

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3318 HJUD HB 246 - HB 247

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ACCABCARMBCA

.953	.823	N
.955	.816	17.01, 17.02
.958	N	N
.960	.005	N
.963	N	17.04
.965	.822	1.02
.968	N	N
.970	N	6.40
.990	.825	1.40
.995	.828	1.01
Sec. 3	N	
Sec. 4	N	
Sec. 5	N	
Sec. 6	.276, .279, .282	
Sec. 7	N	
Sec. 8	N	
Sec. 9	N	
Sec. 10	N	
Sec. 11	N	

A section by section comparison of the Alaska Business Corporation Act (ABCA), AS 10.05, with the proposed Alaska Corporations Code (ACC) and the 1984 Revised Model Business Corporation Act (RMBCA). N = No comparable provision.

<u>ABCA</u>	<u>ACC</u>	<u>RMBCA</u>
		ARTICLE 5
.005	.960	N
.003	.005	3.01(a)
.009	.010	3.01(b)
.010	.490	8.51, 8.54, 8.52, 8.53, 8.55, 8.56, 8.57
.012	.358	6.40
.018	.015	3.04
.021	.105	4.01
.024	.110	4.02
.027	.115	4.02
.030	.120	4.02
.033	.125	4.03
.034	.130	4.03
.036	.135	4.03
.039	.140	4.03
.042	.145	4.03
.045	.150	5.03
.048	.160	N
.051	.165	5.02
.054	.170	5.03
.057	.175	5.04
.060	.305	6.01
.063	.308	6.02
.066	.310	6.03
.069	.305, .313	6.01, 6.03
.072	.315	6.03
.075	.318	6.03
.078	.320	6.03
.081	.910	1.25
.084	.323	6.03
.087	.328	6.20(a)
.090	.330	6.20(c)
.093	.333	6.20(d), (e)
.096	.335	6.21
.099	.338	6.21
.102	.340	6.21
.108	.390	N
.111	.345	6.28
.114	.348	6.25
.117	.350	6.25
.120	.353	N
.123	.355	6.04

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.125	.438	6.22
.129	.428	6.30
.135	.228, .230	2.06, 10.20
.138	.405	7.01, 7.02, 7.03
.141	.410	7.05
.144	.408	7.07, 7.05(c)
.147	.413	7.20
.150	.413	7.20
.153	.415	7.25
.156	.420	7.21, 7.14, 7.28
.159	.418, .420	7.22, 7.21, 7.14, 7.28
.162	.420	7.21, 7.14, 7.28
.165	.420	7.21, 7.14, 7.28
.168	.420	7.21, 7.22, 7.14, 7.28
.171	.425	7.30, 7.31
.174	.450	8.01, 8.30
.177	.453	8.03, 8.04, 8.05
.180	.453	8.03, 8.04, 8.05
.183	.453	8.03, 8.04, 8.05
.186	.455	8.06
.189	.465	8.10
.192	.473	8.24
.195	.468	8.25
.198	.470	8.22, 8.23
.199	.475	8.20, 8.21
.201	.360	6.40
.204	.358, .373	6.23, 6.40
.207	.363, .365, .380	6.40
.213	.485	8.32
.216	.480	8.33
.219	.450	8.01, 8.30
.222	.450	8.01, 8.30
.225	.480	8.33
.228	.483	8.40, 8.41, 8.42, 8.43, 8.44
.231	.483	8.40, 8.41, 8.42, 8.43, 8.44
.237	.233, .430	7.20, 16.01, 16.02, 16.03
.240	.233, .430	7.20, 16.01, 16.02, 16.03
.243	.233, .430	7.20, 16.01, 16.02, 16.03
.246	.233, .430	7.20, 16.01, 16.02, 16.03
.249	.233, .430	7.20, 16.01, 16.02, 16.03
.250	.564	N

ARTICLE 2.

.252	.205	N
.255	.208, .210	N
.258	.213, .910	1.25

ABCA

.259
.267

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.215
.223

RMBCA

N
2.05

ARTICLE 3.

.270	.502	10.01
.273	.502	10.01
.276	.504, Sec. 6	10.05, 10.02, 10.03
.279	.506, Sec. 6	10.04
.282	.506, Sec. 6	10.04
.285	.510	10.06
.288	.512, .910	10.06, 1.25
.291	.514	10.09
.294	.516	10.07
.303	.518, .910	10.07, 1.25
.306	.520	10.07
.312	.388	6.31
.315	.388	6.31
.318	.388	6.31
.321	.910, .388	1.25, 6.31
.324	.388	6.31
.327	.388	6.31
.330	.388	6.31
.333	.388	6.31
.336	.388	6.31
.339	.910, .388	1.25, 6.31
.342	.388	6.31
.345	.388	6.31
.357	.910	1.25
.366	.390	N

ARTICLE 4.

.375	.520	11.01, 11.02
.378	.532	11.01, 11.02
.381	.534	11.01, 11.02
.384	.536	11.01, 11.02
.390	.546	N
.393	.548	11.03(i)
.396	.550	11.05
.402	.552, .910	11.05, 1.25
.405	.560	11.06
.408	.562	11.07
.411	.562	11.07
.414	.562	11.07
.417	.574	13.02
.420	.574	13.02
.423	.574, .578	13.02, 13.25, 13.28

ABCA

.426
.429
.432

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.574, .580
.574, .582
.574

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13.02, 13.30, 13.31
13.02
13.02

ARTICLE 5.

.435
.438
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.566
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.570
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.574, .578
.574, .580
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12.02
12.02
13.02
13.02
13.02, 13.25, 13.28
13.02, 13.30, 13.31
13.02
13.02

ARTICLE 6.

.465
.468
.474
.477
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.483
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.608, .910
.605, .608
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.608, .910
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.615, .618, .660
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.610, .910
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.623, .910
.625
.633, .635

.638
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.665

14.02, 14.01
14.03, 1.25
14.02, 14.01, 14.03
14.02, 14.01
14.03
14.03, 1.25
14.05
14.03, 14.05

14.04
14.04
14.04
14.04
14.04, 1.25
14.04
N
1.25
N
14.20, 14.21, 14.23,
14.30, 14.31
14.31
14.33
14.30
14.30
14.33
14.33
14.30
14.05, 14.06, 14.07
14.05, 14.06, 14.07
14.05(a)(4)

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.564	.660	14.05
.567	.643	14.32
.570	.660	14.05
.573	.650	14.31(c)
.576	.643	14.32
.579	.650, .653	14.31(c), 14.06, 14.07, 14.40, 14.33
.582	.650	14.31(c)
.585	.650, .655	14.31(c)
.588	.658	N
.594	.678	14.05(b)

ARTICLE 7.

.597	.705	15.01(a)
.600	.718	15.01(b)
.603	.740	15.05(b)
.606	.720	15.06
.607	.723	15.06
.609	.725	15.06
.612	.728	15.01(a)
.615	.730	15.01(b)
.618	.733	15.01
.621	.733, .910	15.01, 1.25
.624	.735	15.05(a)
.627	.753	15.07
.633	.758	15.08
.635	.760	15.08
.639	.763	15.10
.642	.765	N
.645	.768	N
.648	.770	N
.651	.773	N
.654	.775	N
.657	.738	15.04
.660	.778	15.20
.663	.780	15.20
.666	.783	N
.669	.785, .910	15.20, 1.25
.672	.788	15.20
.675	.743	15.30
.678	.745	15.31
.681	.748	15.31
.684	.750	15.31
.687	.708	17.02
.690	.713	15.04
.693	.715	15.02(e)
.696	.710	15.02(a)

ABCAACCRMBCA

ARTICLE 8.

.699
.702
.705
.706

.805
.808
.811
.813

16.22
16.22
16.22
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ARTICLE 9.

.708
.714
.717
.720
.723
.726
.747
.750
.753
.756
.762
.765
.768
.771
.773

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.830
.845
.848
.850
.853
.843
.833
.835
.838
.840
.855
.858
.815
.860

1.22(a)
1.22(a)
N
N
N
N
1.22(a)
1.22(a)
1.22(a)
1.22(a)
1.22(a)
N
N
N
N

ARTICLE 10.

.777
.780
.783
.786
.791
.792
.794
.795
.798
.799
.804
.807
.810

.818, .823
.820
.823
.823, .825
.155
.863, .915
.865
.925
.868
.870
.935
.423
.218, .220

N
N
N
1.29
N
1.25, 1.26
N
1.27
1.21
N
7.05(a)
7.04
2.03, 2.04

ARTICLE 11.

.813

.950

1.30

ABCA

ACC

RMBCA

.816
.822
.823
.825
.828

.955
.965
.953
.990
.995

17.01, 17.02
1.02
N
1.40
1.01

A section by section comparison of the 1984 Revised Model Business Corporation Act (RMBCA) with the proposed Alaska Corporations Code (ACC) and the Alaska Business Corporation Act (ABCA), AS 10.05. N = No comparable provision.

<u>RMBCA</u>	<u>ACC</u>	<u>ABCA</u>
CHAPTER 1.		
1.01	.995	.828
1.02	.965	.822
1.21	.868	.798
1.22	.828, .830, .833, .835, .838, .840, .843	.708, .714, .747, .750, .753, .756, .762,
1.24	.920	N
1.25	.910, .915	.081, .258, .288, .303, .321, .339, .357, .402, .468, .483, .504, .513, .621, .669, .792
1.26	.863, .915	.792
1.27	.925, .930	.795
1.29	.825	.786
1.30	.950	.813
1.40	.990	.825
CHAPTER 2.		
2.03	.218	.810
2.04	.220	.810
2.05	.223, .225	.267
2.06	.230	.135
CHAPTER 3.		
3.01	.005, .010	.003, .009
3.04	.015	.018
CHAPTER 4.		
4.01	.105	.021
4.02	.110, .115, .120	.024, .027, .030
4.03	.125, .130, .135, .140, .145	.033, .034, .036, .039, .042

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CHAPTER 5.

5.02	.165	.051
5.03	.150, .170	.045, .054
5.04	.175	.057

CHAPTER 6.

6.01	.305, .325	.060, .069
6.02	.308	.063
6.03	.310, .313, .315, .318, .320, .323	.066, .069, .072, .075, .078, .084
6.04	.355	.123
6.20	.328, .330, .333	.087, .090, .093
6.21	.335, .338, .340	.096, .099, .102
6.22	.438	.125
6.23	.373	.204(5)
6.24	.343	N
6.25	.348, .350	.114, .117
6.28	.345	.111
6.30	.428	.129
6.31	.385, .388	.312 - .345
6.40	.358, .360, .363, .365, .375, .970	.204(1), .012, .201 .207(3), (4)

CHAPTER 7.

7.01	.405	.138
7.02	.405	.138
7.03	.405	.138
7.04	.423	.807
7.05	.410, .408, .935	.141, .144, .804
7.07	.408	.144
7.14	.420	.156 - .168
7.20	.413, .430	.147, .150, .237 - .249
7.21	.420	.156 - .168
7.22	.418	.159, .168
7.25	.415	.153
7.27	.508	N
7.28	.420	.156 - .168
7.30	.425	.171
7.31	.425	.171
7.40	.435	N

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CHAPTER 8.

8.01	.450	.174, .222, .219
8.03	.453	.177, .185, .183
8.04	.453	.177, .180, .183
8.05	.453	.177, .180, .183
8.06	.455	.186
8.08	.460, .453	N
8.10	.465	.189
8.20	.475	.199
8.21	.475	.199
8.22	.470	.198
8.23	.470	.198
8.24	.473	.192
8.25	.468	.195
8.30	.450	.174, .219
8.31	.478	N
8.32	.485	.213
8.33	.480	.216, .225
8.40	.483	.228, .231
8.41	.483	.228, .231
8.42	.483	.228, .231
8.43	.483	.228, .231
8.44	.483	.228, .231
8.51	.490	.010
8.52	.490	.010
8.53	.490	.010
8.54	.490	.010
8.55	.490	.010
8.56	.490	.010
8.57	.490	.010

CHAPTER 10.

10.01	.502	.270, .273
10.02	.504	.276
10.03	.504	.276
10.04	.506	.282, .279
10.05	.504	.276
10.06	.510, .512	.285, .288
10.07	.516, .518, .520	.294, .303, .306
10.08	.522, .524, .526	N
10.09	.514	.291
10.20	.228	.135

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CHAPTER 11.

11.01	.530, .532, .534,	.375, .378, .381,
	.536, .538, .540	.384
11.02	.530, .532, .534,	.375, .378, .381,
	.536, .538, .540	.384
11.03	.544, .548	.393
11.04	.554, .556, .558	N
11.05	.550, .552	.396, .402
11.06	.560	.405
11.07	.562	.408, .411, .414

CHAPTER 12.

12.01	.566	.435
12.02	.568, .570, .572	.438, .441, .444

CHAPTER 13.

13.02	.574	.417 - .432
		.447 - .462
13.20	.544, .576	N
13.21	.576	N
13.22	.576, .578,	N
13.23	.576,	N
13.24	.576	N
13.25	.578	N
13.28	.578	.423, .453
13.30	.580	.426, .456
13.31	.580	.426, .456

CHAPTER 14.

14.01	.605	.465, .474, .477
14.02	.605	.465, .474, .477
14.03	.608, .618	.468, .474, .480
		.483, .489(3)
14.04	.610, .613	.492 - .504, .507
14.05	.615, .648, .660,	.486, .489, .555
	.665, .668, .670	.558, .561, .564,
	.678	.570, .594
14.06	.648, .653	.555, .558, .579
14.07	.648, .653, .675	.555, .558, .579
14.20	.633	.519
14.21	.633	.519
14.23	.633	.519

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14.30	.628, .635	.540, .543, .552, .519
14.31	.635, .638, .640	.519, .534, .573,
	.650	.579, .582, .585
14.32	.643	.576, .567
14.33	.645, .653	.537, .546, .549
		.579
14.40	.653, .668	.579

CHAPTER 15.

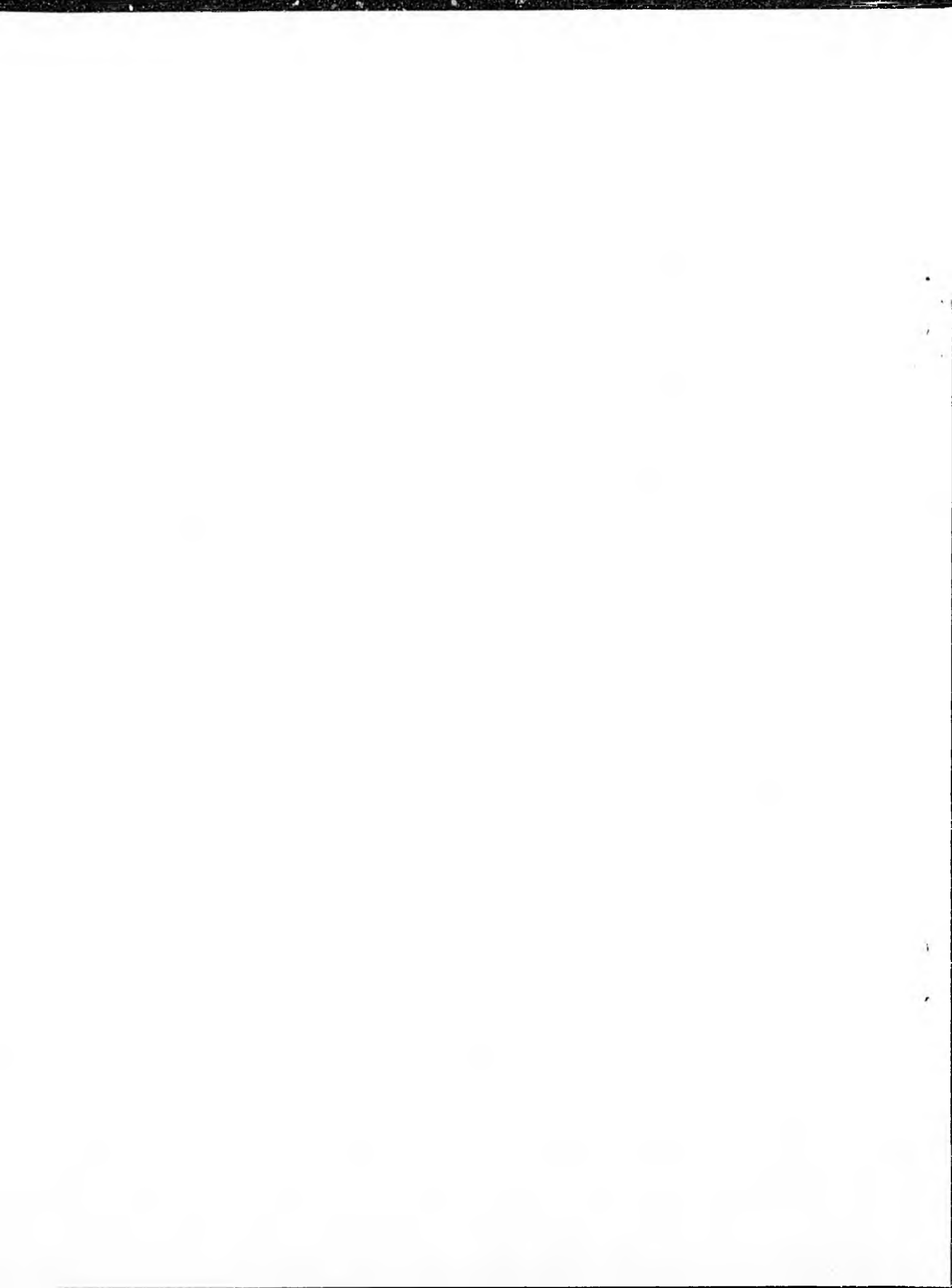
15.01	.705, .718, .728,	.597, .600, .612,
	.730, .733	.615, .612, .621
15.02	.710, .715	.693, .696
15.04	.713, .738	.690, .657
15.05	.735, .740	.624, .603
15.06	.720, .723, .725	.606, .607, .609
15.07	.753	.627
15.08	.758, .760	.633, .635
15.10	.763	.639
15.20	.778, .780, .785,	.660, .663, .669,
	.788	.672
15.30	.743	.675
15.31	.745, .748, .750	.678, .681, .684

CHAPTER 16.

16.01	.430	.237 - .249
16.02	.430	.237 - .249
16.03	.430	.237 - .249
16.20	.433	N
16.21	.433	N
16.22	.805, .808, .811	.699, .702, .705

CHAPTER 17.

17.01	.955	.816
17.02	.955, .708	.816, .687
17.04	.963	N



PART III.

SOURCE CHART:

ORIGINS AND CORRESPONDING STATUTORY COVERAGE OF EACH SECTION
OF THE PROPOSED ALASKA CORPORATIONS CODE (ACC)

ACC	ABCA	MBCA	GCL	NBCL	OTHER	RMBCA
ARTICLE 1. CORPCLATE PURPOSES AND POWERS						
.005	P	X				X
.010	X	X				P
.015	P	P	P	P		X
.020			X			
.025			X			
ARTICLE 2. NAME AND SERVICE OF PROCESS						
.105	X	X				X
.110	X	X				X
.115	X	X				X
.120	X	X				X
.125	X	X				X
.130	X	X				P
.135	X	X				X
.140	X	X				X
.145	X	X				X
.150	X	X				X
.155	X					
.160	X					
.165	X	X				X
.170	X	X				P
.175	X	X			ORE	P
ARTICLE 3. FORMATION OF CORPORATIONS						
.205	X					
.208	X	X	X			
.210	X	X	X		DEL	
.213	X	X				
.215	X	X				
.218	X	X				P
.220	X	X				P
.223	X	X				X
.225			X		DEL	X
.228			X		DEL	P
.230			X			P
.233			X			
ARTICLE 4. CORPORATE FINANCE						
.305	X	X	X			X
.308	X	X				X
.310	X	X				P
.313	X	X				P
.315	X	X				P
.318	X	X				P
.320	X	X				P
.323	X	X				P
.325			X			P

ACC	ABC A	MBCA	GCL	NBCL	OTHER	RMBCA
.328	X	X				X
.330	X	X				X
.333	X	X				X
.335	X	X				X
.338	X	X				X
.340	X	X				X
.343		X				P
.345	X	X				P
.348	X	X				P
.350	X	X				P
.353	X	X				P
.355	X	X				
.358			X			X
.360			X			P
.363			X			P
.365			X			P
.368			X			P
.370			X			
.373	X	X				X
.375	X					X
.378			X			P
.380			X			
.383			X			
.385			X			P
.388			X			X
.390	X					

ARTICLE 5. MEETINGS OF SHAREHOLDERS

.405		X	P			P
.408		P				X
.410	X	X				X
.413	X	X				X
.415	X	X	P			X
.418			X			X
.420		X	P			P
.423	X	X	P			P
.425	X	X	P			P
.428		X				
.430	X	X				P
.433			X			P
.435		P		P		P
.438	X	X				X

ARTICLE 6. DIRECTORS AND OFFICERS

.450		X				P
.453				P		P
.455		X				P
.458			X			
.460			X			P
.463			X			X
.465			X			P

ACC	ABCA	MBCA	GCL	NBCL	OTHER	RMBCA
.468		X				X
.470			X			X
.473	X	X				X
.475	X	X				X
.478			X			X
.480	X	X				X
.483			X	X		X
.485		X	X			
.488				F		
.490	X	X				X

ARTICLE 7. AMENDMENTS AND CHANGES

.502	X	X	X			X
.504	X	X	X			X
.506	X	X				P
.508			X			X
.510	X					
.512	X					X
.514	X	X				P
.516	X					P
.518	X					P
.520	X					P
.522		X				X
.524		X				X
.526		X				X

ARTICLE 8. ORGANIC CHANGE

.530	X	X				X
.532	X	X				X
.534	X	X				
.536	X	X				X
.538	X	X				X
.540	X	X				X
.542			X			
.544		X				P
.546	X	X				
.548	X	X				X
.550		X				X
.552	X	X				X
.554		X				X
.556		X				X
.558		X				X
.560		X				P
.562		X				X
.564	X					
.566		X				X
.568		X				P
.570	X	X				P
.572	X	X				P
.574	X	X				P
.576				X		X

ACC	ABCA	MBCA	GCL	NBCL	OTHER	RMBCA
.578				X		X
.580	X			X		P
.582		X				

ARTICLE 9. DISSOLUTION

.605	X		X			P
.608	X	X	X			X
.610	X	X	X			P
.613	X	X				P
.615			X			X
.618	X	X	X			P
.620			X			
.623	X	X				
.625	X	X				
.628			X			P
.630			X			
.633	X	X				P
.635	X				ORE	X
.638	X	X				
.640			X			P
.643	X	X	X			
.645			X			
.648			X			X
.650			X			P
.653			X			X
.655			X			
.658	X	X				
.660			X			P
.663			X			
.665			X			
.668			X			
.670			X			
.673			X			
.675			X			X
.678	X	X				X

ARTICLE 10. FOREIGN CORPORATIONS

.705	X	X				X
.708	X	X				X
.710	X	X				X
.713	X	X				X
.715	X					X
.718	X	X				X
.720	X	X				X
.723	X	X				X
.725	X	X				X
.728	X	X				X
.730	X	X				X
.733	X	X				X

ACC	ABCA	MBCA	GCL	NBCL	OTHER	RMBCA
.735	X	X				X
.738	X	X				P
.740	X	X				X
.743	X	X				P
.745	X	X				X
.748	X	X				X
.750	X	X				X
.753	X	X				X
.758	X	X				X
.760	X	X				X
.763	X	X				P
.765	X	X				
.768	X	X				
.770	X	X				
.773	X	X				
.775	X	X				
.778	X	X				X
.780	X	X				P
.783	X	X				
.785	X	X				X
.788	X	X				X

ARTICLE 11. REPORTS, FEES, AND PENALTIES

.805	X	X				P
.808	X	X				P
.811	X	X				X
.813	X					
.815	X	X				
.818	X	X				
.820	X	X				
.823	X	X				
.825	X	X				P
.828	X	X				P
.830	X	X				P
.833	X	X				P
.835	X	X				P
.838	X	X				P
.840	X	X				P
.843	X	X				P
.850	X	X				
.853	X	X				
.855	X	X				
.858	X	X				
.860	X					
.863	X	X				X
.865	X					
.868	X	X				P
.870	X					

ARTICLE 12. MISCELLANEOUS PROVISIONS

ACC	ABCA	MBCA	GCL	NBCL	OTHER	RMBCA
.905			X			
.910	P					X
.915	X	X				P
.920				X		X
.925	P	P		P		P
.930				X		
.935	X	X				X

ARTICLE 13. GENERAL PROVISIONS

.950	X	X				X
.953	X					
.955			P	P		X
.958			X			
.960	X					
.963				X		X
.965	X	X		P		X
.968			X			
.970			X			P
.990	P	P	P			P
.995	P					P

"X" indicates the presence of identical or functionally identical statutory language.

"P" indicates the presence of partial congruence between the ACC and the source code or the RMBCA. The "origin" and "comparison" discussion for each section of the ACC should be consulted in order to determine the differences.

ACC: CSSB 246/HB 343, The Alaska Corporations Code

ABCA: AS 10.05, The Alaska Business Corporations Act

MBCA: Model Business Corporations Act

GCL: California General Corporations Law

NBCL: New York Business Corporations Law

RMBCA: ABA 1984 Final Draft of the Revised Model Business Corporation Act

ANALYSIS AND PERSPECTIVE

CORPORATE-SECURITIES

A Reporter's-Eye View of Model Act's Creation

By Robert W. Hamilton

Mr. Hamilton is Benno C. Schmidt Professor of Business Law at the University of Texas at Austin. This analysis is adapted from a longer version to be published in the Texas Law Review.

For the last five years I have served as the reporter for the project that led to the development of the Revised Model Business Corporation Act (1984). The new act—like the old—is a model statute designed for use by states in revising and updating their corporation statutes; according to the Introductory Comment, it is intended to be a "convenient guide for revision of state business corporation statutes reflecting current views as to the accommodation of the various commercial and social interests involved in modern business corporations."

The new act was formally approved in the spring of 1984 and has already formed the basis of a major statutory revision in Virginia and is actively under consideration in approximately 15 other states. This article outlines the procedures followed in developing the new act and gives a preliminary assessment of it.

My conclusion, perhaps colored by pride in a product that partially reflects my own handiwork, is that on balance the new model act is a substantial improvement over earlier versions and strikes a reasonable balance in the never-ending search for equity and fairness on the one hand and efficient corporate operation on the other.

The Committee on Corporate Laws

The Committee on Corporate Laws of the American Bar Association's Section on Corporation, Banking and Business Law has complete responsibility for the development and updating of the Model Business Corporation Act. This committee is unusual in two respects. Unlike practically all other ABA standing committees, its membership is closed, currently limited to 25 persons; membership is by invitation only. Further, the Committee on Corporate Laws has authority to make final decisions with reference to the Model Business Corporation Act solely on its own motion without the prior approval either of the section or of the Board of Governors of the ABA itself.

While the Committee on Corporate Laws is widely viewed as one of the most prestigious committees in the Section on Corporation, Banking and Business Law, clearly no attempt has been made to make it representative of all the various constituencies that might have an interest in state corporation laws. In the early years of its history, it was considerably less representative than it is now: Until the early 1970s it was composed almost exclusively of lawyers from large firms in a handful of big cities whose clients were predominantly large, publicly held corporations. It was, in short, management and defense oriented. Members, furthermore, were appointed for indefinite terms, so that the committee had relatively little turnover in membership.

While the present committee contin-

ues to have a strong predominance of management-oriented attorneys, there is today a diversity of interests and a steady infusion of new blood. Members serve for six-year terms and are rotated off the committee at the conclusion of their terms. Two or three law professors and one or two attorneys whose principal occupation is representing plaintiffs in derivative litigation regularly serve on the committee. Diversification has also been improved by appointing attorneys from smaller cities and in a more geographically diverse manner. Nevertheless, today, as has been true historically, corporate attorneys from large firms continue to dominate in a numerical sense the Committee on Corporate Laws.

Development: The Exposure Draft

When the decision to develop a new version of the Model Business Corporation Act was reached, consideration turned to the question of mechanics or

outside individuals and organizations, and some draft chapters were informally distributed on request to interested individuals. Each revised chapter was then subject to further debate, amendment, and revision.

The complete Exposure Draft was reviewed a final time by the committee at its December 1982 meeting and was determined to be in form suitable for publication for comment. Some consideration was given to publishing the Exposure Draft in the *Business Lawyer* but two factors led to the decision not to use this method of distribution: (1) its cost (the Exposure Draft would have occupied an entire issue of the *Business Lawyer*), and (2) concern that this would not assure maximum response from interested persons. Rather, the Exposure Draft was published in multi-lith form and copies were made available without charge directly to interested academics, former members of the committee, and other organizations in-

posure Draft

This process snowballed as outside suggestions caused a significant number of changes to be proposed by members of the committee on their own motion. These changes were so numerous that they largely occupied the reporter for six months after the close of the comment period. In several instances, critical comments from outside sources, combined with "good ideas" from committee members, led to significant revisions of basic concepts, such as the way class voting is handled, which in turn, led to systemic changes throughout many sections of the model act.

Commentary was particularly critical about the Exposure Draft's handling of the duty of care and the business judgment rule in §8.30 and conflict of interest transactions in §8.31. In both instances the committee basically returned to language that had appeared in earlier versions of the model act and eliminated "new approaches" that had been adopted in the Exposure Draft. I personally agreed with the revisions made at this stage to §8.30 but strongly disagreed with the changes in §8.31.

As a result of the numerous changes made since the publication of the Exposure Draft, no weight or reliance on this document is justified; the basic wisdom of not publishing the Exposure Draft in permanent form in the *Business Lawyer* was thus independently confirmed.

The Committee and the Reporter

There is a widespread belief that in major codification projects an academic reporter has broad power to determine what is included and what is excluded, and that while the committee or governing authority has ultimate power, in reality the real power rests in the capable hands of the reporter. Whatever may be the case in other projects, that is a completely inaccurate perception of the relation I had with the Committee on Corporate Laws. That committee was fully in charge of all decisions; while preliminary drafts were prepared by me and screened by subcommittees that sometimes did not reflect full committee sentiment, in the last analysis statutory provisions or official comments were included only with the express and considered judgment of the committee, as hammered out in extended (and sometimes excruciating) debate.

The Revised Model Business Corporation Act is in fact as well as in theory the product of the committee and not of my own personal views. While I agree with most of the substantive judgments made by the committee, I disagree mildly with several and strenuously with one or two of them.

There are several reasons for the dominance of the committee in this project. For one thing, the intellectual

When the decision to develop a new version of the Model Business Corporation Act was reached, consideration turned to the question of mechanics or detail. The amendment process normally followed by the committee did not seem to be well suited to development of a new act.

detail. The amendment process normally followed by the committee did not seem to be well suited to development of a new act. The development process threatened to be extremely time-consuming.

Further, the possibility that different sections would be prepared by subcommittees consisting of different individuals could readily lead to a diversity of form or style that clearly had no place in a single integrated statute. It was at this preliminary stage that I agreed to serve as reporter for the project. At the time, the decision to have an academic reporter develop the new statute seemed logical and not of great substantive importance. But I feel now, in retrospect, that it had important incidental effects.

The development of the Revised Model Business Corporation Act can be divided into two broad stages with the dividing line between the stages being the publication of the Exposure Draft in the spring of 1983.

Substantial funding for the revision was initially provided by the ABA and the American Bar Foundation. With this funding, a small staff was created under the direction of Seth Searcy, an Austin, Tex., attorney with substantial experience in statutory codification efforts. Searcy served as the principal statutory draftsman of the Exposure Draft.

The Exposure Draft was developed by an elaborate review and revision process. Each section and official comment was considered at least three times by a subcommittee of the Committee on Corporate Laws and at least three times by the full committee. During the later portions of this process, comments were solicited from interested

interested in corporate law. A notice of availability was also published in the *Business Lawyer*, offering copies of the Exposure Draft to its readership at a nominal charge. Demand was unexpectedly large and a second printing of the Exposure Draft was necessary. As a result, the comment period originally announced was extended through Dec. 31, 1983.

Development: The Final Version

The public response to the Exposure Draft exceeded all committee expectations. Comments running into the hundreds of pages were received from individual law professors, attorneys, outside organizations, general counsel of large corporations, and other ABA committees. Several pooled comments from outside organizations or committees were received.

Many of the comments were extremely favorable; a few were basically critical of the underlying conceptions of the project; most of them made numerous major and minor suggestions for amendments to, improvements of, or the introduction of new concepts into the Exposure Draft.

The committee had had no prior experience with handling a response of this magnitude. To deal with this unexpected outpouring, the committee again broke itself down into substantive subcommittees to consider proposed changes to each chapter. Many comments made innovative suggestions not previously considered at all by the committee. While most of these comments were put to one side to await more leisurely consideration, a large number of them were accepted in principle and the reporter was requested to make appropriate revisions in the Ex-

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ANALYSIS AND PERSPECTIVE

Model Business Act Strikes Reasonable Balance

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level of the committee participants is extremely high. All of them are successful practitioners with many years' experience in the best corporate practices; they are accustomed to dealing squarely with major transactions and difficult issues. They are not accustomed, to say the least, to defer to the views of a mere academic on issues they have been dealing with for years.

Secondly, most of the committee members welcomed the opportunity to put aside the parochial interests of their clients and develop the "best" principles. Discussions were spirited, the level of interest was high, and the willingness to spend time away from the meeting room to review drafts, prepare memoranda, or write substitute sections was remarkable. No one will ever know the number of uncompensated hours spent on this project, but it must run into the tens of thousands of hours.

In short, the committee controlled the product because the members were smart, they had broad practical experience, they were very interested in the project, and they worked hard.

The Committee's Perspective

Since committee members were predominantly from large-firm corporate practice, it would be relatively easy to dismiss the Revised Model Business Corporation Act as an exercise in im-

proving "flexibility" so that corporate management can do what it wishes as efficiently as possible. I believe this is a misleading oversimplification.

The committee members generally were trying to develop the "best" statute they could in a jurisprudential sense. They were trying to meld together principles of fairness and equity with a system of management that permitted efficiency in operation. In approaching

The committee tried to meld together fairness and equity with a system of management that permitted efficiency in operation.

this task two factors strongly influenced their perspectives on the issues that arose: (1) They had a wealth of practical experience that no academic could reasonably hope to match. As a result, issues were not approached as theoretical or logical questions but as real life problems. (2) The geographical diversity of the committee members meant that the experience of 10 or so states could instantly be brought to bear on a statutory issue as it arose.

Furthermore, the experience was not limited to the language of the statute, but involved application of the statute to numerous diverse situations. With the advantage of these perspectives, a

provision that seemed abstractly desirable because it might help in one kind of family corporation situation might receive very negative scrutiny because it increased the complexity of transactions in a variety of other settings. The weighing of these advantages and disadvantages obviously involves practical questions about the frequency of events.

After listening to and participating in this process, on a number of occasions I was persuaded that provisions that I had openly criticized in class and in published writing had more support in fact than I had previously supposed.

My most serious personal criticism of the majority of the committee members was that even though the model act will be primarily applicable to corporations that are not registered under the federal Securities Exchange Act of 1934, the committee members tended to lay too much emphasis on the potential applicability of provisions to publicly held corporations. Most states, of course, have both publicly held and closely held corporations so that it is important that provisions be workable for publicly held corporations as well as equitable in the closely held corporation. However, in a number of instances, committee members seemed to be more concerned only with the publicly held corporation even though the issues under discussion, such as conflict-of-interest transactions between a director and the corporation, were

most likely to be serious problems in the closely held corporation.

A major consequence of the large plurality of practicing attorneys on the committee was a substantial conservatism on the committee. By and large, there was reluctance to consider innovative proposals that seemed intuitively plausible when the need for them had not been demonstrated by actual practice or experience. The importance of the model act in the states was fully appreciated, and as a result there is a substantial amount of continuity in principle between the 1984 act and earlier model acts, even though the language and form are new.

Underlying Theory

In order to decide whether a new corporation statute is desirable, one must have some idea about what the goal of a corporation statute should be. We have long since grown beyond simple concepts of "franchise" or "grant." Traditionally, the watchwords of the model act since 1950 have been "flexibility" and "modernization." From this perspective, the major goal of corporation statutes is to promote efficiency and economy of management and avoid unnecessary costs.

On the other hand, some academics have criticized most modern corporation statutes on the ground that they are too permissive, that they do not provide adequate protection for interests other than incumbent corporate management. These views make the basic goal of corporation statutes the "protection of shareholders" or the development of "strong" regulation.

The economist has developed quite a different theory of state corporation statutes—that the purpose of a corporation statute is to substitute for private contract. In other words, a corporation statute is not regulatory at all but is an efficiency-creating device that avoids the cost of drafting and redrafting recurrent provisions by limiting the drafting costs that would otherwise be incurred. Since a corporation may incorporate in any state, a variety of different corporation statutes in different states gives the corporation an opportunity to select which types of provisions best suits its needs.

The economist's approach toward corporation statutes is certainly not the theory on which the Revised Model Business Corporation Act was drafted. This theory was never expressly considered or explored by the committee at any point in the drafting process, and frankly, I suspect that most practicing attorneys would not accept the underlying premise of this argument that corporations should be viewed as purely contractual in nature. While corporation law obviously does have contractual aspects, and contract-type arguments were raised by committee members in a number of contexts, all members appeared to recognize that regulation was necessary to some extent. It was generally accepted within the committee, for example, that some actions may be literally authorized by articles of incorporation or other corporate documents but be subject to judicial invalidation.

As with many proposals put forth by economists, however, there is some truth to the suggestion that corporation

'Milwaukee Spring' Leaves Some Uncertainties

Continued from page 14

involves a change in the nature and direction of the employer's business, or turns on factors not amenable to resolution through the collective bargaining process, then the employer may clearly act unilaterally without violating the NLRA, so long as it gives the union the opportunity to bargain over the effects of its decision. The question in *Milwaukee Spring* of whether union consent is a necessary for a midcontract relocation is a secondary question reached only if it is determined that the relocation itself is a mandatory subject of bargaining.

A second factor limiting the reach of this decision is that most cases alleging midterm modifications of a collective bargaining agreement will be submitted to arbitration. Because the majority of collective bargaining agreements have arbitration clauses, and because the board has shown an increased willingness to defer to arbitration questions that involve the interpretation of a collective bargaining agreement, the majority of midcontract modification cases will be decided not by the board but by an arbitrator in the first instance.¹⁹ The court's opinion in *Milwaukee Spring* recognized the unusual posture of the case by noting that "it is not clear why this case was not submitted to arbitration pursuant to *Collyer Insulated Wire*, 192 NLRB 837 (1971)."²⁰

In the arbitration setting, arbitrators look to a number of factors in assessing whether a midcontract relocation or transfer of work violates the contract, such as past practice, the effect on the unit, and the negotiating history of spe-

cific provisions of the contract that allegedly permit or prohibit the employer's action.

Finally, it is highly unlikely that either party in future midcontract relocation cases will enter into the type of stipulations that the parties entered into in *Milwaukee Spring*. As noted above, employers are understandably reluctant to concede that a midcontract relocation is motivated solely by labor costs and therefore a mandatory subject of bargaining. Similarly, unions are understandably reluctant to concede that a particular midcontract action such as a relocation does not modify or violate the collective bargaining agreement.

The Reserved Rights Doctrine

Under *Milwaukee Spring I*, the employer's motivations for its action, such as whether it desired to obtain comparatively cheaper labor costs, were significant and the employer had the burden of proving that the collective bargaining agreement clearly and unequivocally permitted it to remove unit work midcontract without the consent of the union. Under *Milwaukee Spring II*, the only motivation relevant was the presence or absence of anti-union animus. Further, the burden shifted to the union to show that the collective bargaining agreement explicitly prohibited the midcontract relocation or transfer at issue. In *Milwaukee Spring II*, the board implicitly recognized the reserved rights doctrine. The union lost any veto right not expressly contained in the collective bargaining agreement.

The court's affirmance of *Milwaukee Spring II*, however, once again raises

the possibility of a union veto right, but this time from a bilateral contractual zipper clause. In effect, the decision appears to shift the burden back to the employer to show some affirmative contractual authority for its midcontract actions. Because the court's opinion focuses on the existence of a strong management rights clause and expressly reserves judgment on the validity of the reserved rights doctrine, judicial, arbitral, and NLRB views concerning the reserved rights doctrine may in the future assume increased prominence in this area of the law.

¹⁹ 765 F.2d 175 (D.C. Cir. June 18, 1985).

²⁰ See "NLRB Says Union Must Okay Unit-Work Removals," *Legal Times* (Feb. 14, 1983) at 16; "Union's Scowl at NLRB Reversal on Facility Relocations," *Legal Times* (Feb. 13, 1984) at 10.

¹ 265 NLRB 206 (1982).

² See "NLRB Says Union Must Okay Unit-Work Removals," *supra* note 2, *Legal Times* at 16.

³ 268 NLRB 601 (1984).

⁴ *Id.* at 602.

⁵ 765 F.2d at 182 n.24.

⁶ *Id.* at 181.

⁷ *Id.* at 183.

⁸ *Id.* at 180 n.21.

⁹ *Id.* at 182 n.27.

¹⁰ *Id.* at 180.

¹¹ *Id.* at 182-83.

¹² See American League of Professional Baseball Clubs and National League of Professional Baseball Clubs, 99 LRRM 1724 (1978) (advice memorandum) and cases cited therein.

¹³ 765 F.2d at 182 n.27.

¹⁴ *Id.* at 182 n.29.

¹⁵ See, e.g., Phelps, "Management's Reserved Rights: An Industry View," and Goldberg, "Management's Reserved Rights: A Labor View," *Management Rights and the Arbitration Process* 102, 118, 122-23 (BNA 1956).

¹⁶ 269 NLRB No. 162 (1984).

¹⁷ See also *United Technologies Corp.*, 268 NLRB No. 83 (1984); *Olin Corp.*, 268 NLRB No. 86 (1984).

¹⁸ 765 F.2d at 182 n.26.

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ANALYSIS AND PERSPECTIVE

Adoption of Model Code May Depend on Lawyers

Continued from page 15

statutes serve partially as an aid to or simplification of drafting exercises. Several provisions in the Revised Model Business Corporation Act are of this nature, most notably the provisions relating to articles of incorporation, preemptive rights, and cumulative voting. On the other hand, there are numerous provisions in the Revised Model Business Corporation Act in which the purpose is clearly regulatory and election of non-applicability is expressly excluded or simply not contemplated. Examples of provisions of this type include (a) shareholder inspection rights, (b) power of directors to change the size of the board without shareholder approval, (c) the requirement that every corporation provide certain minimum financial statements to each shareholder, (d) availability of a list of shareholders before each meeting, and (e) the grant of voting rights to non-voting shares in connection with certain adverse fundamental transactions. None of these provisions is contractual in the sense that it may be eliminated by provision in the articles of incorporation or bylaws.

A Preliminary Appraisal

The question whether the Revised Model Business Corporation Act, given a regulatory premise for corporation statutes generally, too aggressively pur-

sues "flexibility" and "modernization" at the cost of "shareholder protection" is a subjective one on which persons can disagree. My own view is that the new act strikes a plausible balance.

The advantages of many traditional "shareholder protection" devices are more apparent than real. The devices that might be cited as falling within this category include cumulative voting, preemptive rights, shareholder approval of certain transactions such as plans for the grant of incentive share options, and many of the traditional restrictions on the issuance of shares, such as the par value rules. The protection afforded by these traditional "shareholder protection" devices is more illusory than real because they do not in fact prevent harmful transactions if the corporation desires to enter into such transactions and is willing to structure the transactions in specific ways. Every sophisticated attorney realizes that these devices can be evaded, avoided, worked around, or what have you. The few that cannot—for example, the requirement in the 1950 act that most fundamental corporate changes have to be approved by two-thirds of all the shares of the corporation, voting and non-voting alike—seemed to indiscriminately block both desirable and undesirable transactions or to create blackmail possibilities in the hands of minority securities holders. Provisions that give apparent but not real protec-

tion against abuse should not be dismissed simply as ineffective regulatory devices. They have a real capacity for harm since the statute may create the impression to ordinary persons that they have greater protections than they in fact have.

To illustrate, one of the provisions of this character eliminated in the Revised Model Business Corporation Act is the prohibition against issuing shares for promissory notes or promises of future services. This restriction goes far back in corporate law, it is, for example, in the Texas Constitution of 1876. This provision, further, superficially seems to serve an important anti-dilutive purpose.

The Revised Model Business Corporation permits the issuance of shares by a corporation for any consideration or benefit deemed by the directors to be appropriate. (In deference to the longstanding restriction against issuance of shares for promissory notes or promises of future service, however, the new act subjects the issuance of shares for these types of consideration to the condition that shareholders be routinely advised of the issuance.) At first, I was skeptical of the wisdom of relaxing the longstanding prohibition against these types of consideration, since this obviously opens up the possibility of dilution of the interests of existing shareholders who put in cash while promoters or managers issue shares to themselves for future services of marginal value or promissory notes that may be later paid out of the returns from the venture.

On the other hand, peculiarities are certainly created by the present restriction: Jane Fonda enters into a contract to do a film, demanding a 25 percent interest in the profits. Under present law, shares cannot be issued to her before she performs the services even though the venture could probably take

Fonda's contract down to the bank and borrow \$10,000,000 on it. John D. Rockefeller cannot buy shares for his promissory note even though his promissory note is presumably "as good as gold." If John Public, however, happens to acquire one of John D.'s notes, he could use the note as consideration for the very same shares that John D. could not use the note to purchase.

Do these restrictions prevent fraudulent or dilutive transactions? Since one can simply use treasury shares or designate past services as the consideration for the shares and place a high value on these services, exactly the same result can be reached by anyone with any sophistication without violating the prescription against issuing shares for promissory notes or future services. The real protection against fraud or dilution is not in these overbroad statutory restrictions but in an alert judiciary willing to impose fiduciary duties to set aside unfair or dilutive transactions.

Conclusion

The dynamics of legislation on corporate matters in most states are strongly influenced by the position of the local bar. The acquiescence or support of the bar is typically a necessary condition if legislation is to stand any chance of enactment, particularly a major recodification of a traditional private law area such as corporations. Thus, for the revised model act to have influence, it must preserve the widespread perception that the committee has only made changes that have been carefully considered and tested. The initial response to the Revised Model Business Corporation Act indicates that it has retained this perception. It is likely, therefore, to have a major and continuing influence on the development of state corporation law at least through the rest of this century. ■

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October 7, 1985

HOUSE JUDICIARY COMMITTEE
Alaska State Legislature
Pouch V (MS 3100)
Juneau, AK 99811

RE: HOUSE BILL 246 - SENATE BILL 199
"AN ACT REVISING THE CORPORATIONS CODE;
AND PROVIDING FOR AN EFFECTIVE DATE"

Ladies and Gentlemen:

The Aleut Corporation respectfully requests that Section 10.06.960(d) be revised to include affiliates of ANCSA corporations, so that directors and officers of affiliates would have the same protection against personal liability to contract creditors that is provided to the corporations organized under 43 U.S.C. 1601-1628 (the "original" ANCSA corporations).

We suggest the following revised wording for Section 10.06.960(d):

"Notwithstanding the provisions of AS 10.06.488, a director or officer of a corporation organized under 43 U.S.C. 1601-1628, or a director or officer of any affiliate thereof, is not personally liable to the contract creditors specified in AS 10.06.490 except as otherwise provided by law."

Very truly yours,



John C. Carpenter
Senior Vice President

JCC:ct

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The Revised Model Business Corporation Act

By Elliott Goldstein and Robert W. Hamilton

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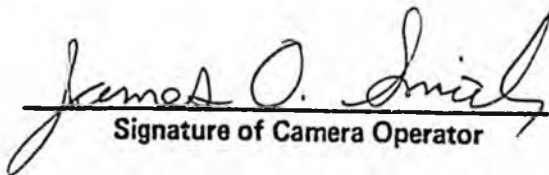
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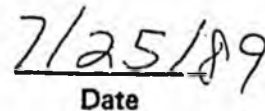


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I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

HB

247

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	4/23/85	1:30 pm
" "	4/29/85	1:30 pm
" "	5/19/85	1:00 pm
" "	5/7/85	7 pm

COMMITTEE REPORT
HOUSE

5/9

(7)

FURTHER: FINANCE

4/4/85

Date: _____

The Committee on JUDICIARY has had HB 247

"An Act relating to games of chance and contests of skill, and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 247 (JUD) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]
[Signature]
Adrian H. Taylor

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]
[Signature]
[Signature]

[Signature]
CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 4/10/85

REQUEST

Bill/Resolution No: CS HB 247 (SA)
 Title: An Act Relating to Games of
 Chance & Skill & Providing for an
 Effective Date
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: General
 Government
 BRU, Program or Subprogram(s) Affected:
Public Services Operating & Public
 Services Data & Word Processing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	183.8	196.7	210.5	225.3	241.1
200 TRAVEL	-	32.	34.3	36.7	39.3	42.1
300 CONTRACTUAL	-	27.4	29.4	31.5	33.8	36.2
400 SUPPLIES	-	1.5	1.7	1.9	2.1	2.3
500 EQUIPMENT	-	8.9	9.6	10.3	11.1	11.9
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	253.6	271.7	290.9	311.6	333.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	192.4	206.2	221.6	238.5	257.1

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	61.2	65.5	69.3	73.1	76.5
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	61.2	65.5	69.3	73.1	76.5

POSITIONS:

FULL-TIME	-	5	5	5	5	5
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

1. License fee: \$50 per non-profit; \$200 per operator; \$200 per distributor
2. 1 1/2% tax
3. Sale of seals for pull tabs

See revenue figures above.

ANALYSIS: Attach a separate page for analysis.

Fiscal Note
CS for HB247 (SA)
April 10, 1985

Prepared By: Sally Smith
Division: Public Services

Phone: 465-2392

Date: 4/10/85

Approved by Commissioner: Henry D. Studer
Agency: Department of Revenue

Date: 4/10/85

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

Public Services Division BRU
Fiscal Note Analysis

ASSUMPTIONS

850 permit holders
Bill will go into effect July 1, 1985

PROGRAM SUMMARY

Administration of Games of Chance and Contests of Skill (AS 05.15) 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 accelerated growth expected. There is a definite need to provide for some control before gambling reaches a level that would prohibit any control.

This legislation would allow funding for an educational enforcement program. Field investigators would review gaming operations to ensure compliance with existing law. The tax examiners will be used to issue permits and review monthly and annual financial statements to ensure proper use of funds derived from gaming, and to ensure that the state receives the proper fee.

100 PERSONAL SERVICES

2 Investigator II	3,662 @ 24 months	\$ 87,888
2 Tax Examiner II	2,854 @ 24 months	68,496
1 Clerk Typist III	2,284 @ 12 months	<u>\$ 27,408</u>
	TOTAL	\$183,528

Five employees are necessary to properly review 850 permit applications and conduct approximately 40 field examinations of financial records per year.

200 TRAVEL

Investigative trips	\$ 26,578	
Educational trips	3,096	
Investigator training trips	<u>\$ 2,328</u>	
	TOTAL	\$ 32,000

Three types of travel are outlined for the investigators. The investigative/audit travel consists of reviewing the operations of games and conducting audits of the financial records of permit holders. Educational trips will be made for the purpose of providing permit holders with the information they need to comply with Alaska statutes and regulations. Training-related travel is needed to provide investigators with current gaming enforcement and education methods.

Fiscal Note CS for HB247
April 10, 1985

300 CONTRACTUAL

Pull tab stamp	\$ 625	
Printing cost for forms	2,000	
Communications	<u>\$ 3,800</u>	
TOTAL		\$ 6,425

400 SUPPLIES

Stationery and office supplies	<u>\$ 1,500</u>	
TOTAL		\$ 1,500

500 EQUIPMENT

Office equipment (desks, chairs, calculators and filing cabinets)	<u>\$ 8,865</u>	
--	-----------------	--

The five positions will each require a locking file cabinet in which to store monthly reports and distributor's reports.

TOTAL		\$ 8,865
-------	--	----------

PUBLIC SERVICES OPERATING TOTAL		\$232,318
---------------------------------	--	-----------

The following funds would be allocated to Data Processing within the Public Services Division for the operation of the Gaming Enforcement Unit.

300 CONTRACTUAL

Equipment, rental fees and maintenance fees	<u>\$ 21,000</u>	
DATA PROCESSING TOTAL		\$ 21,000

Three Wang work stations, one printer and one central processing unit are needed for the Gaming Enforcement Unit. One work station will be used in the Anchorage Field Office and two work stations will be used in the Juneau Field Office. The Wang equipment will be used to file financial reports which will be data captured for financial analysis, and will also be used for word processing functions.

TOTAL PUBLIC SERVICES OPERATING AND DATA PROCESSING		<u>\$253,318</u>
--	--	------------------

STATE OF ALASKA

DEPARTMENT OF REVENUE

PUBLIC SERVICES DIVISION

2/27/85

BILL SHEFFIELD, GOVERNOR

1111 West 8th Street, Room 108
Juneau, Alaska 99801

March 1, 1985

*on la
desk
on
file
with
Albert
Afe.*

The Honorable Ben Grussendorf
Speaker of the House
Pouch V
Juneau, Ak. 99811

Dear Mr. Speaker:

The annual report on Games of Chance & Skill, as required by AS 05.15.090 is enclosed. Also enclosed is a supplemental report for 1983 which summarizes all 1983 financial statements received.

A total of 763 Games of Chance and Skill permits and 54 Monte Carlo permits were issued for 1984 with 348 permittees having filed the required annual and interim financial statements. Additionally there are approximately 400 financial statements not yet processed. The Department is requesting financial statements from those who have not reported. A permit for the current year is not issued until after receipt and examination of the prior year financial statement.

Gambling in Alaska has increased substantially in recent years. As with any statutorily governed activity, enforcement and compliance is sometimes difficult to maintain. To better facilitate enforcement and compliance, the Department of Revenue, on September 17, 1984, employed an Investigator, thus forming the Gaming Enforcement Unit. This Unit has the responsibility to ensure that permittees comply with State gambling laws and regulations. The Investigator inspects the premises and activities of permittees to determine compliance with laws and regulations as well as to provide assistance in their interpretation. The policy of the Unit for this year was to effect voluntary compliance by providing the permittee opportunity to comply with statutory authority and to develop bookkeeping and accounting systems that protect both the permittee and the public.

The primary efforts of the Gaming Enforcement Unit have been:

- Prevention of hidden ownerships or interests in gambling permits;
- Effective control of authorized gambling activities through scheduled and unscheduled inspections, investigation, and audit programs;
- Prevention of unauthorized gambling activities;
- Assistance to local law enforcement agencies through mutual assistance and cooperation;
- Assistance to permittees through education and guidance in the interpretation of gambling laws and regulations.

Response to Questions on HB247

1. Question: Why are you requiring local government approval of bingo, pull tabs and special draw games?

Answer: Local governments are in the best position to know the effect of such activity on its citizens, on zoning requirements and on local law enforcement, and we believe that local government is in the best position to monitor these activities. If a community does not want these games within its boundaries, the state should not issue permits for such games, in effect, overruling local desires.

2. Question: Wouldn't this mean that local government could play favorites or politics among applicants for permits?

Answer: We do not believe that local governments will be less fair than the state in reviewing permit applications. If they prove to be, the legislature may take remedial action, but since we do not see that kind of danger, we think local government involvement is important.

3. Question: Why are we reducing years in existence from five years to three years?

Answer: There are many organizations within the State that are fully qualified as non-profits, but lack qualification under the 5-year rule. We feel that 3 years of operation is sufficient indication of stable permanence to protect the public.

4. Question: Why are we redefining political organizations?

Answer: To allow candidates and political action committees who are registered with the Alaska Public Offices Commission to raise monies through raffles. Under current law, only political parties are eligible for a permit. This legislation would allow political parties to continue to receive a full gaming permit, and would allow political "organizations" to receive a raffle permit.

5. Question: Why are we eliminating Contests of Skill?

Answer: The Attorney General's office has ruled that Contests of Skill are not gambling activities. Since they are not considered gambling, there is no criminal penalty attached to operating without a permit. Last year the Department grossed \$1,016 through the sale of these permits. Considering that the activity does not constitute gambling, and that the revenues raised are minimal, it is appropriate to remove these activities from this chapter.

6. Question: Why is the distribution of pull tab games being treated differently?

The Gaming Enforcement Unit feels that it has gained knowledge concerning non-profit gambling in the State not previously available. The Unit will continue in its efforts to apply the laws established by the legislature and to ensure adequate protection to the public as well as in-depth support of permittees.

To date, the investigator has made 16 scheduled, 4 unscheduled, and 8 undercover inspections. There is only one investigator assigned to conduct such examinations and visits; consequently, education and enforcement efforts are necessarily limited.

The Unit would like to see a comprehensive educational training program for the permit organizations, bingo hall operators and the law enforcement agencies. This training would eventually reduce the reporting and bookkeeping errors and the illegal operation of gaming activities.

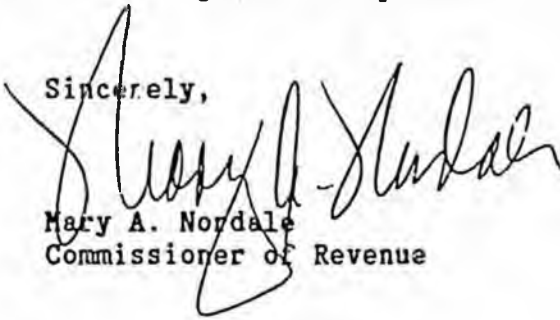
Continued efforts by the Department of Revenue to review permittee organizations and strict adherence to application requirements have substantially increased the number of organizations denied Games of Chance and Skill permits. In 1983 we received 819 applications; 39 were denied. For 1984 we received 856 applications; 93 were denied.

For the 1984 report, we have broken down raffles & lotteries to reflect reported pull-tab activity in the State. Of the 348 financial statements processed to date, 54 permittees reported using pull-tabs. Of these 54, 22 reported giving prizes. An accurate gross receipts total for pull-tabs is not readily available as many organizations include pull-tab receipts in with bingo or raffle receipts and report the prize awards in the same manner. Forms redesign and education in the proper reporting and bookkeeping requirements should resolve this problem.

The current raffle & lottery prize award limit of \$200,000 still creates a problem for several organizations. Pull-tabs currently come under the definition of 15 AAC 105.120, Raffles and Lotteries. Due to the amount of pull-tab receipts generated, many organizations exceeded the raffle prize limitation.

As a result of increasing administrative costs to enforce Games of Chance and Skill as well as more permittees, population growth, and increased public interest in gaming activities, we recommend per AS 05.15.090, that the cost for a permit be raised from \$20.00 to \$50.00 and that the annual fee be raised from 1% of the net proceeds to 1.5% of the gross receipts after the deduction of prizes.

Sincerely,



Mary A. Nordale
Commissioner of Revenue

MAN:kp

Attachments

Answer: It is estimated that the value of pull tab stock entering Alaska each week through the State of Washington is \$49,000. This is about 2 million pull tabs. Only a small fraction of the sales of these pull tabs are being reported. Through control of the sale and distribution the department will be able to appropriately monitor gambling activity.

7. Question: Why are we licensing pull tab distributors?

Answer: Currently, there is no control on pull tab operations in this state. Because of the way pull tabs are played and reported, there is great potential for abuse. In order for the state to monitor gaming operations, we need to know how many pull tabs are entering the state and to whom they are sold. Licensed distributors will purchase seals for pull tab boxes, allowing us to identify legal inventory. Additionally, we will be able to compare distributors' reports of sales to the reports and inventories of the permittees, allowing us to accurately determine sales and revenues.

8. Question: What's the real difference between existing section 160 and your proposed new section?

Answer: Under current law, the permittee is assessed a fee based on net receipts. Even though this section lists authorized expenses, there is actually an incentive to keep expenses high. Under this legislation, the authorized expenses are limited to 25% of the gross receipts.

9. Question: Explain how section 185 would work.

Answer: The pull tab distributor would be required to apply for a \$190 permit from the Department. Receipt of a permit would allow the distributor to purchase Department seals which are to be placed on each pull tab box entering and/or sold in the state. The distributor would be required to report the names of all permittees to whom pull tabs were sold, the serial numbers of the pull tabs sold to those permittees and the numbers of the identifying Department seals. This would provide the Department with a cross check on the premises of each gaming operation.

10. Question: Shouldn't religious organizations organized under AS 10.40 also be included?

Answer: Yes. The omission was an oversight and the bill should be amended accordingly.

11. Question: Why don't you retain the language of existing section 060 which gives a rather exhaustive list of matters from which regulations may be issued?

Answer: We believe that portions of existing section 060 are unenforceable and we believe the new section gives equally broad scope for regulations.

12. Question: What are the penalty provisions for AS 43.05.220(a)?

Answer: When payment of the 1 1/2% fee is late, there is a penalty under this statute of 5% each 30-day period. The penalty cannot exceed 25% in the aggregate.

13. Question: Does this bill address the issue of state costs to ensure compliance?

Answer: Yes. It is our belief, as shown in the fiscal note, that revenues from fees will cover state costs. Currently, the depth of unreported revenues is not known, but we feel our estimate is low.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 3/21/85

REQUEST

Bill/Resolution No: HB247
 Title: An Act Relating to Games of
 Chance & Skill & Providing for an
 Effective Date
 Sponsor: Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: General
 Government
 BRU, Program or Subprogram(s) Affected:
Public Services Operating & Public
 Services Data & Word Processing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES	-	183.8	196.7	210.5	225.3	241.1
200 TRAVEL	-	32.	34.3	36.7	39.3	42.1
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500 EQUIPMENT	-	8.9	9.6	10.3	11.1	11.9
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	253.6	271.7	290.9	311.6	333.6
CAPITAL	-	-	-	-	-	-
REVENUE	-	192.4	206.2	221.6	238.5	257.1

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	61.2	65.5	69.3	73.1	76.5
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	61.2	65.5	69.3	73.1	76.5

POSITIONS:

FULL-TIME	-	5	5	5	5	5
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

1. License fee: \$50 per non-profit; \$200 per operator; \$100 per distributor
2. 1 1/2% tax
3. Sale of seals for pull tabs

See revenue figures above.

ANALYSIS: Attach a separate page for analysis.

Fiscal Note
HB247
March 21, 1985

Prepared By: *Ed Smith*
Division: Public Services

Approved by Commissioner: *Henry D. Studak*
Agency: Department of Revenue

Phone: 465-2392
Date: 21 March 1985

Date: 3/22/85

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

Public Services Division BRU
Fiscal Note Analysis

ASSUMPTIONS

850 permit holders
Bill will go into effect July 1, 1985

PROGRAM SUMMARY

Administration of Games of Chance and Contests of Skill (AS 05.15) 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 accelerated growth expected. There is a definite need to provide for some control before gambling reaches a level that would prohibit any control.

This legislation would allow funding for an educational enforcement program. Field investigators would review gaming operations to ensure compliance with existing law. The tax examiners will be used to issue permits and review monthly and annual financial statements to ensure proper use of funds derived from gaming, and to ensure that the state receives the proper fee.

100 PERSONAL SERVICES

2 Investigator II	3,662 @ 24 months	\$ 87,888	
2 Tax Examiner II	2,854 @ 24 months	68,496	
1 Clerk Typist III	2,284 @ 12 months	<u>\$ 27,408</u>	
	TOTAL		\$183,528

Five employees are necessary to properly review 850 permit applications and conduct approximately 40 field examinations of financial records per year.

200 TRAVEL

Investigative trips	\$ 26,576	
Educational trips	3,096	
Investigator training trips	<u>\$ 2,328</u>	
	TOTAL	\$ 32,000

Three types of travel are outlined for the investigators. The investigative/audit travel consists of reviewing the operations of games and conducting audits of the financial records of permit holders. Educational trips will be made for the purpose of providing permit holders with the information they need to comply with Alaska statutes and regulations. Training-related travel is needed to provide investigators with current gaming enforcement and education methods.

Fiscal Note HB247
March 21, 1985

300 CONTRACTUAL

Pull tab stamp	\$ 625	
Printing cost for forms	2,000	
Communications	<u>\$ 3,800</u>	
TOTAL		\$ 6,425

400 SUPPLIES

Stationery and office supplies	<u>\$ 1,500</u>	
TOTAL		\$ 1,500

500 EQUIPMENT

Office equipment (desks, chairs, calculators and filing cabinets)	<u>\$ 8,865</u>	
The five positions will each require a locking file cabinet in which to store monthly reports and distributor's reports.		
TOTAL		\$ 8,865

PUBLIC SERVICES OPERATING TOTAL \$232,318

The following funds would be allocated to Data Processing within the Public Services Division for the operation of the Gaming Enforcement Unit.

300 CONTRACTUAL

Equipment, rental fees and maintenance fees	<u>\$ 21,000</u>	
DATA PROCESSING TOTAL		\$ 21,000

Three Wang work stations, one printer and one central processing unit are needed for the Gaming Enforcement Unit. One work station will be used in the Anchorage Field Office and two work stations will be used in the Juneau Field Office. The Wang equipment will be used to file financial reports which will be data captured for financial analysis, and will also be used for word processing functions.

TOTAL PUBLIC SERVICES OPERATING
AND DATA PROCESSING \$253,318

1.	POSITION TITLE Investigator II			RANGE/STEP 16B	BARG. UNIT G	PAGE/LINE	COV.	APPROV.	DIS/ST
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL			ADDITION			JUSTIFICATION		
4.	TYPE OF EXPENDITURE			AMOUNT					
	1		2		3				
	PERSONAL SERVICES								
5.	Salary	33,636							
6.	Benefits	5,517							
7.	Supplemental Benefits	2,062							
8.	Fixed Benefits	2,730							
9.	TOTAL PERSONAL SERVICES	01		43,945					
10.	Travel	02							
11.	Contractual	03							
12.	Commodities	04							
13.	Equipment	05							
14.	Other								
15.	TOTAL COST			43,945					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		43,945					
19.		I-A Receipts 1005							
20.		Program Receipts 1028							
21.		Other							
FOR B&M USE ONLY KEY NUMBER _____									

This position will be employed to concentrate on field work. The field work will consist of explaining the rules and regulations to 850 permittees and operators, reviewing the operation of games, field examinations of financial records, follow-up on complaints and referrals to local law enforcement.

**REQUEST FOR
NEW POSITION**

AGENCY Revenue
PROGRAM Revenue Collection & Management
BRU Public Services
COMPONENT Operating

Page 1 of 1
Revised Date _____

FY 86

1.	POSITION TITLE Investigator II				RANGE/STEP 16B	DARG. UNIT G	PAGE/LINE	COV.	APPROV.	DISAST
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION EBA	ELECTION DISTRICT	CCG.		
3.	CONTINUATION LEVEL				JUSTIFICATION:					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This position will be employed to concentrate on field work. The field work will consist of explaining the rules and regulations to 850 permittees and operators, reviewing the operation of games, field examinations of financial records, follow-up on complaints and referrals to local law enforcement.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	33,636								
6.	Benefits	5,517								
7.	Supplemental Benefits	2,062								
8.	Fixed Benefits	2,730								
9.	TOTAL PERSONAL SERVICES	01	43,945							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04								
13.	Equipment	05								
14.	Other									
15.	TOTAL COST		43,945							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts	1002							
17.		G.F. Match	1003							
18.		General Funds	1004	43,945						
19.		I-A Receipts	1005							
20.		Program Receipts	1028							
21.		Other								
FOR B&M USE ONLY										
KEY NUMBER _____										

**REQUEST FOR
NEW POSITION**

AGENCY Revenue
PROGRAM Revenue Collection & Management
BRU Public Services
COMPONENT Operating

Page 1 of 1
Revised Date _____

FY 86

1.	POSITION TITLE Tax Examiner II				RANGE/STEP 12B	BARG. UNIT G	PAGE/LINE	GOV.	APPROV.	DISC'T.
2.	TYPE OF POSITION PFT	STAFF MONTHS 24	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT	<p>These positions will examine monthly reports and annual reconciliations, review security and/or bonding documents, perform financial analyses using Wang computer equipment, issue 850 permits, answer correspondence, follow-up on minor complaints, and assist field investigators on third party confirmations.</p>					
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	51,216								
6.	Benefits	8,400								
7.	Supplemental Benefits	3,140								
8.	Fixed Benefits	2,730								
9.	TOTAL PERSONAL SERVICES	01	68,486							
10.	Travel	02								
11.	Contractual	03								
12.	Commodities	04								
13.	Equipment	05								
14.	Other									
15.	TOTAL COST		68,486							
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Hatch 1003								
18.		General Funds 1004		68,486						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR BSM USE ONLY										
KEY NUMBER _____										

**REQUEST FOR
NEW POSITION**

AGENCY Revenue
PROGRAM Revenue Collection & Management
BRU Public Services
COMPONENT Operating

FY 86

Page 1 of 1
Revised Date _____

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 8B	BARG. UNIT G	PAGE/LINE	COV.	APPROV.	DIS/ST.					
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION AWA	ELECTION DISTRICT	LEG.							
3.	CONTINUATION LEVEL				JUSTIFICATION										
4.	TYPE OF EXPENDITURE				<p>This position will provide clerical support for two Tax Examiners and three Investigators. The duties will include making travel arrangements, typing correspondence and performing other clerical-type functions.</p>										
5.	PERSONAL SERVICES										AMOUNT				
6.	1		2								3				
7.	Salary		20,136												
8.	Benefits		3,303												
9.	Supplemental Benefits		1,235												
10.	Fixed Benefits		2,730												
11.	TOTAL PERSONAL SERVICES		01								27,404				
12.	Travel		02												
13.	Contractual		03												
14.	Commodities		04												
15.	Equipment		05												
16.	Other														
17.	TOTAL COST										27,404				
18.	RECEIPT CODE	FUNDING SOURCE													
19.		Federal Receipts 1002													
20.		G.F. Match 1003													
21.		General Funds 1004			27,404										
22.		I-A Receipts 1005													
23.		Program Receipts 1028													
24.		Other													
FOR BSM USE ONLY															
KEY NUMBER _____															

**REQUEST FOR
NEW POSITION**

AGENCY Revenue

PROGRAM Revenue Collection & Management

BRU Public Services

COMPONENT Operating

Page 1 of 1

Revised Date _____

FY 86

GAMES OF CHANCE
DISPOSITION OF DOLLARS

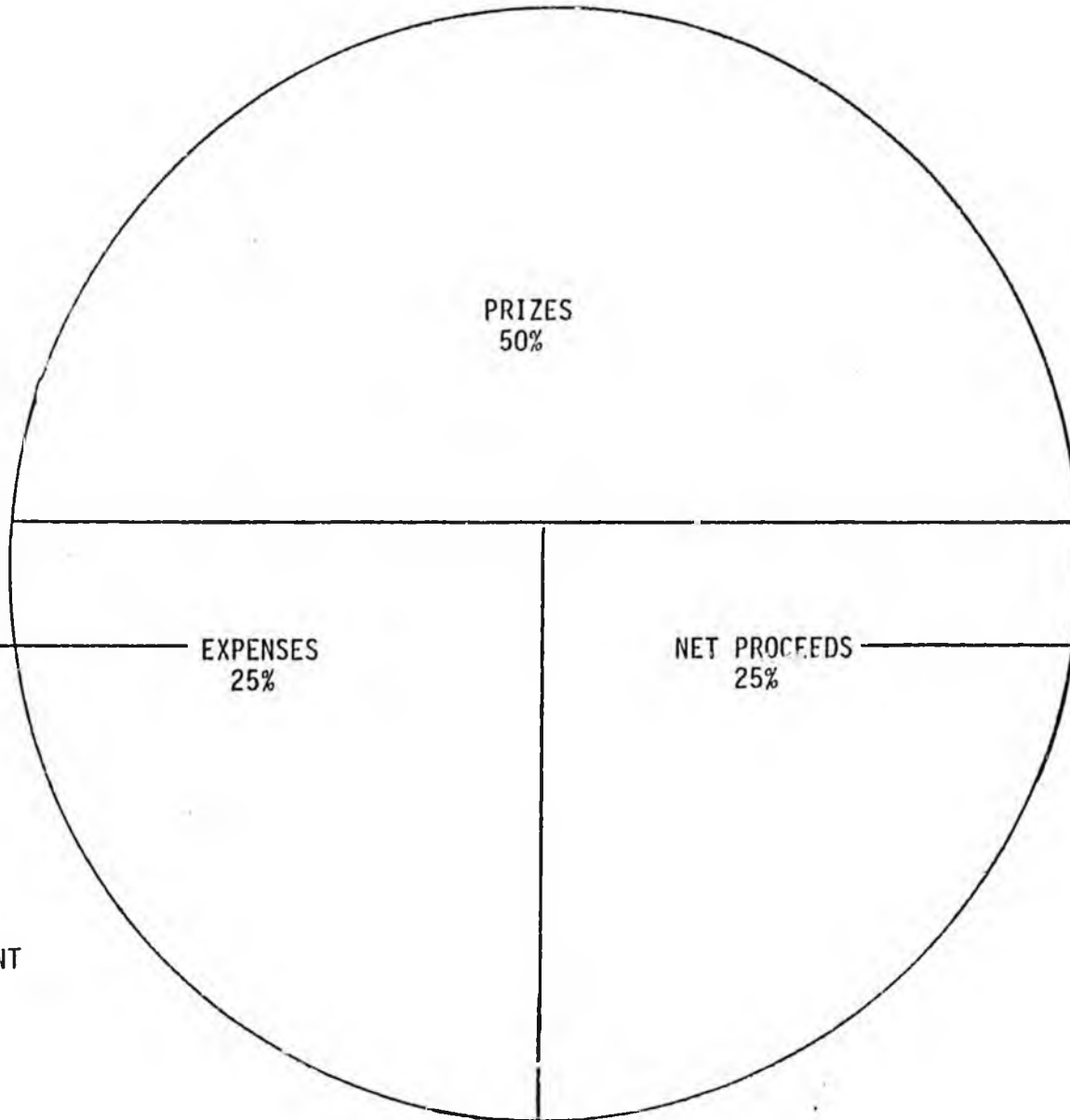
PRIZES
50%

EXPENSES
25%

NET PROCEEDS
25%

←
RENT
POSTAGE
FREIGHT
PRINTING
ADVERTISING
ACCOUNTING
REFRESHMENTS
PERMIT FEES
EQUIPMENT
REPAIRS TO EQUIPMENT
WAGES
MISCELLANEOUS

→ USED BY NON-PROFITS FOR
THEIR PURPOSES



CS HB 247 (SA)
BILL ANALYSIS
CHANGES TO AS 05.15

05.15.010

No Change. The Department of Revenue administers Chapter 15.

Section 1.
amends

05.15.020 -Raises cost of permit from \$20 to \$50.
-Repeals annual fee of 1% of the net (in the next section this fee is raised).

Section 2.
new

05.15.020 -Adds a \$200 permit for operators and requires them to be bonded for 10% of the estimated gross of the operation.
-Raises annual fee to 1 1/2% of gross receipts after the value of awarded prizes is deducted.

Section 3.
New section

05.15.025 -Operator's bond, payable to Dept. of Revenue, is attached to:
a) payment of the annual 1 1/2% fee
b) transfer of the net proceeds to the permittee
-Forfeit of the bond will satisfy:
a) delinquent fees to the Department
b) permittees

Section 4.
repeal/reenact

05.15.030 -Provides for notification to local governments of activities and location.
-Mandates local government approval by resolution for both initial application and renewal for:
a) bingo
b) pull tabs
c) special draw
-Local government may protest any activity by resolution and may do so on the grounds of being in the best interests of the public.
-Mandates 30-day notification to the Department and local government if location of activity is changed.
-To conduct activity in another jurisdiction, the permittee must file with the department and nearest local government.
-Allows Commissioner to limit locations of any activity.
-Communities further than five miles from a municipality may seek approval from the Commissioner.

05.15.040

- No change. -A municipality can't conduct an activity outside the municipality.
-A revoked permit is revoked for one year from the date of revocation.

05.15.050

- No change. -A suspended or revoked permit must be surrendered to the department.

Section 5.

Repeal/Reenact

05.15.060 -Language clean-up.

- Adds the authority for the department to develop regulations on bond and security forfeit and on pull tab distribution.

Section 6.

amends

05.15.070 -Allows for the examination of books.

- Repeals payment by permittee for the examination.
(Rationale for raising cost of permit.)

Section 7.

Repeal/Reenact

05.15.080 -Permittee must provide a monthly report for any month in which there was gaming activity.

- Retains yearly report.
-Details contents of reports.

Section 8.

New

05.15.085 -Provides for monthly and annual reporting by the operator.

05.15.090

- No change. -Department provides annual report to the legislature.

Section 9.

New

- 05.15.095 -Outlines who signs the applications and reports.
-Makes falsification of information a perjury charge.
-Provides provision for reporting extension.
-Makes payment of fees necessary to conduct activity.
-Provides for interest on delinquent fees.

Section 10.

amends

- 05.15.100 -Eliminates contests of skill from this chapter.

No change. -Retains permits for Monte Carlo events.

Section 11.

New

- 05.15.100 -Allows political organizations to conduct three raffles per year, but does not allow them to hire an operator.
-Allows municipalities and qualified organizations to hire operators.

05.15.110

No change. -Activities are a privilege; not a right.

Section 12.

amends

- 05.15.120 -Permit eligibility is provided for as follows:
1) raffle permit only for political organizations.
2) general permit for municipalities and qualified organizations.
3) operator's permit for natural persons operating games for municipalities and qualified organizations.

05.15.130

No change. -Allows Commissioner to add extra eligibility requirements in the regulations.

05.15.140

No change. -The Commissioner may require proof of qualifications to be granted a permit.
-Outlines selected qualifications.

05.15.150

No change. -Limits use of proceeds to charitable purposes.

Section 13.

amends

05.15.160 -Clarifies allowable expenses of goods, wares, merchandise and personal services.

Section 14.

New

05.15.160 -Adds to limitations on expenses that expenses to conduct activities may not exceed 25% of the annual gross receipts.

Section 15.

New.

05.15.163 -Net proceeds must equal 25% of the gross receipts.

- 05.15.165
- a) Limits operators to working for one permittee per day.
 - b) Operators must pay permittee by check within 15 days of each activity. The permittee must write a receipt for the payment, and both the permittee and the operator must retain copies.
 - c) Permittee must designate an agent to work with the operator.
 - d) Mandates operator to refund permittee, with interest, for any unauthorized expenses.
 - e) Mandates that name of operator and permittee appear on advertising. Permits are to be posted at place of activity.

05.15.170

No change. -Suspension of permits.

Section 16.

amends

05.15.180 -Language simplification.
-Repeal of 1959 qualifier.

Section 17.

New

- 05.15.185 -Licensing of pull tab distributors.
a) \$200 permit
b) reporting of sales
-Pull tabs numbered; sets sealed and numbered. Seals purchased from the department.
-Pull tab sales limited to authorized permittees; not to operators.

05.15.190

No change. -Interpretation and Construction.

Section 18.

amends

- 05.15.200 -Adds from revenue enforcement statutes a penalty for non-payment of fees.

Section 19.

amends

- 05.15.210(6)
-Defines "dog mushers' contest".

Section 20.

amends

- 05.150.210(12)
-Defines "ice classic" and deletes reference to specific ice pools. Also removes qualifier of 1959.

Section 21.

Repealed/Reenacted

- 05.15.210(15)
-Redefines "net proceeds" to exclude annual fee, operating expenses enumerated and prizes awarded.

Section 22.

amends

- 05.15.210(18)
-Defines "political organization" to include candidate organizations and political action committees.

Section 23.

amends

05.15.210(19)

- Defines "qualified organization" as one with non-profit status or a political party.
- Reduces qualification of years in existence from 5 to 3 years.

Section 24.

amends

05.15.210 -Adds definitions for authorizing permittee, commissioner, department, and operator.

Section 25.

amends

43.05.290(d)

- Includes 05.15 in revenue enforcement statutes to provide for perjury penalty of \$25,000 and/or 3 year imprisonment.

Section 26.

repeals

- 1959 qualifier.
- unsworn falsification (became perjury).
- definitions for:
 - charitable organization
 - civic or service organization
 - contest of skill
 - dog mushers' association
 - educational organization
 - fishing derby association
 - fishing derby
 - fraternal organization
 - labor organization
 - police or fire department and company
 - religious organization
 - veteran's organization

These organizations are included under the new definition for qualified organization.

Section 27.

- Effective date.

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 by laws, to engage in fraternal, civic or service purposes 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 fastest guess of the racing time of a dog team and 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;

(9) "game of chance" means a contest in which prizes are awarded on the basis of chance;

(10) "game of skill" means a contest in which prizes are awarded on the basis of skill;

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 Nemans and Chena Ice Frolics in the same manner as they were conducted in 1959 and previous years;

(13) "labor organization" means an organization, not for pecuniary profit, constituted wholly or partly, bargain collectively or deal with employers throughout the state and its political subdivisions concerning employment conditions or conditions of employment or other matters of protection in connection with employees;

(14) "municipality" means a political subdivision of the state that is a home rule or general law city or borough or a unified municipality;

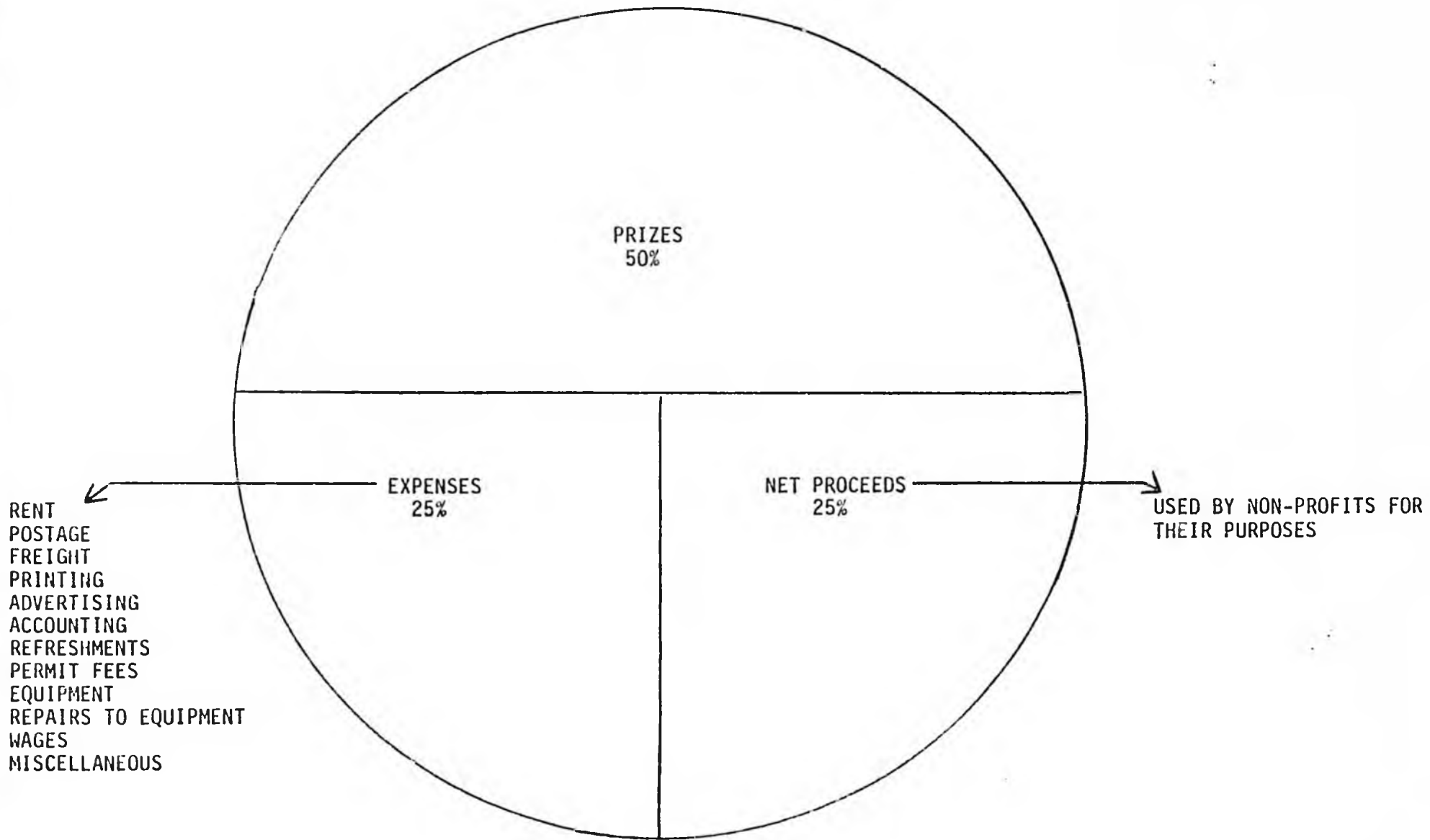
(15) "net proceeds" means the gross receipts less expenses, prizes, duties, or charges, fees, and deductions which are specifically authorized under this chapter;

(16) "numbers wheel" means any electronic, mechanical, or other device with numbers or other figures that are selected randomly and used in a game of chance in which the outcome is determined by the number or figure selected by the device; not including games in which a hamster or other animal is placed in an enclosure with several numbered exit holes and the winner is determined by which hole the hamster or other animal exits, or slot machines or other devices that operate by insertion of a coin or other object that may entitle the person operating the machine to receive a prize by strict dependence on the element of chance;

(17) "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 with the purpose of providing fire or police protection for a locality under this chapter;

(18) "political organization" means an organization, not for pecuniary profit, established or formally affiliated with a political party or group of persons in 1915, 1920, 1930, 1940, 1950, 1960, 1970, 1980, 1990, 2000, 2010, 2020, 2030, 2040, 2050, 2060, 2070, 2080, 2090, 2100, 2110, 2120, 2130, 2140, 2150, 2160, 2170, 2180, 2190, 2200, 2210, 2220, 2230, 2240, 2250, 2260, 2270, 2280, 2290, 2300, 2310, 2320, 2330, 2340, 2350, 2360, 2370, 2380, 2390, 2400, 2410, 2420, 2430, 2440, 2450, 2460, 2470, 2480, 2490, 2500, 2510, 2520, 2530, 2540, 2550, 2560, 2570, 2580, 2590, 2600, 2610, 2620, 2630, 2640, 2650, 2660, 2670, 2680, 2690, 2700, 2710, 2720, 2730, 2740, 2750, 2760, 2770, 2780, 2790, 2800, 2810, 2820, 2830, 2840, 2850, 2860, 2870, 2880, 2890, 2900, 2910, 2920, 2930, 2940, 2950, 2960, 2970, 2980, 2990, 3000, 3010, 3020, 3030, 3040, 3050, 3060, 3070, 3080, 3090, 3100, 3110, 3120, 3130, 3140, 3150, 3160, 3170, 3180, 3190, 3200, 3210, 3220, 3230, 3240, 3250, 3260, 3270, 3280, 3290, 3300, 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9950, 9960, 9970, 9980, 9990, 10000.

GAMES OF CHANCE
DISPOSITION OF DOLLARS





STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 27, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of Art. III, Sec. 28, of the Alaska Constitution, I am transmitting a bill relating to the regulation of charitable gaming activities in the State.

I am convinced that there is grave abuse of existing gaming laws, and this bill is intended to address that abuse. It also would make it easier for the vast majority of non-profit groups which sponsor charitable gaming activities to conform to the law and would remove from State regulation those activities which should not be subject to government licensing.

Under existing law, the Department of Revenue must issue a permit before charitable gaming can be conducted. Only certain non-profit groups that have been in existence for five years or more, and municipalities, are eligible for a permit.

In turn, some non-profit groups have hired commercial operators to run their games. Today charitable gaming is a multi-million dollar industry in our State. Non-profit groups have increasingly turned to commercial operators to manage their permits. It is unrealistic to ignore the commercial operator or to attempt to ban their use. Non-profit organizations, composed entirely of volunteers, often have little alternative except to use operators or forego charitable gaming entirely. Furthermore, AS 10.20.011(11) expressly authorizes non-profit corporations to appoint agents. However, as I noted in my veto letter on July 4, 1984, in regard to CSSB 549 (Rls), there is some evidence that a few unscrupulous operators have failed to report the bulk of their receipts to either the charitable organizations for whom they supposedly work or to the State.

Another significant feature of the bill involves revision of the definition of "qualified organization." This bill changes the five-years-in-existence requirement to three years and adds the requirement that the organization be certified as a domestic corporation under AS 10.20, the Alaska Nonprofit Corporation Act.

The new definition of "qualified organization" also includes political organizations. Under existing law, a political party may conduct any of the activities authorized by AS 05.15, but candidate organizations and political action committees may not. This bill would allow political organizations--that is, candidate organizations and political action committees--to conduct one kind of activity--a raffle. In addition, they would be limited to only three raffles a year and commercial operators would be barred from conducting a raffle on behalf of a political organization. These restrictions should be of assistance to both the Department of Revenue and the Alaska Public Offices Commission in regulating fund-raising activities of political organizations.

Other features of the bill include an increase in the fees currently imposed for permits and an amendment to make it clear that forms filed under AS 05.15 are filed under penalty of perjury.

I encourage members of the public to comment on this legislation. As you may know, when I vetoed CSSB 549 (Rls) last year, I did so reluctantly because although the bill contained many laudable features, there was insufficient opportunity for public participation in the development of the legislation.

Sincerely,



Bill Sheffield
governor

AUTHORIZED GAMES OF CHANCE AND SKILL
MONTHLY FINANCIAL STATEMENT
Activities for the Month of _____

Name of Organization Permit Number

Mailing Address(Street Address or P.O. Box, City, State, Zip Code)

Please complete the following items: Include only items DIRECTLY RELATED to your Games of Chance Activity.

Type of activity conducted: _____

Date(s):

Address(s):

Financial Information:

- 1.) GROSS RECEIPTS.....\$ _____
- 2.) PRIZES PAID-Cash..... _____
- Merchandise..... _____
- 3.) NET RECEIPTS(Deduct Line 2. from line 1.)..... _____

Expenses:

- 4.) Building- Rent..... _____
- Repairs and Maintenance..... _____
- Utilities..... _____
- 5.) Printing/purchase of tickets or cards..... _____
- 6.) Equipment(Purchase or repair)..... _____
- 7.) Advertising..... _____
- 8.) Accounting..... _____
- 9.) Wages..... _____
- 10.) Other Expenses(Explain on back)..... _____
- 11.) TOTAL EXPENSES(Add Lines 4. thru 10.)..... _____
- 12.) NET PROCEEDS(Deduct Line 11. from Line 3.).....\$ _____

DO NOT SEND ANY MONEY WITH THIS REPORT

Signature and Verification: I declare under the penalties of perjury that this report has been examined by me and to the best of my knowledge and belief is true, correct, and complete. Declaration of preparer other than licensee is based upon all information of which s/he has any knowledge.

Officer's signature	Title	Date
Member in charge signature	(Telephone)	Date

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



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OFFICE OF THE GOVERNOR
JUNEAU

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In turn, some non-profit groups have hired commercial operators to run their games. Today charitable gaming is a multi-million dollar industry in our State. Non-profit groups have increasingly turned to commercial operators to manage their permits. It is unrealistic to ignore the commercial operator or to attempt to ban their use. Non-profit organizations, composed entirely of volunteers, often have little alternative except to use operators or forego charitable gaming entirely. Furthermore, AS 10.20.011(11) expressly authorizes non-profit corporations to appoint agents. However, as I noted in my veto letter on July 4, 1984, in regard to CSSB 549 (Rls), there is some evidence that a few unscrupulous operators have failed to report the bulk of their receipts to either the charitable organizations for whom they supposedly work or to the State.

In one instance, State investigators reported that as much as \$7 million may have been generated by one operator in 1983, yet the operator reported only \$200,000 in receipts to the State. Other complaints received by the Department of Revenue include allegations that little of the proceeds actually go to charitable purposes, that prizes are not awarded fairly, that credit is extended to some players, that certain prizes are misrepresented and that criminal elements may be entering the commercial gaming area.

Under amendments proposed by this bill, the Department of Revenue would regulate commercial operators and limit their activities. The bill further defines and limits authorized expenses to 35 percent of annual gross receipts and requires that at least 25 percent of net proceeds be dedicated to the charitable or civic purpose for which the activity is conducted.

The bill also provides that a local government must approve by resolution, a permit application for certain activities before a permit may be issued by the department. For other activities, the local government may file a protest, for consideration by the Commissioner.

The bill institutes a number of reporting, payment and accounting requirements. These provisions should help the department to monitor effectively the activities for which permits are issued. Special licensing and reporting requirements are proposed for pull-tab game distributors. Since pull-tabs were legalized in 1982, the number of pull-tabs sold in the State has increased steadily, with more than two million pull-tabs shipped to the State each week, by estimate of department officials who believe that many are being sold illegally.

In an effort to simplify the law for most Alaskans, the bill would remove contests of skill from the coverage of AS 05.15. Because of the wide range of athletic events that are now conducted in this State, the requirement for a permit has become impossible to enforce. Many persons and organizations do not even realize a permit is needed to conduct an event such as a foot race or a golf tournament in which prizes are awarded to the contestants.

To the extent that contest of skill involve what would otherwise be gambling, they will continue to be regulated. For this reason, "dog mushers' contests" are retained in the law. The event itself will not be regulated by the department; only third-party wagering on the results of the dog race will be regulated.


Another significant feature of the bill involves revision of the definition of "qualified organization." This bill changes the five-years-in-existence requirement to three years and adds the requirement that the organization be certified as a domestic corporation under AS 10.20, the Alaska Nonprofit Corporation Act.

The new definition of "qualified organization" also includes political organizations. Under existing law, a political party may conduct any of the activities authorized by AS 05.15, but candidate organizations and political action committees may not. This bill would allow political organizations--that is, candidate organizations and political action committees--to conduct one kind of activity--a raffle. In addition, they would be limited to only three raffles a year and commercial operators would be barred from conducting a raffle on behalf of a political organization. These restrictions should be of assistance to both the Department of Revenue and the Alaska Public Offices Commission in regulating fund-raising activities of political organizations.

Other features of the bill include an increase in the fees currently imposed for permits and an amendment to make it clear that forms filed under AS 05.15 are filed under penalty of perjury.

I encourage members of the public to comment on this legislation. As you may know, when I vetoed CSSB 549 (R1s) last year, I did so reluctantly because although the bill contained many laudable features, there was insufficient opportunity for public participation in the development of the legislation.

Sincerely,



Bill Sheffield
Governor

AUTHORIZED GAMES OF CHANCE AND SKILL
MONTHLY FINANCIAL STATEMENT
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Permit Number

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- 2.) PRIZES PAID-Cash..... _____
- Merchandise..... _____
- 3.) NET RECEIPTS(Deduct Line 2. from line 1.)..... _____

Expenses:

- 4.) Building- Rent..... _____
- Repairs and Maintenance..... _____
- Utilities..... _____
- 5.) Printing/purchase of tickets or cards..... _____
- 6.) Equipment(Purchase or repair)..... _____
- 7.) Advertising..... _____
- 8.) Accounting..... _____
- 9.) Wages..... _____
- 10.) Other Expenses(Explain on back)..... _____
- 11.) TOTAL EXPENSES(Add Lines 4. thru 10.)..... _____
- 12.) NET PROCEEDS(Deduct Line 11. from Line 3.).....\$ _____

DO NOT SEND ANY MONEY WITH THIS REPORT

Signature and Verification: I declare under the penalties of perjury that this report has been examined by me and to the best of my knowledge and belief is true, correct, and complete. Declaration of preparer other than licensee is based upon all information of which s/he has any knowledge.

Officer's signature

Title

Date

Member in charge signature

(Telephone)

Date

AMENDMENT #5

TO: HB 247

BY: Gruenberg

Page 11, lines 8 and 9, delete "if a permittee, including a political organization and an operator," and insert "if a permittee or an operator".

Comment: Political organizations are one category of permittees. Operators are not. The amendment clarifies existing language.

COMMITTEE SUBSTITUTE FOR HB 247(SA)

AMENDMENTS

* Sec. 23. AS 05.15.210(19) is amended to read:

(19) "qualified organization" means a domestic corporation organized under AS 10.20 or a religious corporation formed under AS 10.40 that has been in existence for three years after the date of issuance of a certificate of authority issued under AS 10.20 or the date of filing of articles of incorporation under AS 10.40, or a political party as defined in AS 15.60.010 [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, OUTBOARD MOTOR ASSOCIATION, OR FISHING-DERBY OR NONPROFIT TRADE 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];

* Sec. 24. AS 05.15.210(20) is amended to read:

(20) "raffle and lottery" means the selling of rights to participate, and the awarding of prizes[, IN THE SPECIFIED KINDS OF GAMES OF CHANCE SOMETIMES KNOWN AS PULL-TAB GAMES IN WHICH THE PRICE

OF EACH CHANCE IS \$2 OR LESS AND] in the specified kind of game of chance sometimes known as a raffle or lottery, conducted by the drawing for prizes by chance;

* Sec. 25. AS 05.15.210 is amended by adding new paragraphs to read:

(24) "authorizing permittee" means a municipality or qualified organization that authorizes an operator to conduct on its behalf an activity subject to this chapter;

(25) "commissioner" means the commissioner of revenue;

(26) "department" means the Department of Revenue;

(27) "operator" means a natural person who, or a municipality or qualified organization that, has obtained a permit authorizing it to operate an activity, subject to this chapter, on behalf of another permittee;

(28) "pull-tab game" means a game of chance in which a card, the face of which is covered to conceal a number, symbol, or set of symbols, is purchased by the participant for a price not to exceed \$2 and in which a prize is awarded for a card containing certain numbers or symbols designated in advance and at random.

RENUMBER SUBSEQUENT SECTIONS ACCORDINGLY.

Draw

COMMITTEE SUBSTITUTE FOR HB 247(SA)

AMENDMENTS

1. Delete effective date clause from title.

2. Amend Section 7 of the bill to read:

* Sec. 7. AS 05.15.080 is repealed and reenacted to read:

Sec. 05.15.080. REPORTS REQUIRED OF AND PAYMENT OF FEE BY MUNICIPALITIES, QUALIFIED ORGANIZATIONS, AND POLITICAL ORGANIZATIONS. (a) A municipality and a qualified organization shall file a report with the department no later than the last business day of the month following the month in which an activity was conducted. A political organization issued a permit to conduct a raffle shall file a report with the department no later than the last business day of the month in which the raffle was completed. The reports must include the type of activity conducted, the date and location of the activity, the amount of gross receipts, the amount of authorized expenses, the value of prizes awarded, the amount of net proceeds, and other information the commissioner may require by regulation.

(b) In addition to the reports required by (a) of this section, a municipality, qualified organization, and political organization issued a permit to conduct an activity authorized under this chapter shall file an annual report with the department no later than January 31 of the year following the year in which activities were conducted, accompanied by the payment of the additional fee required by AS 05.15.020(c). The report must list the types of activities conducted, and, for each activity, the total amount of gross receipts,

the total amount of authorized expenses, the total value of prizes awarded, and the total amount of net proceeds. The report must also include the disposition or intended disposition of the net proceeds. If a municipality or qualified organization authorizes an operator to conduct activities on its behalf, it shall include in its annual report each activity conducted on its behalf, the name of the operator conducting the activity, the date and location of each activity, and the net proceeds received from the operator for each activity.

3. Add a new Sec. 18 to read:

* Sec. 18. AS 05.15.200(b) is amended to read: .

(b) A person who wilfully makes and subscribes an application, report or other document required under this chapter that contains a written declaration that it is made under the penalties of perjury that the person does not believe to be true[, WITH THE INTENT TO MISLEAD A PUBLIC SERVANT IN THE PERFORMANCE OF THE PUBLIC SERVANT'S DUTY, SUBMITS A FALSE STATEMENT IN APPLICATION FOR A PERMIT UNDER THIS CHAPTER,] is guilty of perjury [UNSWORN FALSIFICATION].

4. Renumber Sec. 18 and amend it to read:

same as 18 in bill

* Sec. 19. AS 05.15.200 is amended by adding a new subsection to read:

(c) The commissioner may assess a penalty in the amount prescribed by AS 43.05.220(a) if a municipality, qualified organization or an operator fails to pay the fee as required by AS 05.15.020(c), 05.15.080(b), and 05.15.085(b), unless it is shown that the failure was due to a reasonable cause.

renumbering sections of bill

5. Amend Sec. 23 to read:

* Sec. 23. AS 05.15.210(19) is amended to read:

(19) "qualified organization" means a domestic corporation organized under AS 10.20 that has been in existence for three years after the date of issuance of a certificate of authority, a religious corporation formed under AS 10.40 that has been in existence for three years after the date of filing of articles of incorporation, a labor organization that has been in existence for three years, or a political party as defined in AS 15.60.010 [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, OUTBOARD MOTOR ASSOCIATION, OR FISHING-DERBY OR NONPROFIT TRADE 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];

6. Delete Sec. 25 (amending AS 43.05.290(d)) from the bill.

7. Amend Sec. 26 to read:

* Sec. 26. AS 05.15.180(b); 05.15.210(2), (3), (4), (5), (7), (8), (9), (10), (17), (22), and (23) are repealed.

8. Delete Sec. 27 (effective date) from the bill.

A M E N D M E N T

Committee Substitute for HB 247 (SA)

1. Add a new Sec. 13 to read:

*Sec 13. AS 05.15.140 is amended to read:

Sec. 05.15.140. PROOF NECESSARY TO QUALIFY FOR PERMIT. (a) The commissioner of revenue may not issue or renew a permit except upon satisfactory proof that (1) the applicant is a municipality, a [OR] qualified organization, or an operator; (2) the activity may be permitted under this chapter;[,] and, (3) 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.

(b) In an application for a permit, a municipality, a [OR] qualified organization, or an operator shall disclose the name and address of each person responsible for the operation of the activity and whether any person named

(1) has ever been convicted of a felony or gambling misdemeanor;
or

(2) has a prohibited financial interest, ~~as defined in~~ regulations ~~adopted by the commissioner,~~ in the operation of the activity.

(c) The commissioner of revenue may not issue a permit for an activity operated by a person who has been convicted of a felony or a gambling misdemeanor *or who has a prohibited financial interest.*

(d) Application forms for permits shall contain a notice that a false statement in the application is punishable by law.

Original sponsor: Rules/Governor

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IN THE HOUSE

BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 247 (Judiciary)
IN THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to games of chance and contests of skill."

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

* Section 1. AS 05.15.020 is amended to read:

Sec. 05.15.020. ANNUAL PERMIT AND FEE. An activity permitted under this chapter may not be conducted by a municipality or a qualified organization, and a raffle may not be conducted by a political organization, unless an annual permit issued by the department is first obtained and a fee of \$50 [\$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.]

* Sec. 2. AS 05.15.020 is amended by adding new subsections to read:

(b) An activity permitted under this chapter, except a raffle permitted under AS 05.15.100(c), may be conducted by an operator for a municipality or qualified organization if an annual operator's permit is obtained from the department, a fee of \$200 is paid to the department, and a bond or other security acceptable to the department is filed with the department in an amount equal to 10 percent of estimated gross receipts from all activities to be conducted by the operator in the calendar year. The operator's permit is in addition to the permit required to be obtained by the municipality or qualified organization on whose behalf the operator conducts the activity.

(c) An additional fee of one and one-half percent of the gross

1 receipts, less the value of prizes awarded, from an activity permitte
2 under this chapter shall be paid to the department annually by the
3 municipality, qualified organization, or political organization au
4 thorized to conduct the activity, except that an operator is liable
5 for and shall pay to the department the additional fee for activities
6 conducted by the operator on behalf of a municipality or qualified
7 organization.

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9 * Sec. 3. AS 05.15 is amended by adding a new section to read:

10 Sec. 05.15.025. BOND CONDITIONS AND FORFEITURE. (a) The bond
11 or security filed under AS 05.15.020(b) must be made payable to the
12 department and must be conditioned upon payment to the department of
13 the fee required by AS 05.15.020(c) and payment to the authorizing
14 permittee of net proceeds as required by AS 05.15.165(b). If the
15 operator fails to make the required payments, the operator forfeits
16 the bond or security to the department.

17 (b) The amount forfeited under (a) of this section shall be
18 first used to satisfy delinquent fees, interest, and penalties due the
19 department under this chapter. If the amount forfeited is not ex-
20 hausted by payment of delinquent fees, interest, and penalties, the
21 department may use the remaining amount to pay net proceeds due ar
22 authorizing permittee. The total amount available for payment of net
23 proceeds shall be prorated among the permittees to whom proceeds are
24 due from that operator.

25 * Sec. 4. AS 05.15.030 is repealed and reenacted to read:

26 Sec. 05.15.030. NOTIFICATION OF LOCAL GOVERNMENTS, REQUIRED
27 APPROVALS, AND PROTESTS. (a) At the time of filing an initial or
28 renewal application for a permit, a qualified organization shall
29 notify the local government of the proposed activity of the applica-
tion and the location where the proposed activity will be conducted.

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(b) Local government approval by resolution is required for three activities: bingo games, pull-tabs, and special-draw games. The commissioner may not issue a permit to a qualified organization for these activities in a jurisdiction that has not approved the activity. The qualified organization shall include evidence of approval with its initial application.

(c) A local government may protest issuance of a permit for activities other than those described in (b) of this section, and the renewal of a permit for an activity that requires approval under (b) of this section, by filing with the commissioner a resolution stating the reasons for the protest. A protest may be based on the organization's lack of qualifications for a permit or a finding that the proposed activity is not in the best interests of the public. The commissioner may consider the protest resolution in the determination to issue or renew a permit.

(d) If a permittee changes the location of an activity in the jurisdiction for which a permit has been issued, the permittee shall notify the department and the local government within 30 days after moving to the new location.

(e) To conduct an activity in an additional jurisdiction, a permittee shall file an application with the department and shall notify the local government of the proposed activity. An activity may not be conducted in an additional jurisdiction until approval from the commissioner is obtained.

(f) The commissioner may limit the locations in which activities under this chapter may be conducted.

(g) To conduct an activity at a location that is more than five miles from a local government or that is within the unorganized borough, a qualified organization, in accordance with the procedures

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2 established by the commissioner, shall obtain the approval of the
3 commissioner, and is not required to comply with (a) - (e) of this
4 section.

5 * Sec. 5. AS 05.15.060 is repealed and reenacted to read:

6 Sec. 05.15.060. REGULATIONS. In accordance with the Administra-
7 tive Procedure Act (AS 44.62), the commissioner shall adopt regula-
8 tions necessary to implement this chapter, including regulations on
9 the control and issuance of permits, authorized expenses, investi-
10 gations and audits, recordkeeping and accounting, bond and security
11 forfeiture, prizes, equipment, suspension and revocation of permits
12 and licenses, definition of special-draw games, distribution of pull-
13 tabs, and other matters that the commissioner considers necessary.

14 * Sec. 6. AS 05.15.070 is amended to read:

15 Sec. 05.15.070. COMMISSIONER OF REVENUE MAY EXAMINE PERMITTEES
16 The commissioner may examine or have examined the books and records of
17 a permittee, including a political organization and an operator, and
18 the books and records of a person licensed to distribute pull-ta-
19 games in the state [THE COMMISSIONER MAY REQUIRE THE PERMITTEE TO PAY
20 THE REASONABLE COST OF THE EXAMINATION]. The commissioner may issue
21 subpoenas for the attendance of witnesses and the production of books
22 records, and other documents.

23 * Sec. 7. AS 05.15.080 is repealed and reenacted to read:

24 Sec. 05.15.080. REPORTS REQUIRED OF AND PAYMENT OF FEE BY MUNI-
25 CIPALITIES, QUALIFIED ORGANIZATIONS, AND POLITICAL ORGANIZATIONS. (a)
26 A municipality or a qualified organization issued a permit to conduct
27 an activity authorized under this chapter shall file a report with the
28 department no later than the last business day of the month following
29 the month in which the activity was conducted. A political organiza-
tion that has been issued a permit to conduct a raffle shall file

1 report with the department no later than the last business day of the
2 month when the raffle was completed. The report must include the type
3 of activity conducted, the date and location of the activity, the
amount of gross receipts, the amount of authorized expenses, the value
of prizes awarded, the amount of net proceeds, and other information
the commissioner may require by regulation.

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8 (b) In addition to the reports required by (a) of this section,
9 a municipality, qualified organization, and political organization
10 issued a permit to conduct an activity authorized under this chapter
11 shall file an annual report with the department no later than Janu-
12 ary 31 of the year following the year in which activities were con-
13 ducted, accompanied by the payment of the additional fee required by
14 AS 05.15.020(c). The report must list the types of activities
15 conducted, and, for each activity, the total amount of gross receipts,
16 the total amount of authorized expenses, the total value of prizes
17 awarded, and the total amount of net proceeds. The report must also
18 include the disposition or intended disposition of the net proceeds.
19 If a municipality or qualified organization authorizes an operator to
20 conduct activities on its behalf, it shall include in its annual
21 report each activity conducted on its behalf, the name of the operator
22 conducting the activity, the date and location of each activity, and
23 the net proceeds received from the operator for each activity.

24 * Sec. 8. AS 05.15 is amended by adding a new section to read:

25 Sec. 05.15.085. REPORTS REQUIRED OF AND PAYMENT OF FEE BY OPERA-
26 TORS. (a) An operator shall file a report with the department no
27 later than the last business day of the month following the month in
28 which an activity was conducted. For each municipality and qualified
29 organization on whose behalf an activity was conducted, the report
must include the date and location of each activity, the type of

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2 activity conducted, the amount of gross receipts, the amount of au-
3 thorized expenses, the value of prizes awarded, the amount of net
4 proceeds paid, and other information the commissioner may require by
5 regulation.

6 (b) An operator shall file an annual report with the department
7 no later than January 31 of the year following the year in which
8 activities were conducted, accompanied by the payment of the addition-
9 al fee required by AS 05.15.020(c). The report must list the types of
10 activities conducted, the municipalities and qualified organizations
11 on whose behalf the activities were conducted, the total amount of
12 gross receipts, the total amount of authorized expenses, the total
13 value of prizes awarded, and the total amount of net proceeds paid to
14 each municipality and qualified organization.

15 * Sec. 9. AS 05.15 is amended by adding a new section to read:

16 Sec. 05.15.095. GENERAL PROVISIONS RELATING TO THE FILING OF
17 REPORTS AND PAYMENT OF FEES. (a) The applications and reports re-
18 quired by this chapter must be filed and executed under penalty of
19 perjury and signed by the following, as applicable:

20 (1) a bona fide member in good standing of the qualified
21 organization;

22 (2) a person authorized to sign on behalf of the municipal-
23 ity;

24 (3) the candidate or campaign treasurer of the political
25 organization;

26 (4) the operator; or

27 (5) the person licensed to distribute pull-tab games in the
28 state.

29 (b) Upon a showing of reasonable cause for delay, the commis-
sioner may grant an extension, not exceeding 30 days, for the filing

1 of a report required under this chapter. An extension of time for the
2 payment of a fee may not be granted.

3 (c) A permittee may not conduct an activity under this chapter
4 during a period in which a report or fee is delinquent.

5 (d) A delinquent fee bears interest at the rate set by AS 43
6 05.225.

7 * Sec. 10. AS 05.15.100(a) is amended to read:

8 (a) The commissioner [OF REVENUE] may issue a permit to a municipality
9 or qualified organization. The permit gives the municipality
10 or organization the privilege of conducting bingo, raffles and lotter-
11 ies, ice classics, rain classics, and dog mushers' contests [, FISHER-
12 DERBIES AND CONTESTS OF SKILL].

13 * Sec. 11. AS 05.15.100 is amended by adding new subsections to read:

14 (c) The commissioner may issue a permit to conduct a raffle to
15 a political organization. No more than six raffles may be conducted by
16 a political organization in a calendar year. An operator's permit may
17 not be issued under (d) of this section for a raffle permitted under
18 this subsection.

19 (d) The commissioner may issue an operator's permit to a natural
20 person authorized by a municipality or a qualified organization to
21 conduct an activity permitted under this chapter on its behalf. The
22 commissioner may also issue an operator's permit to a municipality or
23 a qualified organization authorized by another municipality or qual-
24 ified organization to conduct an activity on its behalf.

25 * Sec. 12. AS 05.15.120 is amended to read:

26 Sec. 05.15.120. ELIGIBILITY FOR PERMIT. An applicant shall be
27 a municipality or qualified organization to be eligible for a permit
28 except that a raffle permit may be issued to a political organization
29 under AS 05.15.100(c), and an operator's permit may be issued to

1 natural person under AS 05.15.100(d).

2 * Sec. 13. AS 05.15.140(a) is amended to read:

3 (a) The commissioner [OF REVENUE] may not issue or renew a
4 permit except on [UPON] satisfactory proof that (1) the applicant is a
5 municipality, a [OR] qualified organization, or an operator; (2) the
6 activity may be permitted under this chapter; [,] and (3) the issuance
7 of a permit is not detrimental to the best interests of the public.
8 On [UPON] request of the commissioner [OF REVENUE], the applicant
9 shall prove conclusively each of these requirements before a permit
10 may be issued or renewed.

11 * Sec. 14. AS 05.15.140(b) is amended to read:

12 (b) In an application for a permit, a municipality, a [OR]
13 qualified organization, or an operator shall disclose the name and
14 address of each person responsible for the operation of the activity
15 and whether a [ANY] person named

16 (1) has ever been convicted of a felony or gambling misde-
17 meanor; or

18 (2) has a [PROHIBITED] financial interest [, AS DEFINED IN
19 REGULATIONS ADOPTED BY THE COMMISSIONER,] in the operation of the
20 activity except that an operator may be paid compensation for services
21 rendered.

22 * Sec. 15. AS 05.15.140(c) is repealed and reenacted to read:

23 (c) The commissioner may not issue a permit for an activity that
24 is conducted by

25 (1) an operator who has been convicted of a felony or a
26 gambling misdemeanor or who has a financial interest in the activity
27 other than being paid compensation for services rendered;

28 (2) a person whose name and address must be disclosed under
29 (b) of this section who has been convicted of a felony or gambling

1 misdemeanor or who has a financial interest in the activity other than
2 being paid compensation for services rendered.

3 * Sec. 16. AS 05.15.160 is amended to read:

4 Sec. 05.15.160. AUTHORIZED EXPENSES. The only expenses that [NO
5 ITEM OF EXPENSE] may be incurred or paid in connection with the opera-
6 tion of an activity under a permit issued under this chapter are
7 [EXCEPT FOR] bona fide expenses reasonably necessary for

8 (1) goods, wares, and merchandise necessary for the opera-
9 tion of the activity;

10 (2) personal services [RENDERED THAT ARE NOT DIRECTLY OR
11 INDIRECTLY] involved with the operation of the activity, including
12 those [; OR

13 (3) PERSONAL SERVICES INVOLVED WITH THE OPERATION OF THE
14 ACTIVITY PROVIDED THE SERVICES ARE] performed by

15 (A) an employee of the permittee; [MUNICIPALITY, QUALI-
16 FIED ORGANIZATION,] or

17 (B) a consultant hired by the permittee [MUNICIPALITY
18 OR QUALIFIED ORGANIZATION] conducting the activity [AND THE
19 COMPENSATION IS NOT RELATED TO THE RECEIPTS FROM THE ACTIVITY].
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21 * Sec. 17. AS 05.15.160 is amended by adding a new subsection to read:

22 (b) The expenses authorized by (a) of this section may not
23 exceed 25 percent of a permittee's annual gross receipts from the
24 authorized activity.

25 * Sec. 18. AS 05.15 is amended by adding new sections to read:

26 Sec. 05.15.163. NET PROCEEDS. The annual net proceeds of a
27 qualified organization from activities authorized under this chapter
28 may not be less than 15 percent of the organization's annual gross
29 receipts from the activities.

Sec. 05.15.165. OPERATORS. (a) An operator may not operate an