express direction of the legislature of the State of Alaska.



Alaska State Legislature House of Representatives

PO BOX 2716
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19071 276-4906

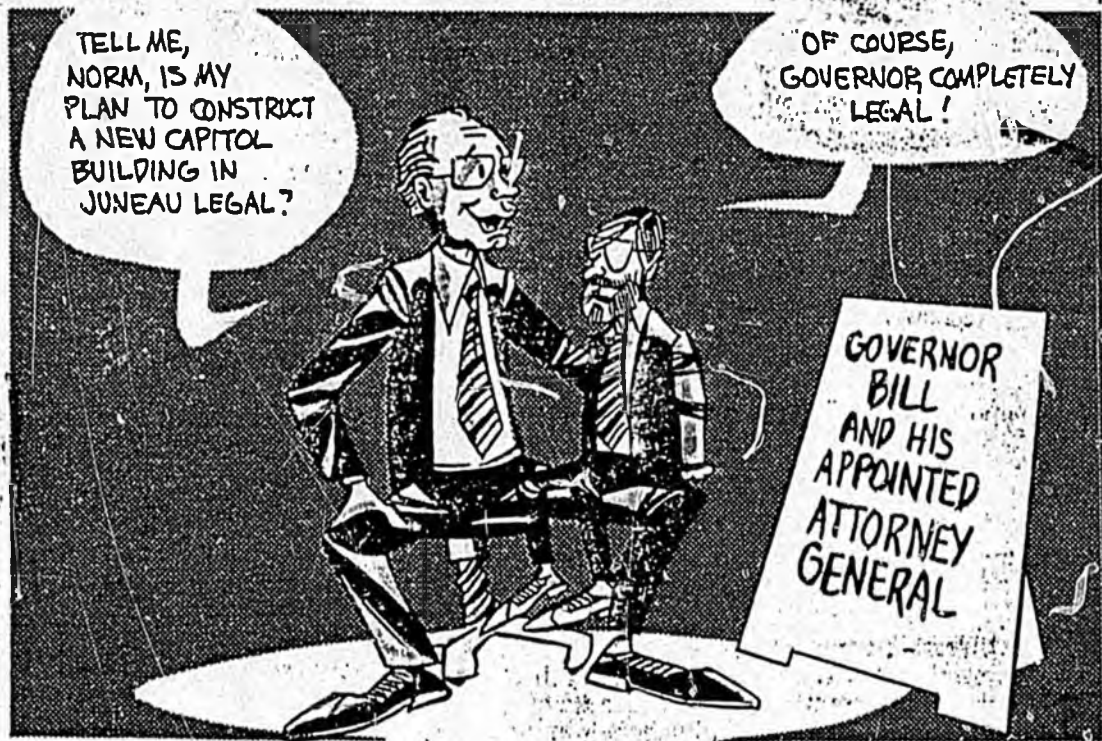
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REPRESENTATIVE JERRY WARD
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CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

ALASKA FEVER

TIMES 2/25/84



2-25

JERRY WARD
ANCHORAGE

over

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 2, 1984

The Honorable Mike Szymanski
Alaska State House of Representatives
Pouch V
Juneau, AK 99811

Re: Questions concerning Alaska
Legislative Hall Facility
Design (project R-10181).
Our file no.: 366-442-84

Dear Representative Szymanski:

This letter responds to your letter of February 9, 1984, in which you asked seven questions concerning the Alaska Legislative Hall. In answering your questions we will set out first your questions, then our responses.

1. By what authority can the Department of Transportation, or the Administration, expend funds to design and construct a facility to be occupied or used by the legislature?

In our opinion of October 14, 1983, (Inf. Op. Att'y Gen.; 366-101-84), we explained that under AS 35.10.010 the Department of Transportation and Public Facilities may construct public buildings of the state. A copy of the opinion is attached. Under AS 35.25.020(5) the term "public building" means: "a building owned or controlled by and held by the state for government or public use."

In section 95, ch. 106, SLA 1983, the legislature enacted an appropriation for the purpose of acquiring land in Juneau for state facilities. That appropriation was supported by a standard form 35a which provides evidence that the purpose of the appropriation was to acquire the site of a legislative hall. These measures taken together provide sufficient authority for DOT/PF to proceed with the design phase of the project.

2. What explicit legislative authorization exists for a "legislative hall?"

See the answer to question (1).

Ray Hill

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
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ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3500

3. Do you feel the Administration can make a commitment to lease or purchase a legislative facility or "legislative hall" without explicit approval by the legislature?

Yes. Ad hoc legislative approval of state leases violates the doctrine of separation of powers. The lease of facilities for public use is not a legitimate part of the law making power.

4. Under AS 37.05.280, can the Administration legally execute a lease for space which is in excess of \$12,000 annually, without legislative approval? In assessing this question, would you please address both administrative and legislative space.

Yes. Under existing law there is no basis for distinguishing between office space occupied by the legislature or the executive.

5. Is the lease purchase arrangement contemplated for this project considered bond indebtedness of the State of Alaska?

No. Lease payments are subject to annual appropriation by the legislature.

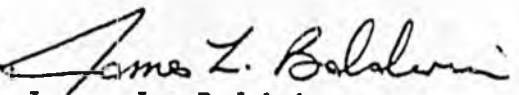
6. Will the full good faith and credit of the state be standing behind the anticipated project bonding on this project? If so, how can this be committed without legislative or voter approval?

No.

We hope this letter answers your questions. Please call if you need further assistance.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

MEMORANDUM

State of Alaska

TO: Hon. Daniel A. Casey, Commissioner DATE October 14, 1983
Department of Transportation & Public Facilities FILE NO 366-101-84
AND
Hon. Lisa Rudd, Commissioner TELEPHONE NO 465-3600
Department of Administration

FROM: Norman C. Gorsuch SUBJECT Construction financing of a public facility by lease agreement
Attorney General

By: William F. Cummings
Assistant Attorney General
Transportation Section-Juneau

James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

The Department of Administration (DOA) and Department of Transportation and Public Facilities (DOT/PF) have requested our advice whether there is sufficient authority granted by law to permit a state agency to finance the construction of a public facility on state land under a lease agreement with a developer and owner of the facility other than the state. Briefly, the lease agreement consists of a conveyance of a leasehold interest in state land to a developer who constructs a facility on the land which is leased back to the state. Upon expiration of the lease agreement, the facility either reverts to the state or the state has an option to purchase it.

Using this financing technique, DOA proposes to centralize state offices in Anchorage and DOT/PF proposes to construct a legislative hall in Juneau. Under both proposals, facilities owned by others would be located on state land. 1/ The answers to your questions involve consideration of the issues set out below.

1. Does financing a public facility through a lease agreement violate provisions of the Alaska Constitution governing the creation of state debt?

We believe that the financing of construction by lease is valid only if terms and conditions are imposed which provide sufficient evidence that future legislatures are not bound to ap-

1/ We believe that other public facilities are being studied for financing by lease agreement including facilities for the Alaska Vocational Technical Training Center in Seward and a maximum security prison.

Hon. Daniel A. Casey,
Commissioner of Transportation
Hon. Lisa S. Rudd,
Commissioner of Administration

October 14, 1983
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366-101-84

appropriate money for the rental. 2/ Article IX, section 8 of the Alaska Constitution prohibits the creation of public debt except for capital improvements and then only after authorization by the legislature and a vote of the people. The lease transactions proposed are a means to finance the construction of public facilities without directly appropriating from the general fund for the cost of construction or authorizing the creation of debt by selling general obligation bonds. This makes it imperative that the state's right to possess and use the facility is contingent on annual appropriations from revenue anticipated for the fiscal year in which the lease obligation is incurred. Traditionally, appropriations for lease payments are considered operating appropriations which lapse on June 30 of the fiscal year. A lease agreement which provides for termination of the leasehold if sufficient appropriations to pay rent are not enacted will negate the conclusion that a debt is created. A one-year lease with automatic annual renewal for a maximum number of years upon enactment of an appropriation to finance the annual rent has been approved as a term which negates any possibility that a debt is created. Gude v. City of Lakewood, 636 P.2d 691 (Colo. 1981). See also Glennon Heights, Inc. v. Central Bank and Trust, 658 P.2d 872 (Colo. 1983).

2. Does existing law prevent a state agency from entering into a lease agreement for the construction of a public facility?

The lease of state office space is governed by AS 37.05.220 -- 37.05.280. These statutes require a competitive bidding process with award of the contract by DOA to the lowest responsible bidder for the lease. However, the statutes provide one further requirement for office space leases which is lacking in other state contracts for the purchase of goods or services. AS 37.05.280 provides in relevant part that "no contract or lease executed after January 1, 1966, which provides for a payment or payments by the state in excess of \$12,000 annually is valid unless the use of the space to be provided for by such contract or lease has been expressly approved by the legislature by concurrent resolution." This provision requires legislative approval of virtually all leases which the state executes to procure office and other space. However, we believe that this part of the

2/ The advice given in this memorandum is consistent with the majority of state courts which have considered the question. E.g., Bulman v. McCrane, 312 A.2d 857 (N.J. 1973); State ex rel. Thomson v. Gisel, 72 N.W.2d 577 (Wisc. 1958); but see Opinion of the Justices, 79 A.2d 753 (Me. 1951).

Hon. Daniel A. Casey,
Commissioner of Transportation
Hon. Lisa S. Rudd,
Commissioner of Administration

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360-101-84

statute is invalid for two reasons.

Article II of the Alaska Constitution requires that the legislature exercise the law-making power by the passage of a bill not by the adoption of a concurrent resolution. State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980). Furthermore, the requirement for legislative approval of a lease is a violation of the doctrine of the separation of powers. Governmental power is allocated among the three branches of government by the Alaska Constitution. Some powers are logically allocated to the executive and others to the legislature. The power to execute the law on behalf of the state is one which falls to the executive. Alaska Const. art. III, § 16. It is the role of the legislature to enact laws which establish the conditions under which the executive may enter into leases. Alaska Const. art. II, § 1. However, it is not appropriate for the legislature to reserve a veto power over the enforcement decisions made by the executive. The legislature may amend or repeal the leasing authority for TOA. However, the legislature may not usurp the executive function to lease facilities without destroying the system of checks and balances inherent in our tripartite system of government. 3/ Bradner v. Hammond, 553 P.2d 1 (Alaska 1976).

DOT/PF has limited authority to dispose of land acquired for public works other than highways. 4/ DOT/PF may "vacate land or part of it, or rights in land acquired for public work purposes" by executing and filing a deed in the appropriate recording district upon vacating. AS 35.20.070. "Title reverts to the persons, heirs, successors, or assigns in whom it was vested at the time of the taking." Id. All other disposals of land acquired for public works are conducted by the Department of Natural Resources (DNR).

Before DNR may lease state land, the public must be informed of the nature and terms of the conveyance. Alaska Const. art. VIII, § 10; AS 38.05.035(a)(14), 38.05.345. DNR, acting in

3/ The cited portion of AS 37.05.280 was held invalid on the basis of separation of powers and improper exercise of the law making power by the superior court in Marine View Tenants' Association v. ASHA, No. 1JU-80-1037 CIV (Nov. 1, 1981). That case was not appealed. However, this decision has limited precedential value until a final decision is rendered by the Alaska Supreme Court.

4/ AS 19.05.070 grants broader discretion to dispose of land acquired for highway purposes.

Hon. Daniel A. Casey,
Commissioner of Transportation
Hon. Lisa S. Rudd,
Commissioner of Administration

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concert with DOA, must prescribe a disposal procedure for state land which provides the safeguards required by law and permits the construction of a facility which the state will lease from the developer. That procedure may include the grant of a lease under AS 38.05.315 to the state agency responsible for the facility. The lease granted by DNR will allow the lessee agency to sublease the land for development of a leased public facility under specified terms which will include prior DNR review and selection of the sublessee according to AS 37.05.230. The sublease of the land will continue in effect long enough to secure financing for the facility. The payment of rent under the lease to the state agency for the facility would be contingent on the enactment of annual appropriations. If the lease is terminated by the failure to appropriate, the lessor would be the successor to the state agency's right to possess the building until reversion or exercise of the option to purchase.

3. Does existing law prevent a state agency from obtaining financing from a municipality to design and construct a state-occupied facility on state-owned property and then enter into an agreement with the municipality for pay-back without competitive bidding?

DOT/PF is proposing to finance the construction of the legislative hall by lease agreement. The City and Borough of Juneau (city) would sell tax exempt municipal revenue bonds, secured by the lease payments to be paid by the state. The state would then supervise the design and construction of the facilities and be the contracting authority.

As a general proposition, DOT/PF has the authority to make contracts with municipalities for public works. AS 35.05.-040(7). The purpose of this form of contract is further defined by AS 35.15.080(c), which provides in relevant part, "[a] municipality may request joint assumption of responsibilities with the department relating to the planning, design, and construction of a public works project." The term "public works" is very broad and includes public buildings. A public building is one which is "owned or controlled and held by the state for government or public use." AS 35.25.020(5) and (6).

We believe that DOT/PF may contract with the city for the planning, design and construction of the legislative hall. We reach this conclusion because under the provisions of the lease agreement, the state will have control over the building which it will hold for government or public use. Additionally, the state will have significant ownership interests in the facility because it holds fee title to the land upon which the build-

Hon. Daniel A. Casey,
Comaissioner of Transportation
Hon. Lisa S. Rudd,
Commissioner of Administration

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ing will be constructed and at the expiration of the lease agreement, will own the building free of the interest of the city. However, a contract may not alter the city's responsibility for repaying the long term debt established to finance the cost of construction of the facility.

Our memorandum of May 9, 1983 indicated that AS 37.05.-230 generally required competitive bidding to award a lease agreement which provides for the construction of a public facility. However, competitive bidding is not required in all instances of public contracting. McKinnon v. Alpetco, 633 P.2d 281 (Alaska 1981). The lease transaction under consideration may present an instance where it is in the best interests of the state to negotiate directly with a municipality rather than offer the contract to the lowest bidder. See AS 37.05.230(2). A decision to negotiate directly requires a detailed finding of fact in writing by DOA. In the finding of fact, the commissioner must justify the conclusion that negotiation is in the best interests of the state. A municipality enjoys a preferred status when dealing with the state. Intergovernmental contracts are not governed by the same considerations applicable to the state when it is participating in the open market place. It is probable that a facility can be financed cheaper with municipal revenue bonds than by private means. It may be futile to obtain any advantage from the competitive bid process. If DOA sets out ultimate facts in the finding which supports the conclusion that negotiation furthers the public's interest, then competitive bidding is not required. Libbv v. City of Dillingham, 612 P.2d 33, 45 (Alaska 1980)(Rabinowitz, J. concurring). However, the award without competitive bidding would be subject to judicial review to determine whether the decision was arbitrary, capricious or an abuse of discretion. McKinnon, 633 P.2d at 287; Hertz Drive-Ur-Self Systems, Inc. v. Tucson Airport Authority, 299 P.2d 1071 (Ariz. 1956); Volume Services Division of Interstate United Corp. v. Canteen Corp., 369 So. 2d 391 (Fla. App. 1979).

4. Does the appropriation to finance the site acquisition and planning for a legislative hall contain defects which prevent DOT/PF from proceeding with the project?

Section 95, ch. 106, SLA 1983 appropriates \$4,500,000 to DOT/PF plus other money received for land acquisition and facilities planning in Juneau. The land acquisition, planning, and preliminary design efforts for the legislative hall will be paid from this appropriation.

This section makes an appropriation from two sources: \$4,500,000 from the general fund and an unspecified amount from

Hon. Daniel A. Casey,
Commissioner of Transportation
Hon. Lisa S. Rudd,
Commissioner of Administration

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an unspecified source. 5/ This appropriation is for land acquisition and facility planning in Juneau.

The appropriation contains a unambiguous statement of purpose that DOT/PF is appropriated at least \$4,500,000 for land acquisition and facilities planning in Juneau. There is no specification of the public facility upon which the appropriation may be expended. The use of the \$4,500,000 appropriated for site acquisition, planning, and preliminary design for the legislative hall is within the purpose set out in the appropriation. However, the appropriation of money which may be received from other sources presents a serious legal issue. Because no amount is stated for the appropriation, sufficient authorization may not exist to expend the money beyond the \$4,500,000. 6/ Nonetheless, the unspecified source of the appropriation is presumably severable from the general fund part of the appropriation which is stated with specificity in the amount of \$4,500,000. AS 01.10.-030. Consequently, until you begin receiving amounts from "other sources," whatever they may be, the expenditure of general fund money authorized by the appropriation is not a problem.

CONCLUSION

We believe there is sufficient authority under existing law to finance the construction of a public facility by lease. However, because this financing technique is not specifically authorized by law, we cannot with absolute certainty advise you that a court would agree with our opinion. You should make allowance for this risk when you plan further development of each project to be financed by the lease purchase method.

WFC:ebc:prm/JLB:pjg

cc: Hon. Harold J. Reynolds, Jr.
Commissioner
Department of Education

5/ We presume "the other money received" was intended to include money to be provided under a lease agreement with the city as discussed in section 3, supra.

6/ Each appropriation must state an amount. AS 24.30.030. It is not necessary for the appropriation Act to set out the amount in dollars and cents if the appropriation contains provisions which make the amount capable of mathematical calculation. *Orbison v. Welsh*, 179 N.E.2d 727 (Ind. 1962).



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V

Juneau, Alaska 99811

(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: SB 466 Leases by the state
DATE: April 3, 1984

PROPOSED COMMITTEE SUBSTITUTE (version 5)

The proposed CSSB 466 (state affairs) requires approval for the procurement of space by law or specific appropriation before execution of a contract or lease may take place. Leases and contracts affected by this legislation either exceed a cost of either \$1,000,000 annually, or exceed a total consideration of \$1,000,000 where any part of the consideration may be used toward acquisition of the property.

This version of the bill also contains a provision (beginning page 1, line 28) exempting leases executed before the effective date, or leases executed after the effective date where the site has been acquired and the bid document has been prepared.

ORIGINAL VERSION OF THE BILL

The original version of SB 466 requires contracts or leases that fall under either of the two examples below be subject to specific appropriation:

- the annual rental payment is in excess of \$150,000 and the term of the lease exceeds 3 years;
- if any of the consideration for the lease or contract may be applied toward acquisition of the property, and the total acquisition exceeds \$150,000 (in this case, the bill requires that the appropriation be for the total rental payment and all costs of the acquisition).

Fiscal information

The bill has a zero fiscal note

Back-up information

Fiscal note from the Department of Administration

List of state leases exceeding \$1,000,000 a year



Official Business

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: SB 466 Leases by the state
DATE: March 29, 1984

PROPOSED COMMITTEE SUBSTITUTE

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ORIGINAL VERSION OF THE BILL

The original version of SB 466 requires contracts or leases that fall under either of the two examples below be subject to specific appropriation:

- the annual rental payment is in excess of \$150,000 and the term of the lease exceeds 3 years;
- if any of the consideration for the lease or contract may be applied toward acquisition of the property, and the total acquisition exceeds \$150,000 (in this case, the bill requires that the appropriation be for the total rental payment and all costs of the acquisition).

Fiscal information

The bill has a zero fiscal note

Back-up information

Fiscal note from the Department of Administration

List of state leases exceeding \$1,000,000 a year



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: SB 466 Leases by the state
DATE: March 26, 1984

PROPOSED COMMITTEE SUBSTITUTE

The proposed CSSB 466 (state affairs) would require approval by law for execution of contracts or leases that either exceed \$1,000,000 annually, or where the total consideration is over \$1,000,000 and any part of the consideration may be used toward acquisition of the property.

ORIGINAL VERSION OF THE BILL

The original version of SB 466 requires contracts or leases that fall under either of the two examples below be subject to specific appropriation:

- the annual rental payment is in excess of \$150,000 and the term of the lease exceeds 3 years;
- if any of the consideration for the lease or contract may be applied toward acquisition of the property, and the total acquisition exceeds \$150,000 (in this case, the bill requires that the appropriation be for the total rental payment and all costs of the acquisition).

Fiscal information

The bill has a zero fiscal note.

Back-up information

fiscal note from the Department of Administration.
list of state leases exceeding \$1,000,000 a year.

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MITCH...

Wednesday, May 23, 84

SB 186 am "An Act relating to named recipient grants; and providing for an effective date."

Sponsor: Sackett. (Actually, it was pushed more by Ferguson, and it will be his staff aide Mike Scott who will be here to explain the pros and cons and answer questions).

This bill passed the Senate on a 14-6 vote on May 16, 84-- after Senator Ferguson had made an amendment from the floor that deleted from the original bill lines 17-29 on page 1 and added line 12 on page 2. Basically, this amendment is precisely the one that Mae Tischer objects to.

Apparently, the original unamended version of the bill exempted both urban and rural non-profit organizations; and it was urban Anchorage that said they had some problems with it and did not want to be excluded. Mike Scott should be able to explain this.

There will be no one here from Community and Regional Affairs to testify. The fiscal note is zero. The Department under Mark Lewis was neutral on the subject, except for possible constitutional concerns (which are answered by the enclosed Memorandum of decision between the legislature and Jay Hammond). The most updated position paper of the department mildly ~~supports~~ supports the amended bill, (see Notti Position paper dated May 22).

CSSB 469 (SA) "An Act relating to credited service under the Public Employee's Retirement System, and providing for an effective date." R/

Sponsor: Sackett. He will not be here, but his aide Richard Hacker will answer questions. The bill passed the Senate 20-0.

Ken Humphries, Director of Retirement and Benefits from the Dept. of Administration, will be here to answer questions. The Department has a Position Paper supporting this bill. The fiscal note has been reduced twice; from the original SB 469 of \$2,490,500.00 in FY 85 to CSSB 469 (StateAffairs) which originally was \$704,800. and now is \$141,000. You might want to ask him or Richard Hacker why the various reductions. (Or look at Vic Fischers memo dated May 2).

Cheri Shelley of APEA should be here to testify.

469 TITLE & SPONSOR SUMMARY
ENDED TITLE: CSSB 469(S.A.)

12:25 5/22/84 PAGE 1 OF 3

ACT RELATING TO CREDITED SERVICE UNDER THE PUBLIC EMPLOYEES'
PENSION SYSTEM;
PROVIDING FOR AN EFFECTIVE DATE

GENERAL DOLLARS: \$127,500 (F. NOTE)

TIME SPONSOR: SACKETT.

OTHER DOLLARS: \$13,500

CO-SPONSORS: FERGUSON.

CURRENT STATUS: 5/17/84 IN (H) STATE AFFAIRS REFERRAL: FINANCE

DATE SENATE ACTION

LEGISLATIVE ACTIONS 5/22/84 PAGE 2 OF 3

5/13/84	01	2042	FIRST READING -- COMMITTEE REPORTS
5/30/84	02	2539	S.A. -- CS03
5/30/84	03	2539	S.A. F/NOTE SEN SUPPL #66
5/03/84	04	2905	FIN -- S.A. CS02, NR01
5/16/84	05	3109	RLS -- S.A. CS04, OTHER04 TAKEN UP IMMEDIATELY
5/16/84	06	3113	SECOND READING
5/16/84	07	3113	S.A. CS ADOPTED BY UNAN CONSENT
5/16/84	08	3113	ADVANCED TO 3RD READING BY UNAN CONSENT
5/16/84	09	3113	THIRD READING
5/16/84	10	3113	PASSED BY DIV 20-00-00
5/16/84	11	3113	EFFECTIVE DATE VOTE SAME AS PASSAGE

**** ** ** *** **

B 469 HOUSE ACTION
DATE SEQ PAGE

12:25 5/22/84 PAGE 3 OF 3

LEGISLATIVE ACTION

5/17/84	12	3890	FIRST READING -- COMMITTEE REPORTS
			STATE AFFAIRS
			FINANCE
			RULES

**** ** ** *** **

Alaska State Legislature

SENATOR
John C. Sackett

CO-CHAIRMAN
SENATE FINANCE COMMITTEE

MEMBER
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
REGULATION REVIEW COMMITTEE



Senate

HOME ADDRESS
P.O. BOX 11
RUBY, ALASKA 99768

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

Wednesday, May 16, 1984

MEMORANDUM

TO: All Members of the Senate

FROM: Senator John Sackett *JCS*

Re: CSSB-469 (State Affairs) an Act relating to credited service under the Public Employees' Retirement System; and providing for an effective date.

Attached are:

- 1) bill analysis
- 2) DOA/Retirement and Benefits Position Paper Supporting CSSB-469 (St. Affairs)
- 3) Memo from Sen. Sackett to Sen. Rules with brief explanation of bill
- 4) CSSE-469(SA) FISCAL NOTE and department analysis
- 5) copy of AS 39.35.360, Public Officers and Employees, Earlier Service (SB-469) adds new subsections (i) and (j) to statutes
- 6) memo from Sen. Vic Fischer to members of Sen. Finance explaining State Affairs CS for SB-469, and detailing NEW FISCAL NOTE of \$141.0

In short, this bill permits BIA non-certificated employees who transfer into the PERS program, as a result of the BIA school transfers into the public school system, to credit their BIA service after three years under PERS if they are not eligible for civil service retirement.

SB-469

BILL ANALYSIS

CSSB 469 (State Affairs),

BIA credited service under PERS.

Original Sponsor: Senators Sackett and Ferguson

Fiscal Note: \$141,000 *(of which \$127,500 are from the general fund)*

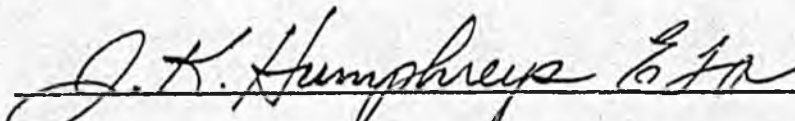
(The total cost to all PERS political subdivision employees is estimated at \$100,300 per year)

Former BIA teachers who transfer to state employment when the schools transfer are already provided for. This bill addresses the non-teachers who are not eligible for a Civil Service Retirement. If they are not eligible for federal retirement and have paid into PERS for 3 years they can have their BIA years credited to PERS under the formula of 6% times the most recent 12 months times the number of BIA years of service. If such an employee is closer to normal retirement than 3 years, he does not have to meet the 3 year test.

Position Paper


CSSB 469

The department supports this bill. This bill would provide relief for those noncertificated BIA school employees who have "fallen through the cracks" regarding retirement benefits as a result of the federal government transfer of the BIA schools to the State. This bill would allow those covered members who satisfy a membership requirement to establish an indebtedness to the system for federal BIA school service if they do not qualify for a federal benefit.



J.K. Humphreys, Director, Division of Retirement & Benefits

5/7/84
Date



Lisa Rudd, Commissioner, Department of Administration

5-11-84
Date

Alaska State Legislature

SENATOR
John C. Sackett

CO-CHAIRMAN
SENATE FINANCE COMMITTEE

MEMBER
COMMUNITY & REGIONAL AFFAIRS COMMITTEE
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
REGULATION REVIEW COMMITTEE



Senate

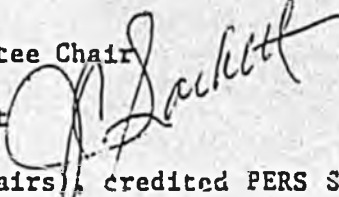
HOME ADDRESS
P.O. BOX 11
RUBY, ALASKA 99768

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

May 15, 1984

MEMORANDUM

TO: Senator Jan Faiks
Senate Rules Committee Chair

FROM: Senator John Sackett 

RE: CSSB 469 (State Affairs), credited PERS Service for BIA employees

I request that you schedule CSSB 469 (State Affairs) for the Senate Calendar. As you may recall from our consideration of the bill in the Finance Committee, it addresses non-teaching BIA employees who transfer from federal to state employment when the BIA schools do transfer. BIA teachers in this situation already have their retirement provided for.

As a result of this bill BIA non-teachers who are not eligible for a federal Civil Service Retirement would be eligible to have their BIA years credited to the state PERS if they have paid into PERS for 3 years or if the employee is closer to normal retirement than 3 years. The bill also establishes a formula by which to calculate the indebtedness on these transferred years of credit.

The bill was reworked several times to get it to this version in order to reduce the fiscal note as much as possible while still meeting the retirement needs of former BIA employees who may have been otherwise harmed by the transfer of these schools to state operation. I hope your committee will look favorably on this bill and calendar it as soon as possible. My staff will be happy to provide any further information that you may desire.

Handwritten note at bottom right corner

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

(Page 1 of 2)

REQUEST

FISCAL DETAIL

Bill/Resolution No.: CSSB 469 Agency Affected: All State Agencies
 Title: "An Act allowing BIA service program Category Affected: PERS
in PERS"
 Sponsor: Sackett BRU, Program or Subprogram Affected: _____
 Requestor: _____
 Date of Request: _____

FY EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	141.0	141.0	141.0	141.0	141.0
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	141.0	141.0	141.0	141.0	141.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Fund		127.5	127.5	127.5	127.5	127.5
Federal Funds		6.5	6.5	6.5	6.5	6.5
Other		7.0	7.0	7.0	7.0	7.0
Total		141.0	141.0	141.0	141.0	141.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J. V. Humphreys, Director Phone: 455-4460
 Division: Retirement & Benefits Date: 3-27-84

Approved by Commissioner: Lisa Rudd Date: 3/28/84
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSSB 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 27, 1984

Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified employee of BIA schools provided they have never had sufficient service credit in the Federal Civil Service Retirement System to be eligible to receive a benefit in that system. Eligible BIA school employees who were within 3 years of normal retirement in the federal system could claim federal service with less than 3 years of credited service.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .03%. The total cost to the Political Subdivision employers is estimated be as follows:

<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
100.3	100.3	100.3	100.3	100.3

The total present value of the costs of this bill to all employers is \$2.5 million.

This bill would reduce the PERS funding ratio by .3%.

(h) The combined period of military service claimed under this section and under AS 14.25 may not exceed five years. (§ 15 ch 143 SLA 1960; am § 1 ch 123 SLA 1976; am § 2 ch 128 SLA 1977; am § 6 ch 174 SLA 1978; am §§ 31 — 36 ch 13 SLA 1980; am § 46 ch 137 SLA 1982)

Effect of amendments. — The 1982 amendment substituted "benefits under AS 39.35.420(h), 39.35.430, or 39.35.440" for "a surviving spouse's pension under AS 39.35.440" in the first sentence of subsection (g).

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 39.35.350. Reinstatement of credited service. (a) An employee who receives a refund of contributions in accordance with AS 39.35.200 forfeits corresponding credited service under this chapter.

(b) An employee may reinstate credited service associated with a refund by repaying the total amount of the refund. Interest will accrue from the date of the refund until repayment of the refund or retirement, whichever occurs first. Payments will apply first to accrued interest and then to principal.

(c) Any outstanding indebtedness that exists at the time an employee is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based on service reinstated under this section. (§ 16 ch 143 SLA 1960; am § 3 ch 235 SLA 1963; am § 2 ch 81 SLA 1976; am § 30 ch 128 SLA 1977; am § 84 ch 59 SLA 1982; am § 47 ch 137 SLA 1982)

Effect of amendments. — The first 1982 amendment inserted "credited" in subsection (a).

The second 1982 amendment substi-

tuted the present provisions of subsection (c) for the provisions set out in the main pamphlet.

Sec. 39.35.360. Earlier service. (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer, correctional officer, or fireman of a participating political subdivision of the state if the employee is vested and is an active peace officer, correctional officer, or fireman in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to the employer by the United States government for the same period of service.

(b) An employee who, under (a) of this section, is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) Repealed by § 41 ch 146 SLA 1980.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased benefits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1, 1981. Any outstanding indebtedness which exists at the time the

employee retires will require an actuarial adjustment to the benefits which are based on retroactive credited service under this subsection. (§ 17 ch 143 SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA 1966; am § 4 ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch 26 SLA 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA 1977; am §§ 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ch 82 SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980; am §§ 48, 49 ch 137 SLA 1982)

NEW SECTIONS (i) ↓ (I) per CSSB-469(S.A.)

Effect of amendments. — The 1982 amendment, in the first sentence of item (3) of subsection (a), deleted "or" preceding "correctional officer" and inserted "or fireman" preceding "of a participating political subdivision" and "correctional officer, or fireman" preceding "in the sys-

tem." In subsection (b), the amendment inserted "under (a) of this section."

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Article 6. Benefits.

Section	Section
385. Conditional service retirement benefits	500. Safeguard of employee funds held by the system
410. Occupational disability pensions	505. Exemption of employee funds and benefits
420. Nonoccupational death benefits	522. Waiver of adjustments
430. Occupational death benefit	527. Election to terminate coverage as a peace officer or fireman
440. Death after occupational disability	530. Limit on pension
460. Level income option	535. Medical benefits
470. (Repealed)	540. (Repealed)
475. Post-retirement pension adjustment	541. Actuarial reduction of benefit
485. Minimum benefit	
490. Designation of beneficiary	

NOTES TO DECISIONS

Vested benefits. — Benefits under Public Employees' Retirement System are in the nature of deferred compensation and the right to such benefits vests immediately upon an employee's enrollment in that system. Hammond v. Hoffbeck, Sup. Ct. Op. No. 2345 (File No. 4742), 627 P.2d 1052 (1981).

The vested benefit, protected by Alaska Const., art. XII, § 7, necessarily include not only the dollar amount of the benefits payable, but the requirements for eligibility as well. Hammond v. Hoffbeck, Sup. Ct.

Op. No. 2345 (File No. 4742), 627 P.2d 1052 (1981).

The fact that rights in Public Employees' Retirement System vest on employment does not preclude modifications of the system; that fact does, however, require that any changes in the system that operate to a given employee's disadvantage must be offset by comparable new advantages to that employee. Hammond v. Hoffbeck, Sup. Ct. Op. No. 2345 (File No. 4742), 627 P.2d 1052 (1981).

Sec. 39.35.385. Conditional service retirement benefits. (a) An employee is eligible for a normal retirement benefit at age 55 with at least two years of credited service if the employee also is eligible for a

Senator Vic Fischer

(907) 465-4954

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



MEMORANDUM

TO: Members, Senate Finance Committee
FROM: Senator Vic Fischer
RE: CSSB 469 Credited PERS service for BIA employees
DATE: May 2, 1984

SB 469 allows BIA school employees who are not teachers to obtain credited service under the Public Employees Retirement Service when BIA schools are transferred to the state. Only BIA employees who are not eligible for federal retirement benefits will be made eligible for benefits under PERS. (Teachers in the BIA schools will be covered under TRS when the schools are transferred.)

BIA employees would also be able to receive higher PERS retirement benefits by making contributions to the system for their past years of BIA employment. The bill outlines the rate of employees' indebtedness to PERS based on the amount an employee would have paid into PERS had the employee been contributing for the total number of years of BIA employment. In the event that the Federal Government transfers the money in the Civil Service Retirement Account to the State, the amount of the employees' indebtedness will be substantially decreased, and the indebtedness will then not be calculated by the formula outlined in the bill.

The State Affairs CS also provides that those noncertified BIA employees within 3 years of retirement at the time of the transfer will not have to fulfill the three year vesting period and will be eligible for retirement at the normal retirement age.

Fiscal information

SB 469	FY '85	\$2,490.5 thousand
CSSB 469 (State Affairs)	FY '85	704.8 thousand
		\$1,785.7 THOUSAND (3/28/84)

The difference in cost is due to (1) clarifying language in the CS which defines the scope of those eligible for the bill as BIA employees who work for the school and who are not teachers, and (2) restricting the eligibility of retirement benefits to those employees who will not be eligible for benefits under the federal system.



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

Official Business

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: CSSB 469 (state affairs) BIA retirement
DATE: March 26, 1984

Attached is a copy of CSSB 469 (state affairs) reflecting the changes agreed upon during last Thursday's committee meeting.

The first change was to delete the following sentence, "If the federal government transfers the money in the employee's Civil Service Retirement System account to the system an indebtedness of the employee to the system is not established under this subsection."

The second change was to add language narrowing the scope of those eligible for the PERS service to those BIA employees who would be severely hurt by the transfer of the school. This language is found on page 2, lines 3-5, "Service may not be claimed under this subsection if the employee has, at any point in time, enough service credit in the Civil Service Retirement System to be eligible for a retirement benefit under that system."

Fiscal information

FY '85 \$141.0 thousand

Back-up

Fiscal note/Department of Administration dated 3/27/84

DRAFT

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

(Page 1 of 2)

REQUEST

FISCAL DETAIL

Bill/Resolution No.: CSSB 469

Agency Affected: All State Agencies

Title: "An Act allowing BIA service in PERS"

Program Category Affected: PERS

Sponsor: Sackett

BRU, Program or Subprogram(s) Affected: _____

Requestor: _____

Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	141.0	141.0	141.0	141.0	141.0
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	141.0	141.0	141.0	141.0	141.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Fund		127.5	127.5	127.5	127.5	127.5
Federal Funds		6.5	6.5	6.5	6.5	6.5
Other		7.0	7.0	7.0	7.0	7.0
Total		141.0	141.0	141.0	141.0	141.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

DRAFT

ANALYSIS: Attach a separate page for analysis

Prepared By: J. K. Humphreys, Director
Division: Personnel & Benefits

Phone: 465-4460

Date: 3-27-84

Approved by Commissioner: Lisa Rudd
Agency: Department of Administration

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DRAFT

(Page 2 of 2)

CSSB 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 27, 1984

IV Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified employee of BIA schools provided they have never had sufficient service credit in the Federal Civil Service Retirement System to be eligible to receive a benefit in that system. Eligible BIA school employees who were within 3 years of normal retirement in the federal system could claim federal service with less than 3 years of credited service.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .03%. The total cost to the Political Subdivision employers is estimated be as follows:

$\frac{\text{FY 85}}{100.3}$	$\frac{\text{FY 86}}{100.3}$	$\frac{\text{FY 87}}{100.3}$	$\frac{\text{FY 88}}{100.3}$	$\frac{\text{FY 89}}{100.3}$
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The total present value of the costs of this bill to all employers is \$2.5 million.

This bill would reduce the PERS funding ratio by .3%.

DRAFT

Senator Vic Fischer

(907) 465-4954

Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954



MEMORANDUM

TO: Members, Senate Finance Committee
FROM: Senator Vic Fischer *[Signature]*
RE: CSSB 469 Credited PERS service for BIA employees
DATE: May 2, 1984

SB 469 allows BIA school employees who are not teachers to obtain credited service under the Public Employees Retirement Service when BIA schools are transferred to the state. Only BIA employees who are not eligible for federal retirement benefits will be made eligible for benefits under PERS. (Teachers in the BIA schools will be covered under TRS when the schools are transferred.)

BIA employees would also be able to receive higher PERS retirement benefits by making contributions to the system for their past years of BIA employment. The bill outlines the rate of employees' indebtedness to PERS based on the amount an employee would have paid into PERS had the employee been contributing for the total number of years of BIA employment. In the event that the Federal Government transfers the money in the Civil Service Retirement Account to the State, the amount of the employees' indebtedness will be substantially decreased, and the indebtedness will then not be calculated by the formula outlined in the bill.

The State Affairs CS also provides that those noncertified BIA employees within 3 years of retirement at the time of the transfer will not have to fulfill the three year vesting period and will be eligible for retirement at the normal retirement age.

Fiscal information

SB 469	FY '85	\$2,490.5 thousand
CSSB 469 (State Affairs)	FY '85	704.8 thousand
		\$141.0 THOUSAND (3/28/84)

The difference in cost is due to (1) clarifying language in the CS which defines the scope of those eligible for the bill as BIA employees who work for the school and who are not teachers, and (2) restricting the eligibility of retirement benefits to those employees who will not be eligible for benefits under the federal system.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision /date: _____
(Page 1 of 2)

REQUEST Bill/Resolution No.: <u>CSSB 469</u> Title: <u>"An Act allowing BIA services in PERS"</u> Sponsor: <u>Sackett</u> Requestor: _____ Date of Request: _____	FISCAL DETAIL Agency Affected: <u>All State Agencies</u> Program Category Affected: <u>PERS</u> BRU, Program or Subprogram(s) Affected: _____
---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	704.8	704.8	704.8	704.8	704.8
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	704.8	704.8	704.8	704.8	704.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund		637.1	637.1	637.1	637.1	637.1
Federal Funds		32.4	32.4	32.4	32.4	32.4
Other		35.3	35.3	35.3	35.3	35.3
Total	-0-	704.8	704.8	704.8	704.8	704.8

POSITIONS:

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: *[Signature]* J. K. Humphreys, Director Phone: 465-4460
 Division: Retirement & Benefits Date: 3-21-84

Approved by Commissioner: Lisa Rudd Date: 3/22/84
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSSB 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

March 21, 1984

IV Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified employee of BIA schools. BIA school employees who were within 3 years of normal retirement in the federal system could claim federal service with less than 3 years of credited service.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .15%. The total cost to the Political Subdivision employers is estimated be as follows:

<u>FY 85</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>
501.3	501.3	501.3	501.3	501.3

The total present value of the costs of this bill to all employers is \$12.4 million.

This bill would reduce the PERS funding ratio by 1.3%.



Official Business

Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chair • Pouch V
Juneau, Alaska 99811
(907) 465-4954

MEMORANDUM

TO: Senate State Affairs Committee
FROM: Senate State Affairs Committee Staff
RE: Retroactive credited service for BIA employees
DATE: February 28, 1984

SB 469 would entitle noncertified BIA employees to credited service under the PERS. An employee would also be able to claim retroactive service under the system for which they would incur a debt to the state for the amount they would have contributed had they been eligible for the system.

The benefits paid to the BIA employee after retirement would be reduced to compensate for an indebtedness to the state, and for benefits they received from the US government for the same period of employment.

BIA employees have requested this legislation and do support it.

Fiscal information

2,490.5 thousand FY '85

back-up information

Fiscal note from the Department of Administration

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: SB 469
 Title: "An act allowing BIA
 service in PERS "
 Sponsor: Sackett
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: All State Agencies
 Program Category Affected: PERS
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
Operating						
100 Personal Svcs						
100 Rtmnt & Bnfts	-0-	2,490.5	2,490.5	2,490.5	2,490.5	2,490.5
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match						
TOTAL OPERATING	-0-	2,490.5	2,490.5	2,490.5	2,490.5	2,490.5

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

General Fund		2,251.4	2,251.4	2,251.4	2,251.4	2,251.4
Federal Funds		114.6	114.6	114.6	114.6	114.6
Other		124.5	124.5	124.5	124.5	124.5
Total	-0-	2,490.5	2,490.5	2,490.5	2,490.5	2,490.5

POSITIONS: NONE

Full-Time						
Part-Time						
Temporary						

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director Phone: 465-4460
 Division: Retirement & Benefits Date: 2-27-84

Approved by Commissioner: Lisa Rudd Date: 2-28-84
 Agency: Department of Administration

- Distribution (by Agency preparing fiscal note):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

Senate Bill 469
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

February 27, 1984

IV Analysis: This bill would allow all PERS members who complete 3 years of credited service to claim credit for service rendered as an uncertified BIA employee.

The cost of this bill will be borne by all PERS employers, Political Subdivisions as well as the State. The individual employer contribution will increase on an average of .53%. The total cost to the Political Subdivision employers will be as follows:

FY 85	FY 86	FY 87	FY 88	FY 89
<u>1,771.3</u>	<u>1,771.3</u>	<u>1,771.3</u>	<u>1,771.3</u>	<u>1,771.3</u>

The total present value of the costs of this bill to all employers is \$44.4 million.

This bill would reduce the PERS funding ratio by 4.3%.

MARK O. MATFIELD, OREG., CHAIRMAN

TED STEVENS, ALASKA
LOWELL P. WECKER, JR., CONN.
JAMES A. MCCLURE, IDAHO
PAUL LAXALT, NEV.
JAKE GARN, UTAH
THAD COCHRAN, MISS.
MARK ANDREWS, N. DAK.
JAMES ABONOR, S. DAK.
ROBERT W. KASTEN, JR., WIS.
ALFONSE M. D'AMATO, N.Y.
MACK MATTINGLY, GA.
WARREN RUDMAN, N.H.
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PETE V. DOMENICI, N. MEX.

JOHN C. STENNIS, MISS.
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WILLIAM PROXMIRE, WIS.
DANIEL K. INOUE, HAWAII
ERNEST F. HOLLINGS, S.C.
THOMAS F. EAGLETON, MO.
LAWTON CHILES, FLA.
J. BENNETT JOHNSTON, LA.
WALTER D. HUDDLESTON, KY.
QUENTIN N. BURDICK, N. DAK.
PATRICK J. LEAHY, VT.
JIM SASSER, TENN.
DENNIS D. CONCINI, ARIZ.
DALE BUMPERS, ARK.

J. KEITH KENNEDY, STAFF DIRECTOR
FRANCIS J. SULLIVAN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, D.C. 20510

March 12, 1984

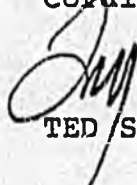
The Honorable Vic Fischer
Chairman
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Vic:

Enclosed is a copy of a letter received from the Iditarod Area School District about the integration of former BIA classified employees into the State retirement system as a result of the State's assumption of the operation of the BIA day schools. I have enclosed a copy of my response to Mr. Chase, as I thought you would want to know what my understanding is of the best solution for resolving this situation.

With best wishes,

Cordially,



TED STEVENS

Enclosure

MARK O. MATTHEW, OREG., CHAIRMAN

TED STEVENS, ALASKA
LOWELL P. WEICKER, JR., CONN.
JAMES A. MC CLURE, IDAHO
PAUL LAXALT, NEV.
JAKE GARN, UTAH
THAD COCHRAN, MISS.
MARK ANDREWS, N. DAK.
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WALTER D. HUDOLESTON, KY.
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PATRICK J. LEAHY, VT.
JIM SASSER, TEXAS
DENNIS DE CONCINI, ARIZ.
DALE BUMPER, ARK.

J. KEITH KENNEDY, STAFF DIRECTOR
FRANCIS J. SULLIVAN MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

March 5, 1984

Terry A. Chase
Acting Superintendent
Iditarod Area School District
P.O. Box 105
McGrath, Alaska 99627

Dear Terry:


Thanks for sending me a copy of your letter to Senator Murkowski about the pension situation of former BIA classified employees in schools transferred to the State. I apologize for the delay in responding to you, but my staff on the Post Office, Civil Service subcommittee has been researching the issues you raise.

There are two options for resolving the issue of transferring BIA employees' retirement to the State. The first option is that the State could pass legislation to credit the former BIA employees' time to the State retirement system. This would be the simplest way. The State could require that these employees apply for a refund from the Federal system and then transfer these contributions to the State pension system.

The second option would be to pass legislation in Congress requiring that 1) the former BIA employees be maintained in the Federal System if the State makes the employer contributions; or 2) authorize the Federal System to transfer the Federal contributions to the State and the State grant credit to the employees under its system. As all of these options would require that the State pass some sort of legislation, I would urge that the first option be used as it requires no Federal legislation -- which could be difficult to obtain in a timely manner.

Hope this information is helpful to you.

With best wishes,

Cordially,

TED STEVENS

1430
31511



POST OFFICE BOX 105 • McGRATH, ALASKA 99627 • (907) 524-5599

January 19, 1984

The Honorable Frank Murkowski
Unites States Senate
Washington, D.C. 20510

Dear Senator Murkowski:

I would like to bring to your attention an apparent inequity in the way different classes of employees in BIA Schools which are being transferred to the State of Alaska are being handled.

All BIA School employees will be terminated when the schools are transferred. It is my understanding that the standard Reduction in Force procedures will be followed and they will receive severance pay if they qualify.

In our district we plan to offer most, if not all, these employees their same or similar jobs to fill the new positions which will be created when we assume the operation of the schools.

At this point former BIA teachers who are hired by the State system become members of the Teachers Retirement System (TRS) and have the option of buying in up to 10 years of previous BIA teaching experience. If they have worked for the BIA or other federal employment for a minimum of 5 years, they can vest their money in the federal retirement system and receive benefits when they are eligible or they can draw out all of the contributions they made to the system and apply this to their TRS indebtedness.

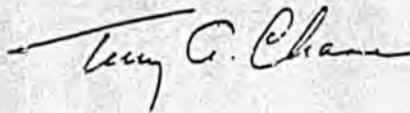
Former BIA classified employees (maintenance men, aides, and school cooks) become members of the State Public Employees Retirement System (PERS) if they work 15 or more hours per week for Iditarod Area School District. These employees do not have the option of bringing in previous work experience with the BIA. If they have 5 or more years of full time employment with the Federal Government they can vest this time and receive retirement benefits based on their years of service when they reach retirement age. If they have less than 5 years of full time work they can withdraw their own contributions to the Federal Government retirement program but they cannot use the money to buy in an equivalent amount of time into PERS.

As I stated earlier, this seems to be unequal treatment between the two classes of employees. It is also being viewed by some people as being discriminatory since all or nearly all teachers are Caucasian and all or nearly all classified employees in the BIA schools are Alaska Natives.

. It is my understanding that the transfer of employees and their retirement benefits was written into the legislation which authorized the sale of the Alaska Railroad to the State. This was apparently not a consideration when the law was written to transfer all of the BIA schools over to the State.

I believe it may take legislation on the part of both the Federal and State legislative bodies to resolve this situation. I would be very pleased to know that you will be working on a solution. Gerald Reichlin, a former IASD teacher and member of your Washington, D.C. staff has already been extremely helpful.

Sincerely



Terry A. Chase
Acting Superintendent

TC:bjm

cc: ✓ Senator Ted Stevens
Representative Don E. Young
Governor Bill Sheffield
State Senator Sackett
State Representative Vern Hurlbert
Mike Wallerie, Tanana Chiefs Conference
Roger Neunsinger, Superintendent, Yukon Flats School District
Spike Jorgensen, Superintendent, Alaska Gateway School District
Edwin Gonion, Superintendent, Bering Straits School District
Sue Hare, Superintendent, Lower Kuskokwim School District
Commissioner Harold Reynolds Jr., Alaska Department of Education
Dick Wiegand, Fairbanks BIA Agency Superintendent
J. K. Humphreys, Director, Division of Retirement and Benefits

S

B

5

419

5/27/84

PROPOSED BY REP. LINDAUER

Amendment to CSSB 255 (Rules)

AS 05, 15, 210 (15) ✓

change "fine" to "Three"

AS 05, 15, 210 (21)

before, "political party" add the
words "candidate" or "

These amendments to the bill will allow for Republicans to also be part of a raffle, democrats as well. Currently, only Libertarians can be in a raffle.

We do not use

(18) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has been in existence for five years before applying for a license under this chapter.

(19) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(20) "rain classic" means a game of chance in which a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time;

(21) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010. (§ 1 ch 27 SLA 1960; am §§ 4, 5 ch 66 SLA 1976)

Revisor's notes. — A semicolon was substituted for a comma and the word "and" following "license" in paragraph (15) by the revisor of statutes pursuant to AS 01.05.031(b).

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Item (16) of this section authorizes certain raffles and lotteries, but limits the raffle or lottery to that type conducted by

a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

That the term "lottery" as used in item (16) of this section does not include an ice pool is indicated by the express provisions of item (12). 1960 Op. Att'y Gen., No. 8.

While the conduct of an ice pool might come within the definition of a lottery by the language in item (16) of this section, the legislature has limited a lottery to a game conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

If the term lottery in item (16) of this section was meant to include an ice classic then item (12) would be meaningless. 1960 Op. Att'y Gen., No. 8.

While there may have been other ice pools conducted prior to the date of this section, the language of item (12) shows that the legislature intended to authorize only two pools, the Nenana and Chena and none other. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Cited in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

- 9) "fish derby" means a contest in which prizes are awarded for catching fish;
- 10) "fraternal organization" means a civic, service or charitable organization in the state, except a college and high school fraternity, for pecuniary profit, which is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members and which has so existed five years before applying for a license;
- 11) "gross receipts" means receipts from the sale of shares, tickets or rights connected with participation in any activity permitted under this chapter or the right to participate, including admission, fee or charge, sale of equipment or supplies, and all other miscellaneous receipts;
- 12) "ice classic" means a game of chance in which a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Fairbairn Ice Pools in the same manner as they were conducted in 1959 and previous years;
- 13) "net proceeds" means the gross receipts less expenses, prizes, fines, or charges, fees, and deductions which are specifically authorized under this chapter;
- 14) "police or fire department and company" means a civic, service or charitable organization in the state, not for pecuniary profit, established by the state or a political subdivision of the state which has been in existence for five years before applying for a license under this chapter;
- 15) "qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, educational organization, police or fire department company, dog catchers' association, or fishing-derby association in the state, which operates without profits to its members and which has been in existence continuously for a period of five years immediately before applying for a license; the organization may be a firm, corporation, company, association or partnership;
- 16) "raffle and lottery" means the selling of rights to participate in the awarding of prizes, in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing of prizes by chance;
- 17) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and which has been so gathered or united for five years before applying for a license and is recognized as a religious organization under the federal income tax laws and the selective service law;

Senator Ferguson's Office
5/24/84

CS for SB549 (Rules)

Bingo and other games of chance and skill are expected to gross over 35 million dollars this year for various Alaskan charitable and civic organizations. This activity is currently monitored by one accounting clerk in the Department of Revenue. Unfortunately, illegal and improper practices have become commonplace in recent years, due to the difficulty of enforcing existing laws.

Due to the severe cutbacks in federal aid, many social organizations are increasingly dependent upon the funds generated by Bingo and associated games to finance their programs. With this increasing dependence, some of these organizations have become aware of the urgent need for reform in the existing laws and practices.

This legislation does not liberalize or increase the amount of charitable gambling in Alaska. It does not put any undue hardship on the small bingo games run by churches or by the neighborhood American Legion.

What it does do is bring the law up to date. It provides for adequate enforcement and auditing and a means to repay the state for that activity. It guarantees a proper portion of the gross receipts will wind up as proceeds to the programs of the permittee. It requires bingo operators to publically list what organization a game is being run for and it requires some simple bookkeeping measures to help ensure the honesty of the games.

This bill has had extensive hearings in the Finance Committee and an additional hearing in the Rules Committee. During these hearings the testimony has been unanimous in favor of passage of this legislation. CSSB 549(Rules) passed the Senate 15 to 3. The bill in its current version is supported by the administration and by the organizations which first asked for reform of the existing laws.

INTERIM OFFICE:
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 463-4963

Alaska State Legislature



Representative Mitch Abood
CHAIRMAN

House Committee on State Affairs AGENDA

DATE: 5/27/84 Saturday

TIME: 1:00 P.M., ROOM 102

- I. CALL THE MEETING TO ORDER
 - A. NOTE THE COMMITTEE MEMBERS PRESENT AND WELCOME THOSE OBSERVING THE MEETING.
 - B. REMIND THOSE WHO HAVE NOT SIGNED-IN TO DO WHO WISH TO TESTIFY, AND REMIND THOSE GIVING TESTIMONY TO SPEAK UP AND STATE THEIR NAME, ADDRESS AND PHONE NUMBER BEFORE TALKING.
- II. ANNOUNCE LEGISLATION UNDER CONSIDERATION:

CSSB 549 (rules) An act relating to games of chance and contests of skill; and providing for an effective date.

OTHER NOTES OR REMINDERS:

RULES
CSSB 549 (~~FINANCE~~)
Summary of Changes To Present Law

Section 1 would repeal and reenact AS 05.15.020.

Present Law: -Annual permit required for activities
-\$20 application fee
-Additional fee of 1% of net proceeds paid by permit holder
-No provisions for an operator's permit

Proposed Changes: -Annual permit required for activities
-\$50 application fee for permit
-\$200 application fee for operator's permit
-Posting of bond or other security by operator
-Additional fee of 1.5% of gross receipts to be paid by permittee operating own games or by operator

Section 2 adds a new section, AS 05.15.025.

Present Law: -No provision for a license fee by local governments

Proposed Changes: -Boroughs and organized cities outside of boroughs could impose a fee of up to 1/2% of the gross receipts
-Department would collect the fee

Section 3 repeals and reenacts AS 05.15.030.

Present Law: -Notification of local governments required
-Local governments can protest only on the basis of the applicant's lack of qualifications

Proposed Changes: -Local government would have to approve the operation of bingo, pull-tabs and special-draw raffles before commissioner could issue initial permit

-Adds that a local government may protest any renewal application and an original application for which approval is not necessary based on the best interests of the community

-Commissioner could restrict locations of games

Section 4 repeals and reenacts AS 05.15.060.

No substantive changes between current and proposed law. Repeal and reenactment is proposed only to simplify the language.

Section 5 deletes a portion of AS 05.15.070.

Present Law: -Commissioner may charge permittees cost of the examination

Proposed Changes: -Deletes the power to charge for examination

Section 6 repeals and reenacts AS 05.15.080.

Present Law: -Annual report by January 31 to city or borough clerk nearest to location of activity

-Reports income, authorized expenses and disbursements of net proceeds

Proposed Changes: -Monthly reports to the state on activities conducted by organizations

-Annual report to State by January 31 of summary of prior year's activities

-Fee to be paid with annual report

Section 7 adds two new sections, AS 05.15.085 and AS 05.15.086.

Present law contains no provisions for games conducted by operators.

Proposed Changes: AS 05.15.085

- This is a new section for reports on games conducted by operators
- Monthly reports to State required on activities conducted for other organizations
- Operators to file annual reconciliation by January 31 of the succeeding year and pay the gross receipts fee
- Organizations using operators must file an annual report by January 31 of the succeeding year

AS 05.15.086

- All applications and reports to be file under penalty of perjury
- Reports must be signed by a bona fide member in good standing of the permittee or operator
- Commissioner may grant filing extensions but not extensions for the payment of fees
- Automatic suspension of activities if a report or fee is delinquent
- Delinquent fees bear interest at the rate provided for delinquent taxes

Section 8 amends AS 05.15.160.

Present Law: -Payments to employees of operators are not authorized expenses

-Payments to consultants cannot be related to the receipts of the authorized activity

Proposed Changes: -Payments to employees of qualified operators would be authorized expenses

-Consultants could be paid out of the receipts of an activity

Section 9 adds two new subsections to AS 05.15.160.

Present Law: -Current regulations limit Bingo prizes to \$1,000 per game not to exceed \$5,000 per session

-Current regulations limit annual prizes for raffles and lotteries to \$200,000

-Present law sets no limit on the amount of authorized expenses which may be incurred and no minimum amount of net proceeds which should be generated

Proposed Changes: -Limit annual authorized expenses to 25% of gross receipts

-Annual net proceeds may not be less than 25% of the gross receipts

Section 10 adds a new section, AS 05.15.165.

Present law contains no provisions for games conducted by operators.

Proposed Changes: -Qualified operators may operate for only one authorizing permittee in any 24 hour period

-The authorizing permittee must be paid its net proceeds within 15 days of the activity

-The operator must pay to the authorizing permittee the gross receipts reduced by the amount of the gross receipts fee, authorized expenses and prizes

-Authorizing permittee must designate a representative which would have access to the operator's books for its activities

-Department may order an operator to provide its books to an authorizing permittee

-The Department shall order an operator to pay to the authorizing permittee the amounts of unauthorized expenses incurred or the difference between the net proceeds paid and 25% of the gross receipts, whichever is greater

-Interest shall be added to the payments made to an authorizing permittee under order from the Department at the rate of 1.5% per month for each month or fraction of a month during which the money is not paid

~~Under the present assessment~~, an operator would be required to list the authorizing permittees in all advertising and would post its own permit and a copy of the permit of the authorizing permittee

Section 11 adds a new subsection to AS 05.15.200.

Present Law: -Only penalty for the non-payment of license fees is a suspension or revocation of the permit

Proposed Change: -A penalty may be assessed by the commissioner which is similar to the failure to pay penalty for taxes (5% for each 30 day period or fraction thereof) during which the fee is delinquent

Section 12 repeals and reenacts AS 05.15.210(15).

Present Law: -"Net proceeds" is defined as the gross receipts less expenses, charges, fees, and deductions which are specifically authorized under the chapter

Proposed Change: -"Net proceeds" is defined simply to be gross receipts reduced by the license fee based on the gross receipts, authorized expenses defined in AS 05.15.160(a) and the prizes awarded at the activity

Section 13 adds 5 new subsections to AS 05.15.210.

Present Law: -There are no definitions for "authorizing permittee", "commissioner", "department", "permittee" or "qualified operator"

Proposed Changes: -The above terms would be defined

Section 14 provides that organizations conducting bingo games, pull-tabs and special-draw raffles before the effective date of the Act would not be required to have local government approval.

Section 15 would make the act effective July 1, 1984.



Official Business

Alaska State Legislature

House of Representatives

Pouch V
State Capitol
Juneau, Alaska 99811

SB 549

- ① McKie Campbell
is from C & RA and did
work on this for the committee
LET HIM
GO FIRST.
- ② DAN BULLOCK - REVENUE

SENATE
JOURNAL SUPPLEMENT

5/18/84

No. 87

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

CSSB
549
(FIN)

REQUEST	FISCAL DETAIL
Bill/Resolution No: CSSB549 (Finance)	Agency Affected: Revenue
Title: An Act Relating to Games of Chance & Skill & Provide for effective date	Program Category Affected: Revenue Collection & Management
Sponsor: Community & Regional Affairs	BRU, Program or Subprogram(s) Aff
Requestor: Senate Finance	Public Services Division BRU
Date of Request: 5/3/84	

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 86	FY 87	FY 88	FY 89
OPERATING					
100 PERSONAL SERVICES	200.3	303.8	320.1	336.1	352.9
200 TRAVEL	48.0	40.0	42.0	44.1	46.3
300 CONTRACTUAL	17.1	60.9	60.9	60.9	60.9
400 SUPPLIES	0	4.2	4.4	4.6	4.8
500 EQUIPMENT	.8	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-
TOTAL OPERATING	463.2	409.9	427.4	445.7	464.9

CAPITAL					
	-	-	-	-	-

FUNDING: (Thousands of Dollars)

	FY 87	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	463.2	409.9	427.4	445.7	464.9
FEDERAL FUNDS	-	-	-	-	-
OTHER	-	-	-	-	-
TOTAL	-	-	-	-	-

POSITIONS:

	87	86	87	88	89
FULL-TIME	0	8	8	0	8
PART-TIME	-	-	-	-	-
TEMPORARY	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

See revenue figures above.

ANALYSIS: See attached page.

Prepared by: William J. Richard
Division: Public Services

Phone: 465-2392
Date: 5/3/84

Approved by Commissioner: [Signature]
Agency: Department of Revenue

Date: 5/13/84

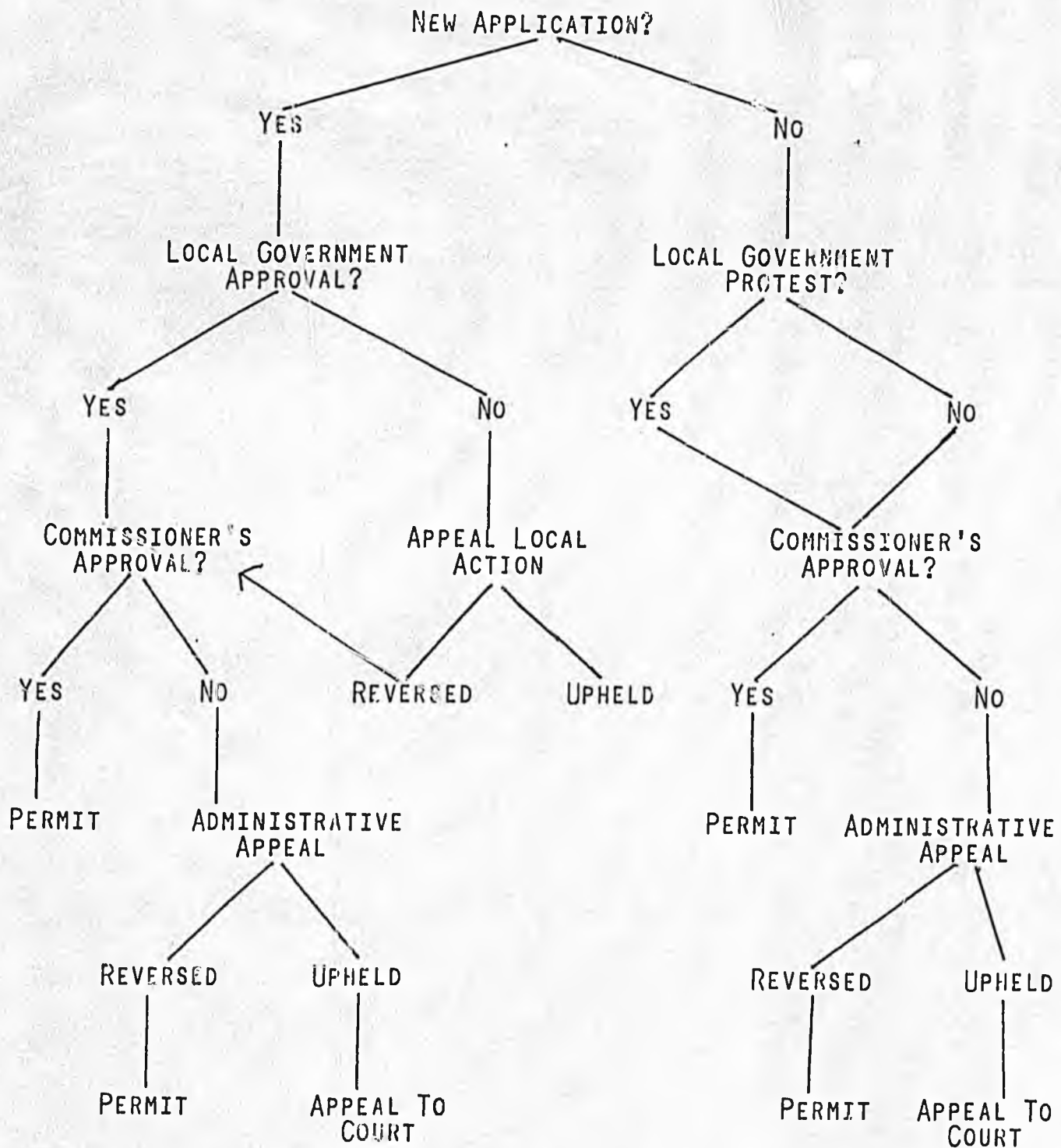
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ANALYSIS:

Administration of Games of Chance and Contests of Skill (AS 05.75) rests with the Public Services Division. Essentially, no field enforcement has been employed in past years. Gambling in Alaska has grown substantially in recent years with an even more accelerating growth expected. There is a definite need to provide for some control before it reaches a level that would prohibit any control.

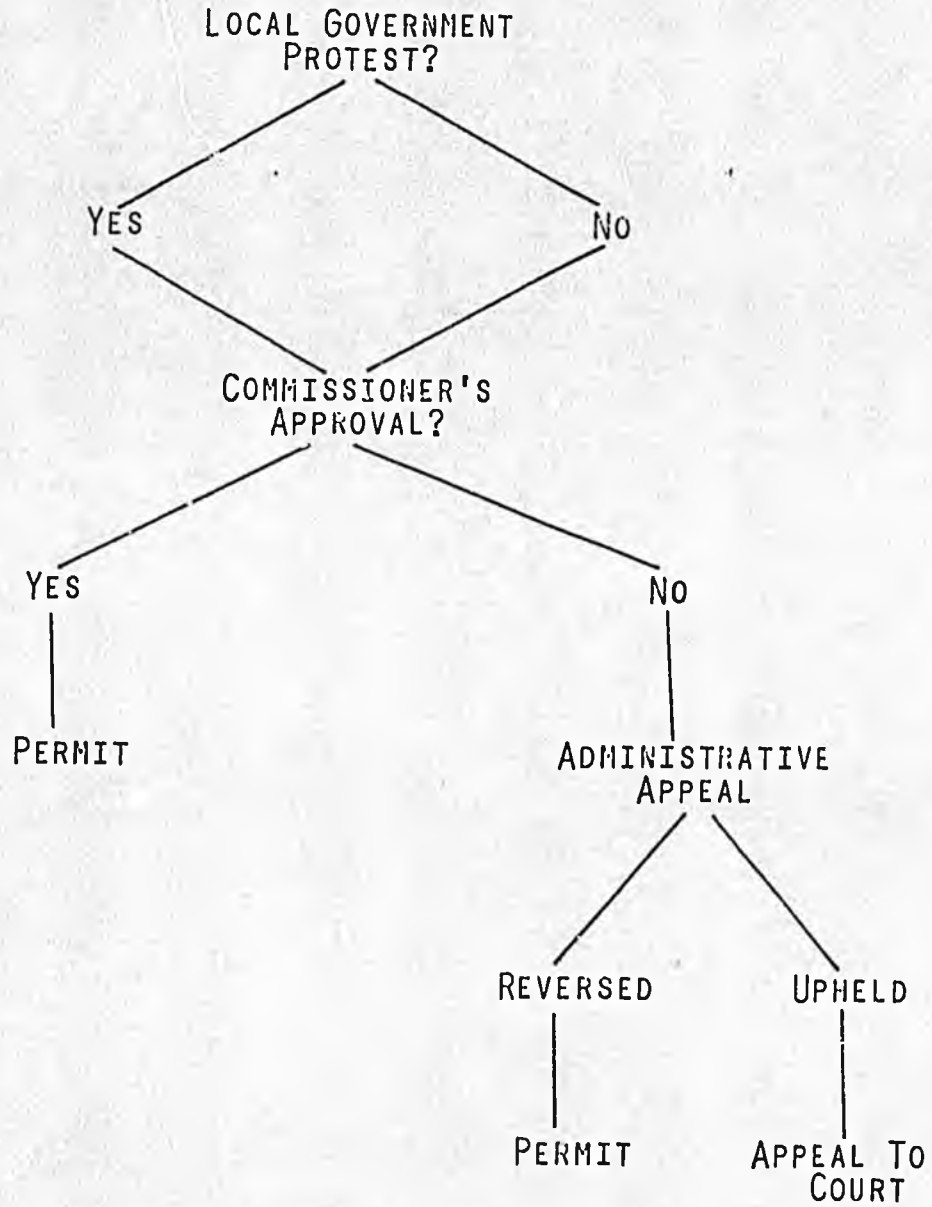
The change in fee structure provided for in this legislation would allow funds for an educational enforcement program. The field investigators would review gaming operations holding permits to ensure proper operation. The tax examiners will be used to issue permits and review financial statements, ensuring proper use of funds derived from gaming.

APPLICATION PROCESS
BINGO, PULL-TABS, SPECIAL-DRAW RAFFLES



APPLICATION PROCESS
GAMES OTHER THAN BINGO, PULL-TABS, SPECIAL-DRAW RAFFLES

NEW APPLICATION AND RENEWALS



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§ 05.12.010

AMUSEMENTS AND SPORTS

§ 05.15.010

Chapter 12. Arctic Winter Games.

Section

10. Arctic Winter Games

Sec. 05.12.010. Arctic Winter Games. (a) No person may use, display or publish the symbol of the Arctic Winter Games, consisting of the triple circle symbol and ulu combination, for commercial purposes or private gain without the written authorization of the Arctic Winter Games Incorporated.

(b) No person may use, display or publish any name, title or device that tends to indicate that he is affiliated with or supported by the Arctic Winter Games without the written authorization of the Arctic Winter Games Incorporated.

(c) A person who violates a provision of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100. Each day of unauthorized use, display or publication is a separate offense. (§ 1 ch 131 SLA 1972; AS 11.70.050; am § 22 ch 166 SLA 1978)

Editor's notes. — This section derives from AS 11.70.050 and was transferred by the revisor of statutes pursuant to § 22, ch. 136, SLA 1978 (revision of criminal code).

Chapter 15. Games of Chance and Contests of Skill.

Article

1. Administration (§§ 05.15.010 — 05.15.090)
2. Licenses and Permits (§§ 05.15.100 — 05.15.180)
3. General Provisions (§§ 05.15.190 — 05.15.210)

Cross references. — As to gambling offenses, see AS 11.66.200 — 11.66.280.

Article 1. Administration.

Section

10. Department of Revenue to administer chapter
20. Annual permit and fee
30. Notification of local governments and protests
40. Issuance and effect and term of permit
50. Surrender of permit upon suspension or revocation

Section

60. Regulations
70. Commissioner of revenue may examine permittees
80. Reports by permittees
90. Reports to the legislature

Sec. 05.15.010. Department of Revenue to administer chapter. The Department of Revenue shall administer this chapter. (§ 3 ch 27 SLA 1960)

Opinions of attorney general. — AS 05.15.010 — 05.15.210 does not create any new categories of prohibited gambling activities. 1962 Op. Att'y Gen., No. 22.

Collateral references. — 38 Am. Jur. 2d Gambling §§ 1-9, 10-14, 17-19, 41, 42, 49, 57-61, 67, 74, 190, 264 268.

38 C.J.S. Gaming §§ 1, 2, 80-132; 54 C.J.S. Lotteries § 1 et seq.

38 C.J.S. Gaming §§ 80 to 132; 54 C.J.S. Lotteries § 1 et seq.

What transactions are within the purview of statutes or ordinances in relation to gifts or prizes or gift enterprises, 39 ALR 1035.

Constitutionality of statute which affirmatively permits certain forms of betting or gambling. 95 ALR 622.

Construction and application of statutes permitting specified forms of betting. 117 ALR 828.

Lottery as game of chance. 135 ALR 168.

What are games of chance, games of skill, and mixed games of chance or skill. 139 ALR 104.

Validity and construction of statute exempting gambling operations carried on by religious, charitable, or other nonprofit organizations from general prohibitions against gambling. 42 ALR3d 663.

Sec. 05.15.020. Annual permit and fee. An activity permitted under this chapter may not be conducted unless an annual permit issued by the department is first obtained and a fee of \$20 is paid to the department. An additional fee of one per cent of the net proceeds shall be paid by each permittee annually. This fee is due and payable at the same time as the annual financial statement. (§ 3 ch 27 SLA 1960; am § 1 ch 182 SLA 1976)

Revisor's notes. — In the first sentence, the word "An" was substituted for "No" at the beginning of the sentence and

the word "not" was inserted preceding "be conducted" by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 05.15.030. Notification of local governments and protests. At the time of filing application the applicant shall notify the city or borough nearest to the location of the proposed activity of the application. A local government unit may protest the conduct of the activity in its jurisdiction by resolution stating the reasons for the protest filed with the department; protests are limited to the lack of qualifications prescribed by this chapter. This resolution is only a recommendation by the city which may be considered by the commissioner in his determination to issue or refuse to issue a permit. (§ 3 ch 27 SLA 1960; am § 2 ch 94 SLA 1980)

Revisor's notes. — Pursuant to AS 01.05.031, the revisor of statutes deleted former subsection designations (a) and (b), combined the former second and third sentences by substituting a semicolon for a period following "department," and added the provisions of former subsection (b) as

the present third sentence.

Effect of amendments. — The 1980 amendment substituted "A" for "During the 15-day period a" at the beginning of the second sentence of former subsection (a).

Sec. 05.15.040. Issuance and effect and term of permit. After the fee is paid, a permit issued, and during the effective period of the permit, the organization may conduct the activity specified in the permit. If a permit is revoked, the permittee is not eligible for another permit until the expiration of one year from the date of revocation. A

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§ 05.15.050

AMUSEMENTS AND SPORTS

§ 05.15.060

permit expires at the end of the period for which it is issued. A permit is not transferable. (§ 3 ch 27 SLA 1960)

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has

authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Sec. 05.15.050. Surrender of permit upon suspension or revocation. When a permit is suspended or revoked, the permittee shall surrender the permit to the department on or before the effective date of the suspension or revocation. A permit is not valid beyond the effective date of the suspension or revocation, whether surrendered or not. (§ 3 ch 27 SLA 1960)

Sec. 05.15.060. Regulations. In accordance with the Administrative Procedure Act (AS 44.62), the commissioner of revenue shall adopt, no later than September 7, 1960, regulations necessary to carry out this chapter covering, but not limited to

- (1) the issuance, renewal, and revocation of permits;
- (2) a method of ascertaining net proceeds, the determination of items of expense which may be incurred or paid and the limitation of the amount of the items of expense to prevent the proceeds from the activity permitted from being diverted to noncharitable, noneducational, nonreligious, or profit-making organizations, individuals or groups;
- (3) the immediate revocation of permits if this chapter or regulations issued under it are violated;
- (4) the requiring of detailed, sworn, financial reports of operations from permittees including detailed statements of receipts and payments;
- (5) the investigation of permittees and their employees, including the fingerprinting of those permittees and employees whom he considers it advisable to fingerprint;
- (6) exclusion from participation as a permittee or employee of a permittee of any person convicted of a felony, a crime involving moral turpitude, or violation of a municipal, state, or federal gambling law;
- (7) the method and manner of conducting activity and awarding of prizes or awards, and the equipment which may be used;
- (8) the number of activities which may be held, operated, or conducted under a permit during a specified period;
- (9) a method of accounting for receipts and disbursements including the keeping of records and requirements for the separate banking of all receipts, and payments by check only;

(10) the disposition of funds in possession of a permittee at the time a permit is surrendered, revoked or invalidated;

(11) other matters which the commissioner considers necessary to carry out this chapter or protect the best interest of the public. (§ 4 ch 27 SLA 1960)

Revisor's notes. — The words "rules and" were deleted preceding "regulations necessary" in the introductory language by the revisor of statutes pursuant to AS 01.05.031(b).

Opinions of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits

the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

NOTICE TO DECISIONS

Annulment of regulations by legislature. — The legislature acting under AS 44.62.320(a) could not constitutionally annul by concurrent resolution a regulation prohibiting lottery owners from

giving prizes exceeding certain personal and real property limits. *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.070. Commissioner of revenue may examine permittees. The commissioner may examine or have examined the books and records of a permittee. The commissioner may require the permittee to pay the reasonable cost of the examination. The commissioner may issue subpoenas for the attendance of witnesses and the production of books, records, and other documents. (§ 6 ch 27 SLA 1960)

Sec. 05.15.080. Reports by permittees. The permittee shall, by January 31 of the following year file for public inspection with the city or borough clerk nearest to the location of the activity licensed and with the commissioner of revenue, an itemized statement showing all income, authorized expense and disbursements of net proceeds in connection with the activity. (§ 6 ch 27 SLA 1960; am § 2 ch 182 SLA 1976)

Sec. 05.15.090. Reports to the legislature. Before March 2 of each year the commissioner of revenue shall submit a detailed report containing a summary of all reports required of permittees and recommending a permit fee scale that will cover costs of administration and enforcement. The attorney general and the commissioner of public safety shall, within 10 days after the convening of the legislature each year, submit a jointly prepared, detailed report outlining the effect, if any, of the operation of this chapter on the legal and law-enforcement activities of the state. (§ 9 ch 27 SLA 1960; am § 3 ch 182 SLA 1976)

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Article 2. Licenses and Permits.

Section

- 100. Commissioner of revenue may issue permits
- 110. Authorized activities a privilege
- 120. Eligibility for permit
- 130. Commissioner may impose additional requirements for eligibility.

Section

- 140. Proof necessary to qualify for permit
- 150. Limitation on use of proceeds
- 160. Authorized expenses
- 170. Suspension of permit
- 180. Limitations on authorized activity

Sec. 05.15.100. Commissioner of revenue may issue permits. The commissioner of revenue may issue a permit to a qualified organization. The permit gives the organization the privilege of conducting bingo, raffles and lotteries, ice classics, rain classics, dog mushers' contests, fish derbies and contests of skill. (§ 1 a ch 27 SLA 1960; am § 1 ch 66 SLA 1976)

NOTES TO DECISIONS

Quoted in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980). 38 C.J.S. Gaming §§ 2, 50, 80-83; 54 C.J.S. Lotteries §§ 11-17. Collateral references. — 38 Am. Jur. 2d Gambling §§ 10-19.

Sec. 05.15.110. Authorized activities a privilege. The activities specified in AS 05.15.100 may be permitted as a privilege and do not confer a right upon any person to conduct the activities. (§ 1 b ch 27 SLA 1960)

Sec. 05.15.120. Eligibility for permit. An applicant shall be a qualified organization to be eligible for a permit. (§ 1 c ch 27 SLA 1960)

NOTES TO DECISIONS

Cited in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.130. Commissioner may impose additional requirements for eligibility. The commissioner of revenue may supplement the definitions of qualified organizations and activities by rules and regulations adopted under this chapter adding to the definitions additional requirements which the commissioner considers necessary for the best interests of the public or for the proper administration of this chapter. (§ 1 d ch 27 SLA 1960)

Sec. 05.15.140. Proof necessary to qualify for permit. The commissioner of revenue may not issue or renew a permit except upon proof, satisfactory to him, that the applicant is a qualified organization,

the activity may be permitted under this chapter, and the issuance of a permit is not detrimental to the best interests of the public. Upon request of the commissioner of revenue, the applicant shall prove conclusively each of these requirements before a permit may be issued or renewed. (§ 1 d ch 27 SLA 1960)

Sec. 05.15.150. Limitation on use of proceeds. (a) The authority to conduct the activity authorized by this chapter is contingent upon the dedication of the net proceeds of the raffles or contests to the awarding of prizes to contestants or participants and to political, educational, civic, public, charitable, patriotic or religious uses in the state. "Political, educational, civic, public, charitable, patriotic, or religious uses" mean uses benefiting persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint, or by assisting them in establishing themselves in life or by providing for the promotion of the welfare and well-being of the membership of the organization within their own community, or through aiding candidates for public office or groups which support candidates for public office, or by erecting or maintaining public buildings or works, or lessening the burden on government but do not include the erection, acquisition, improvement, maintenance, or repair of real, personal or mixed property unless it is used exclusively for one or more of the uses stated.

(b) The net proceeds derived from the activity must be devoted within one year to one or more of the uses stated. An organization desiring to hold the net proceeds for a period longer than one year must apply to the commissioner of revenue for special permission and upon good cause shown the commissioner may grant the request. (§ 1 e ch 27 SLA 1960; am § 2 ch 66 SLA 1976)

NOTES TO DECISIONS

Quoted in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. No. 2022 (File No. 3670), 606 P.2d 769 (1980).

Sec. 05.15.160. Authorized expenses. No item of expense may be incurred or paid in connection with the holding, operating or conducting of an activity, held, operated or conducted under a license issued under this chapter, except bona fide expenses in reasonable amount for goods, wares, and merchandise furnished or services rendered, reasonably necessary for the holding, operating or conducting of the activity. (§ 1 e ch 27 SLA 1960)

Sec. 05.15.170. Suspension of permit. The commissioner of revenue may suspend a permit pending investigation or hearing. The suspension is effective upon the giving of notice to the permittee. The

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notice may be given by the delivery or handling of written notice to the permittee or a person conducting an activity under the permittee's permit or the mailing of notice to the permittee at the address shown on the permit. A permit may be suspended under this section for a period of 90 days or until the end of a hearing or other proceeding begun during suspension. The authority of the commissioner to suspend a permit is not subject to the Administrative Procedure Act (AS 44.62). (§ 5 ch 27 SLA 1960)

Sec. 05.15.180. Limitations on authorized activity. (a) This chapter does not authorize the use of playing cards, dice, roulette wheels, coin-operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling; or any other method or implement not expressly authorized by the commissioner.

(b) With the exception of raffles, lotteries and raffle classics, no activity may be licensed under this chapter unless it existed in the state in substantially the same form and was conducted in substantially the same manner before January 1, 1959. (§ 2 ch 27 SLA 1960; am § 3 ch 66 SLA 1976)

NOTES TO DECISIONS

Quoted in Pin-Ball Mach. Serial No. 2334 v. State, Sup. Ct. Op. No. 86 (File No. 162), 371 P.2d 805 (1962).

Article 3. General Provisions.

Section

- 190. Interpretation and construction
- 200. Penalty
- 210. Definitions

Sec. 05.15.190. Interpretation and construction. If any provision of this chapter, or regulation made under this chapter, is determined to be unlawful, then all permits issued in connection with the licensed activity to which the unlawful provision or regulation related shall be cancelled. (§ 8 ch 27 SLA 1960)

Collateral references. — 38 Am. Jur. 2d Gambling; § 18. 54 C.J.S. Lotteries §§ 18, 19.

Sec. 05.15.200. Penalty. Every permittee and every officer, agent, or employee of the permittee and every other person or corporation who wilfully violates or who procures, aids, or abets in the wilful violation of this chapter is guilty of a misdemeanor. (§ 7 ch 27 SLA 1960)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Sec. 05.15.210. Definitions. In this chapter

(1) "bingo" means a game of chance of, and restricted to, the selling of rights to participate, and the awarding of prizes, in the specific kind of game of chance sometimes known as bingo or lotto, played with cards bearing numbers or other designations, five or more in one line, the holder covering numbers when objects similarly numbered are drawn from a receptacle, and the game being won by the person who first covers a previously designated arrangement of numbers on the card;

(2) "charitable organization" means an organization, not for pecuniary profit, which is operated for the relief of poverty, distress, or other condition of public concern in the state, and which has been so engaged for five years before applying for a permit under this chapter;

(3) "civic or service organization" means any branch or lodge or chapter of a national or state organization which is a civic or service organization, not for pecuniary profit, and authorized by its written constitution, charter, or articles of incorporation, or bylaws to engage in a fraternal, civic or service purpose in the state and which has been so engaged for five years before applying for a license under this chapter;

(4) "contest of skill" means a contest or game in which prizes are awarded for the demonstration of human skills in marksmanship, races, and other athletic events;

(5) "dog mushers' association" means a civic, service or charitable organization in the state, not for pecuniary profit, formed exclusively to promote interest in the breeding and training of dog teams for work or recreational and racing purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(6) "dog mushers' contest" means a contest in which prizes are awarded for the correct guess of the racing time of a dog team or of team position in the race, including prizes to the race contestants;

(7) "educational organization" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction and which has been in existence for five years before applying for a license under this chapter;

(8) "fishing-derby association" means a civic, service or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

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(9) "fish derby" means a contest in which prizes are awarded for catching fish;

(10) "fraternal organization" means a civic, service or charitable organization in the state, except a college and high school fraternity, not for pecuniary profit, which is a branch or lodge or chapter, of a national or state organization and exists for the common business, brotherhood, or other interest of its members and which has so existed for five years before applying for a license;

(11) "gross receipts" means receipts from the sale of shares, tickets or rights connected with participation in any activity permitted under this chapter or the right to participate, including admission, fee or charge, sale of equipment or supplies, and all other miscellaneous receipts;

(12) "ice classic" means a game of chance in which a prize of money is awarded for the closest guess of the time the ice moves in a body of water or watercourse in the state and is limited to the Nenana and Chena Ice Pools in the same manner as they were conducted in 1959 and previous years;

(13) "net proceeds" means the gross receipts less expenses, prizes, duties, or charges, fees, and deductions which are specifically authorized under this chapter;

(14) "police or fire department and company" means a civic, service or charitable organization in the state, not for pecuniary profit, established by the state or a political subdivision of the state which has been in existence for five years before applying for a license under this chapter;

(15) "qualified organization" means a bona fide civic or service organization or a bona fide religious, charitable, fraternal, labor, political, or educational organization, police or fire department company, dog mushers' association, or fishing-derby association in the state, which operates without profits to its members and which has been in existence continually for a period of five years immediately before applying for a license; the organization may be a firm, corporation, company, association or partnership;

(16) "raffle and lottery" means the selling of rights to participate and the awarding of prizes, in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing for prizes by chance;

(17) "religious organization" means an organization, church, body of communicants, or group, not for pecuniary profit, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society, not for pecuniary profit, of individuals united for religious purposes at a definite place and which has been so gathered or united for five years before applying for a license and is recognized as a religious organization under the federal income tax laws and the selective service law;

(18) "veterans organization" means a civic, service or charitable organization in the state, or a branch or lodge or chapter of a national or state organization in the state, not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has been in existence for five years before applying for a license under this chapter;

(19) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees;

(20) "rain classic" means a game of chance in which a prize is awarded for the closest guess of the amount of precipitation which is recorded at a certain location during a certain length of time;

(21) "political organization" means an organization or club organized under or formally affiliated with a political party as defined in AS 15.60.010. (§ 1 ch 27 SLA 1960; am §§ 4, 5 ch 66 SLA 1976)

Revisor's notes. — A semicolon was substituted for a comma and the word "and" following "license" in paragraph (15) by the revisor of statutes pursuant to AS 01.05.031(b).

Opinion of attorney general. — Under AS 05.15.210 a permit may be issued which gives a qualified organization the privilege of conducting any of the designated activities. AS 05.15.040 limits the activities that may be conducted to those activities specified in the permit. Under AS 05.15.060 the commissioner has authority to further limit the number of activities which may be conducted pursuant to any permit. Therefore, absent any regulation to the contrary, a permit could be issued for more than one activity to a qualified organization. 1960 Op. Att'y Gen., No. 8.

Item (16) of this section authorizes certain raffles and lotteries, but limits the raffle or lottery to that type conducted by

a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

That the term "lottery" as used in item (16) of this section does not include an ice pool is indicated by the express provisions of item (12). 1960 Op. Att'y Gen., No. 8.

While the conduct of an ice pool might come within the definition of a lottery, by the language in item (16) of this section, the legislature has limited a lottery to a game conducted by a drawing for prizes. 1960 Op. Att'y Gen., No. 8.

If the term lottery in item (16) of this section was meant to include an ice classic, then item (12) would be meaningless. 1960 Op. Att'y Gen., No. 8.

While there may have been other ice pools conducted prior to the date of this section, the language of item (12) shows that the legislature intended to authorize only two pools, the Nenana and Chena, and none other. 1960 Op. Att'y Gen., No. 8.

NOTES TO DECISIONS

Cited in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980).



Thrifty Nickel

CLASSIFIED
WANT AD SHOPPER

276-5555

13th & Gambell, P.O. Box 10-0003, Anchorage, AK 99510

Pickups/Trucks/Vans

IT'S EASY TO PLACE AN AD!
Only \$4.00 for the first 16 words and 25 cents for each additional word, (Mail or Walk-in's only). Only \$5.00 for the first 16 words and 25 cents for each additional word, (Phone in's only). You may place your ad in one of 3 ways:

1. Bring it by your nearest Thrifty Nickel office.
2. Use the handy coupon in this paper, or write your ad on your own piece of paper. Send ad WITH PAYMENT to your nearest Thrifty Nickel office.
3. Phone in your ad! Just call 276-5555 (Anchorage) and we'll be happy to help you! Please pay for your ad promptly to avoid a billing fee!

AD DEADLINE
THURSDAY 5:00 PM
CANCELLATIONS 12 NOON

Pickups/Trucks/Vans

1974 FORD VAN, 8 cylinder, 278-1813 anytime, daytime. \$1200 OBO. 5t/11

1978 CHEVY Super Custom Van, perfect condition, 34,800 miles, many extras. \$9500. Call 583-7339. 5t/11

1979 4WD DODGE Maxi Van, too many extras list, will consider trade. \$13,500 OBO. 694-4878. 12t/11

DATSUN 1974 PU, 4 speed, excellent condition, low mileage. AM-FM 8-track. 278-1037. \$1800. 12t/11

1979 4x4 CHEVY LUV, best offer over \$3000. Mack K. days 378-6329, even 378-8747. 12t/11

1976 DODGE Club Cab, 1/2 ton, 4x4, with camper shell, \$2900. 337-8903. 12t/11

Miscellaneous

HAVE A part in the Annual Fall Show, join the Anchorage Sourdough Chapter Sweet Adelinas. Come and see on Tuesday, May 15, 7:30pm, East High Choral Room, singing, refreshments, and lots of fun. Info. Sue 272-4245 or Vernie 337-1193. 5m/11

BECKY'S WORLD
limited edition plates and wooden frames. See me every weekend at the new Flea Market on the Old Seward Hwy. or call 333-4498 after noon. 5m/11

MAHOQANY Dresser, 12x12, new carpet, car seat, 10 speed, artique book case and oak dresser, office chair. 349-3491. 6m/11

ONE WAY ticket to LaGle, NYO. Must be made, open ticket, asking \$350. Come visit at 340 No. price Apt. B. 6m/11

Motorcycles

LIKE NEW
1983 YAMAHA MX 100
\$500
583-3819 work, 694-9223 home. 5m/11

1983 HARLEY DAVIDSON Tour Glide, custom painted, excellent condition, low miles, still under warranty. 337-3385. 12n/11

1979 HOND 750 Super Sport, Kerker headers, new tires and chain, \$1500 OBO. 7:30-4:30 582-2313 after 5pm 277-2926 ask for Ken. 12n/11

1983 HONDA CB 1100F, sport fairing, adjustable suspension and handlebars, superior handling, very fun commuter, \$2995 OBO. 688-3891. 12n/11

AMERICAN MADE
3 wheelers & 2 wheelers kits by Hoald. Authorized dealer. 248-3118. 12n/11

Aircraft/Boats

17' FIBERGLASS BOAT, trailer, full cover, VHF, CB, sleeper seats, 50 HP electric Merc, everything included. \$5000. 345-1327. 5a/11

TAYLORCRAFT BCS-65, 30 SMOH ceconite, Scott tail, 8:50x6 tires, Cleveland wheels and brakes. \$8500. 378-6291. 12a/11

14' BOAT, completely redone 20 HP Mercury outboard, rebuilt with trailer. \$1700. Days 344-8131, after 5pm 344-4137. 3a/11

18' FIBERGLASS Boat with full canvas, lift trailer, real nice boat, \$3500. 344-1295 anytime. 12a/11

CHEROKEE 180, \$12,000. Airboat, 140 HP Ly6, \$7000 OBO. 335-1144. 12a/11

Aircraft/Boats

URGENT! Must Sell! Y8 Gregoor riverboat, E-Z Load trailer, 55 HP Evinrude, jet unit and prop, lots of extras. 243-6868. 2a/11

1982 18' ALUMAWELD Guide Model riverboat, 140 HP Evinrude & 7 1/2 HP Mercury, excellent condition, many extras. \$10,500. 694-4254. 2a/11

LEARN TO FLY
\$1880
20 hrs. solo, 20 hrs. dual.
SPECIAL THIS MONTH
FREE ground school w/1880 pkg.
ALASKA AVIATION
338-6333
Vias/MCI/American Express. 12a/11

351 TUIBO Ford Marine engine, fresh water cooled, complete. \$2600. 338-0975. 5a/11

REBUILT Impellers, 3 each. Standard 7" for Hamilton or Turbo drive, 30 hours used, \$350. 338-0975. 5a/11

BEAUTIFUL 1985 Mariner Kelch fully equipped for cruising - \$57,500. Call 808-941-3897 or write: P.O. Box 8594, Honolulu, Hawaii 96815. 5a/11

ANNUAL INSPECTIONS
Repairs, Maintenance
Your Aircraft, Mobile Shop
McCUE AVIATION SERVICES
Wasilla, 378-2874. 12a/11

19' BEACRAFT Whaler with Johnson 115 HP outboard motor, new canvas, E-Z Load trailer. Licensed for 1984 commercial halibut season, including halibut gear. \$8850. 277-2759 or 337-1335. 12a/11

Automobiles

1981 TOYOTA SR5 Liftback, 5 speed, low miles, excellent condition, power steering, sun roof. \$5750. 333-8355, 276-6513. 12c/11

1978 MARK V, 14,000 miles, sharpest in town. 333-8355, 276-6513. All options, luxury at it's best. \$8350 OBO. 12c/11

1979 4x4 SUBARU, brown station wagon style, very good condition, clean, 4 snow tires. 337-3342. 12c/11

1982 PLYMOUTH Horizon, AT, AM radio, 17,000 miles, good condition. \$5000. 337-4708. 12c/11

1978 PINTO SW, good condition, PS, PB, AC, AM-FM CB, new tires. Phone 277-7264. \$2500 OBO. 5c/11

1972 CADILLAC Coupe, good condition, left fender dented. Phone 277-7264. \$1500 OBO. 5c/11

FOUND: Prescription glasses, rose tinted, frames, faceted edges. Lost in vicinity of South Park probably during winter. Still in perfect condition. Call 276-6555. 5c/11

1981 CITATION, V8, 4 door, auto, lift wheel, AM, CB radio, 2 mounted snow tires; 27,000 miles. \$4200 OBO. 243-8004. 12c/11

1977 GRAN PRIX 400 engine, auto trans., air cond., lift wheel, AM-FM cassette, much more. \$2500 OBO. 7:30-4:30 582-2313, after 5pm 277-2926 ask for Ken. 12c/11

Large Picture Frame
\$500⁰⁰
TO GO
EVERY NIGHT

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Guaranteed Coverall
To Go
Every Night

All Paper
Games
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Each
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PRIZE DRAWINGS
May 13th
Mother's Day
1-**\$250**
1-**\$150**
1-**\$100**

Total \$500
Book for June
Cash Drawing
Must be present to win

\$500⁰⁰
Large X
TO GO Every Night

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Up To
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HardCards
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\$1⁰⁰ per card

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Book for Every 5
Hard Cards Purchased

Bingo Package
\$29⁰⁰
Set of Paper Games and
8 Hard Cards