

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6216 SENATE COMMUNITY & REGIONAL AFFAIRS

670

may, however, with the Commission approval have multiple locations throughout the State of Alaska.

(2) Subject to local land use ordinances, the Commission shall be the sole judge of whether approval to conduct wagering at a satellite location shall be granted.

(3) The licensee shall combine the pari-mutuel pool of the satellite locations for the purpose of determining odds and computing payoffs.

NEW SECTION 11 - SATELLITE WAGERS -  
GROSS RECEIPTS - COMMISSION PERCENTAGE

(1) The licensee shall pay to the Commission daily for each authorized day of racing the following applicable percentages of all daily gross receipts of all pari-mutuel machines from satellite wagers on all races -

(a) On a daily handle of one hundred thousand dollars (\$100,000.00) or less, the licensee shall pay to the Commission two percent of the daily gross receipts of pari-mutuel machines from satellite wagers;

(b) On a daily handle of one hundred thousand and one dollars (\$100,001.00) or more, the licensee shall pay the Commission three percent on daily gross receipts exceeding one hundred thousand dollars (\$100,000.00).

(2) In addition to the amounts set forth in subsection (1) of this section, the licensee shall pay daily to the Commission an addition one percent of gross receipts on all pari-mutuel machines from satellite wagers on exotic races.

(3) As used in this section, exotic races means any multiple wager.

NEW SECTION 12 - SATELLITE WAGERS -  
GROSS RECEIPTS - LICENSEES PERCENTAGE

(1) The licensee may retain for each authorized day of racing the following applicable percentages of all daily gross receipts of all pari-mutuel machines from satellite wagers -

(a) On a daily handle of one hundred thousand dollars (\$100,000.00) or less, the licensee shall retain seventeen percent of such gross receipts;

(b) On a daily handle of one hundred thousand and one dollars (\$100,001.00) or more, the licensee shall retain sixteen percent of such gross receipts in excess of one hundred thousand dollars (\$100,000.00).

(2) In addition to the amounts set forth in subsection (1) of this section, the licensee may retain an additional four percent of the daily gross receipts on all pari-mutuel machines from satellite wagers on exotic races.

(3) Of the amounts retained in subsection (2) of this section, one-half percent shall be used to benefit the Alaska State Fair. To carry out the intent of this section, the State Treasurer is hereby authorized and directed to create a State Fair Fund within the General Fund and the Commissioner is hereby authorized and directed to deposit such funds derived from this section in the designated State Fair Fund.

(4) Of the amounts retained in subsection (2) of this section, one-half percent shall be used to benefit the Alaska cities and/or bur<sup>ro</sup>oughs in which satellite locations are established to carry out the intent of this section, the State Treasurer is hereby authorized and directed to create within the General Fund a Municipal and/or Bur~~ro~~ough Satellite Fund and the Commissioner is hereby authorized and directed to deposit such funds derived from this section in the designated Municipal and Burrough Satellite Fund.

The funds created by subsection (3) and (4) shall be distributed by the Commissioner based upon a formula arrived at after consulting with representatives of Alaska cities and burroughs and state fairs.

#### NEW SECTION 13 - SATELLITE LOCATIONS - FEES

The Commission is authorized to establish and collect an annual fee for each separate satellite location. The fee to be collected from the licensee shall be set to reflect the Commission's expected costs of approving, regulating, and monitoring each satellite location, provided Commission revenues generated under New Section 11(2) from the licensee shall be credited annually towards the licensee's fee assessment under this section.

#### NEW SECTION 14 - SEVERABILITY

In case any part of portion of this chapter shall be held unconstitutional, such holding shall not effect the validity of this chapter as a whole or any other part or portion of this

chapter not adjudged unconstitutional. All acts and conflict  
herewith are hereby repealed.

SIMULCAST RACING ALASKA, INC.

<u>NAME:</u>	<u>YEARS STATE RESIDENCY</u>
Bob Weel	35 Years
Bob Wilson	33 Years
Bob McGrane	32 Years
Andy Milner	30 Years
Joy Donelson	26 Years
Don Rostron	27 Years
Tom Barry	19 Years
Mike Stepp	19 Years
Janet Bolvin	18 Years
Hy Walsky	14 Years
John Bagoy	66 Years
Colleen M. Glenn (Daughter; George Sullivan 66 Year Res.)	
Karl Bachner	62 Years
Chuck Johnson	43 Years
Dorothy Barrett	42 Years
Dick Pope	39 Years
Anita Stewart - Brechan	39 Years
Bob Rocker	38 Years
Derrall McBirney	37 Years
Bill Jones	37 Years

BILL NO: HB 29

DATE: January 18, 1989

TITLE: "An Act establishing the  
Alaska Racing Commission  
and authorizing parimutuel  
wagering..."

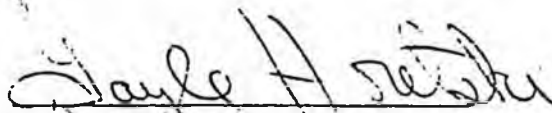
CONTACT: Gayle A. Horetski  
Deputy Commissioner  
465-4322

DEPARTMENT OF  
PUBLIC SAFETY

House Bill 29 will legalize parimutuel betting at horse races and regulate horse racing at sanctioned events for the purpose of allowing parimutuel wagering.

Under Section 2 of the bill, the Department of Public Safety will be required to run criminal history checks on certain individuals. Because the number of persons whose records must be checked is expected to be very small, the Department believes that this impact can be absorbed using existing staff and resources.

The Department of Public Safety has no position on this bill.

  
for Arthur English  
Commissioner

PERMITS

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act establishing the Alaska Racing Commission . . ."  
Sponsor: Representative Larson  
Requestor: House Labor & Commerce

Agency Affected: Department of Law  
BRU: Legal Services  
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	75.0	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	75.0	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	75.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Pegues*

Prepared by: Richard I. Pegues, Director  
Division: Administrative Services

Phone: 465-3672  
Date: January 18, 1989

Approved by Commissioner: Richard I. Pegues  
Agency: Department of Law

Date: January 18, 1989

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

CSHB 29 (L&C)  
HOUSE 2/3/89

This bill amends AS 05 by establishing the Alaska Racing Commission and by authorizing parimutuel wagering at sanctioned horse race events. The bill provides that the commission, and its staff, would be responsible for regulating all sanctioned events under a comprehensive regulatory scheme that covers nearly every aspect of race operations and wagering. It is our view that a substantial body of regulations will need to be drafted and adopted to carry out the purposes of this bill. We are therefore requesting \$75,000, as a one-time expense, to handle the drafting effort. We believe that this is the minimum amount necessary to insure proper regulatory oversight, if this form of legalized wagering is authorized in the state.

Unfortunately, we cannot predict future legal costs that may occur once sanctioned racing is established, because of our total lack of experience in this area. It is conceivable, however, that if racing becomes well established that at least one civil attorney and one criminal attorney, plus support costs, could be required on a continuing basis due to racing activity. Because of the severe budget constraints that have already been felt by the department, and because of further budget reductions that may take place in FY 90, it will be necessary to request additional funds when and if racing activities so warrant.

FISCAL NOTE

REQUEST:

Revision Date: 4/11/89  
Title: "An Act establishing the Alaska Racing Commission..."  
Sponsor: Representative Larson  
Requestor: Representative Larson

Agency Affected: Public Safety  
BRU: Alaska State Troopers  
Component: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Under Section 2 of the bill, the Department of Public Safety will be required to run criminal history checks on certain individuals. Because the number of persons whose records must be checked is expected to be very small, the Department believes that this impact can be absorbed using existing staff and resources.

Prepared by: Gavle A. Horetski, Deputy Commissioner  
Division: Office of the Commissioner

Phone: 465-4322  
Date: 4/11/89

Approved by Commissioner: *L.A. H.* Arthur English  
Agency: Department of Public Safety

Date: 4/11/89

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1989

SUBJECT: Off-track Gambling  
CSHB 29( )

TO: Senator Bettye Fahrenkamp

FROM: Terri Lauterbach *Terri*  
Legislative Counsel

Enclosed is a draft of a blank CS for HB 29. It includes the material on off-track gambling in a separate article, as you requested. It uses the material you submitted, with the following exceptions:

- (1) The structure of the Alaska Racing Commission as it already existed in HB 29 is used rather than setting up a separate commission for the off-track licensing.
- (2) I did not use the obviously unconstitutional 5-year durational residency requirement for persons who wish to be licensed to hold off-track events.
- (3) The attempted dedication of funds in the submitted material has been changed to the usual language requiring separate accounting for the funds and discretionary appropriation of the funds for the desired purpose.

I have not been able to contact Mr. Dirkin. Since you seem interested in having a draft as soon as possible, I am sending it to you now so that Mr. Dirkin can have the benefit of the actual language in front of him if you wish to have him review the bill.

Please let me know if I can be of further assistance.

TL:kb  
wkk2/059

Enclosure

SYNOPSIS - CS HOUSE BILL 29

HB 29 PROVIDES FOR THE ESTABLISHMENT OF AN ALASKA RACING COMMISSION AND DELINEATES THE REQUIREMENTS FOR THE CONDUCT OF "RACE MEETS". "RACE MEETS" MEANING THE ACTUAL PERFORMANCE OF LIVE HORSES RACING AT A TRACK FACILITY APPROVED BY THE APPROPRIATE STATE COMMISSION AND CONDUCTED BY A LICENSED RACE MEET OPERATOR IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. MUCH INFORMATION HAS ALREADY BEEN AVAILABLE ON THIS SECTION OF THE BILL SO THIS REPORT WILL CONCENTRATE MORE FULLY ON THAT PORTION OF THE BILL COMMENCING WITH ARTICLE 3, "OFF TRACK EVENTS".

THIS "OFF TRACK EVENTS" LEGISLATION IS SIMILAR TO THAT WHICH IS NOW IN EXISTENCE IN SOME 35 STATES. IT ALLOWS AN "OFF TRACK EVENT" LICENSEE TO PROVIDE FOR THE PUBLIC, SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE COMMISSION, FACILITIES WHEREIN ONE CAN WATCH LIVE RACING FROM STATES SUCH AS WASHINGTON AND CALIFORNIA MUCH IN THE SAME MANNER AS YOU VIEW YOUR TELEVISION AT HOME. THE THREE MAIN DIFFERENCES BEING (1) THE TELEVISION SCREENS WOULD BE LOCATED IN A SEPERATE BUSINESS FACILITY SIMILAR TO A RESTAURANT LOUNGE. (2) THE TELECAST WOULD BE VIEWED SIMULTANEOUSLY WITH ITS HAPPENING AT THE ORIGINATING RACE TRACK THROUGH THE TECHNOLOGY OF SATELLITE COMMUNICATIONS AND, (3) ONE WOULD BE PERMITTED TO MAKE WAGERS ON THE OUTCOME OF EACH RACE WITH ALL WAGERS REGISTERED INTO AND ALL PAYOFFS DETERMINED BY SOPHISTICATED COMPUTER SYSTEMS DESIGNED SPECIFICALLY FOR SUCH PURPOSE, EXACTLY AS ONE WOULD PARTICIPATE WERE HE/SHE ACTUALLY AT THE RACE TRACK.

LICENSEE'S SHARE

THE LEGISLATION DIRECTS THAT A MAXIMUM OF 17% OF THE DAILY GROSS RECEIPTS BE RETAINED BY THE LICENSEE FOR COSTS OF OPERATION AND PROFIT. THIS, COUPLED WITH THE 3% PROVIDED FOR STATE TAXES ASSURES A RETURN OF 80% TO THE PARTICIPANTS.

STATE REVENUE

THE LEGISLATION DIRECTS A DAILY MUTUEL TAX ON "OFF TRACK EVENTS" OF 2% OF THE FIRST \$100,000 OF WAGERING AND 3% OF WAGERING IN EXCESS OF \$100,000. ADDITIONALLY, 1% OF ALL EXOTIC (MULTIPLE WAGERS ie., DAILY DOUBLE, EXACTA, QUINELLA, PICK SIX, ETC.) WAGERING. ALL PAYMENTS ARE REMITTED ON A DAILY BASIS. ESTIMATED FISCAL IMPACT ON THE STATE OF ALASKA IS:

TOTAL DAILY HANDLE	\$150,000	
2% TAX ON \$100,000		\$2,000 per day
3% TAX ON 50,000		1,500 per day
1% TAX ON EXOTIC RACES 60,000		600 per day
(EXOTICS COMPRISE 40% OF TOTAL HANDLE BY NATIONAL AVERAGE)		\$4,100 per day
ANTICIPATED DAYS OF OPERATION		300
		<u>\$1,230,000 PER YEAR</u>

ADDITIONAL REVENUES WILL BE REALIZED FROM ADMISSION TAXES, FOOD AND BEVERAGE TAXES, AND CORPORATION INCOME TAX.

EMPLOYMENT

THE CREATION OF 30 TO 50 NEW JOBS IS CONTEMPLATED, DEPENDING ON THE DEGREE OF PUBLIC ACCEPTANCE.

ADDITIONAL BENEFICIAL CONSIDERATIONS

BENEFIT TOURISM EFFORTS BY PROVIDING RECREATION AND ENTERTAINMENT OPTIO'S. PROVIDE ENTERTAINMENT TIE-IN WITH SPORTS COMPLEX DEVELOPMENT PROPOSED AT EAGLE RIVER AND HATCHER PASS AS WELL AS ALYESKA.

COULD BE USED AS A NETWORK TO SIMULCAST PALMER AND OTHER FAIRGROUND RACES THROUGHOUT ALASKA BENEFITING THE FAIR CIRCUIT WITH ENHANCED PARIMUTUEL HANDLE. COULD BE ADAPTED TO INCLUDE FUR RENDEZVOUS, FAIRBANKS ICE CARNIVAL, AND IDITAROD DOG RACES FOR THE PURPOSE OF DEVELOPING PURSE MONEY.



"OFF TRACK EVENT" FACILITY - BELLINGHAM, WA.

U.S. Postage  
PAID  
Bulk Rate  
Permit No. 9556  
Seattle, WA

# 12th Annual SHOWCASE 1989



Wildwood  
Willie

## Bring Your Lucky Charm. . .

Because this year, in addition to good food and good company, we'll be holding a stallion seasons drawing at our yearly showcase. All you have to do is be on hand for the food and fun and you'll be eligible to win a 1990 breeding season to **CAPT. DON, AURIUM, BABY CHILE, LOCUST BAYOU, or HANDSOME ONE.**

Place: **Wildwood Farm**

Date: **Sunday, October 1st**

Time: **Noon 'til 5:00 p.m.**

Lunch: **Salmon Bar-B-Que**  
Served at 12:00 noon

Your Hosts: **Bill & Barbara Black**

### Wildwood Farm Stallions for 1990

#### AURIUM

(Mr. Prospector x Barely Even, by Creme de la Creme)

#### BABY CHILE

(Medaille D'or x Sunny Ruler, by Sir Ruler)

#### CAPT. DON

(Don B. x Gay Millie, by My Host)

#### FAMILY PHYSICIAN

(Dr. Fager x Look Ma, by Native Dancer)

#### GALLANT BEST

(Best Turn x Gallant Fashion, by Gallant Man)

#### HANDSOME ONE

(Cougar II x She's Beautiful, by On-and-On)

#### HOLY WAR

(Damascus x Kingsland, by Bold Ruler)

#### LOCUST BAYOU

(Majestic Prince x Myrtlewood Beauty, by Never Bend)

#### PIRATEER

(Roberto x Joans Paris, by Chieftain)



**Wildwood Farm**

Bill & Barbara Black  
2326 N. Happy Valley Rd.  
Oak Harbor Washington 98277

**Wildwood Farm**

2326 N. Happy Valley Rd., Oak Harbor, WA 98277 • (206) 679-3474  
Breeding • Boarding • Lay Ups • Sales Preparation • Breeding & Training

## Wildwood Farm Features...

### Breaking & Training

Horses of all ages in our all-weather 75-stall barn, complete with indoor 66' x 120' arena, surgery room and 6-horse overhead walker. Make an appointment now for sets beginning in October, November or January.

### Full Sales Preparation & Representation

Bill Black will be available to discuss either buying or selling in California, Kentucky, Washington, Florida, etc.

NOW ACCEPTING CONSIGNMENTS  
FOR THE

W.T.B.S.C. WINTER MIXED SALE.



## ASK ABOUT WILDWOOD FARM RACING SYNDICATES

We are now in the process of forming several syndicates for next year's racing season.

# Wildwood Farm Stallions for 1990

## AURIUM

A son of MR PROSPECTOR, out of \$300,604 stakes winner BARELY EVEN from one of America's most productive female families. Dam of four stake winners, including Grade One Juvenile winner ONE OF A KLEIN. AURIUM offers Washington breeders a chance to breed to one of North America's best bred sons of MR. PROSPECTOR. MR. PROSPECTOR, the world's leading sire in 1988, is also the sire of the 7th leading sire FAPPIANO, and current leading sires MISWAKI, MAEVUS (sire of undefeated 2YO sensation KING GLORIOUS, DISTINCTIVE PRO, and CONQUISTADOR CIELO.

Property of a syndicate.

## BABY CHILE

Stakes winner and GR-3 stakes placed of \$109,910 by champion MEDAILLE D'OR. Half brother to MORPHY (SP \$116,786.) and to WELL CONTENT, dam of SW TWO TIMIN TONY. BABY CHILE brings to the Northwest the blood of the great champion and triple crown winner SECRETARIAT and the champion race mare and great producer FANFRELUCHE, who is by NORTHERN DANCER.

BABY CHILE will stand his first full season in 1990.

Property of Kelly Bensley.

## CAPT. DON

A versatile multiple SW of 17 races and \$353,723. CAPT. DON's progeny have proven themselves against high-quality competition going both short and long. Sire of 1988 3YR old filly of the year NIFTY MISTY DAWN, (SW \$99,192), HOLDER ME (SW \$100,00) and CASH BUYER (SW \$32,000). In 1989, he has out produced the stakes horse CAPT. DON C. and the good 3YR old sprinter SMOKING COWE.

Property of a syndicate.

## GALLANT BEST

Sire of champion sprinter and 1988 Horse of the Year GALLANT SAILOR, REVE DU CHAMPION (Champion 2YR old, 3YR old and Horse of the year in British Columbia) and SW's DONALDA, LET'S CALL IT RONI and KELLER SPECIAL. His 12 2YR olds winners ranked him as Washington's leader and his \$743,600 ranked him 2nd in total monies won for 1988 with only four crops to race. In 1989, he currently ranks 3rd (7-9-89) in total monies won. His good 3YO and colt CAPT. QUICKSILVER just ran 2nd, beaten a neck in the \$100,00 Canadian Derby. Property of a Syndicate.

## HANDSOME ONE

By year-end Champion and sire of Kentucky Derby winner GATO DEL SOL (winner of \$1,340,107). HANDSOME ONE proved a major winner of stakes and \$387,575. Soundness and durability were his hallmarks as he raced from two through seven winning or placing in 26 races while competing against top-flight competition in Southern California at Santa Anita and Hollywood Park. A half-brother to Gr.I SW and sire FORCETEN, HANDSOME ONE's first foals are 2YR olds in 1989 and are a sharp group. Property of a Syndicate.

## HOLY WAR

Sire of 1989 SW and track record holder (6 furlongs 1:07.3, Golden Gate), AMBESSA (SW \$111,483), DO RIGHT BY DUDLEY (SW \$147,311) and LAND WAR, (SW \$21,777). In 1988, HOLY WAR sired Horse of the Meet at Playfair, IWILLGETUIN THE END (SW \$62,772) and SW STREE I WAR. While ending the year 9th in total monies won. His 2YR olds in 1988 won \$129,558, ranking him 3RD on the Juvenile list. In 1989, HOLY WAR is currently in the top 15 on the leading sires list for money won, number of winners and lifetime sires of Juveniles. Property of a Syndicate.

## LOCUST BAYOU

By Kentucky Derby winner and Champion Sire MAJESTIC PRINCE (by RAISE A NATIVE), LOCUST BAYOU was a consistent stakes winner, winning or placing in 9 of 12 starts at 2,3, and 4. From one of America's great sire lines and stemming from the foundation mare MYRTLEWOOD. LOCUST BAYOU has the pedigree, race record, and conformation, necessary ingredients to become a successful sire. His first foals are yearlings of 1989 and are very good lookers. Property of Loblolly Stable.

## PIRATEER

Sire of SARATOGA PASSAGE, Washington's all time leading money earner of \$653,712, Champion 2 year old and Horse of the year in 1987, Washington's only Gr.I winning colt, having won the Gr I Norfolk as a two year old and the Gr. I Eddie Read Handicap as a 4 year old. LAFEET LAFEST is a stakes winner who now has earned \$123,000 and also the good fillies PIRATE ANNIE (\$123,500) and VELVETEEN (\$139,025). In 1980, he currently ranks 7th (7-9-89) in total monies won and in the top 20 in number of winners. Property of a Syndicate.

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing off-track parimutuel racing as  
7 charitable gaming."

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

9 \* Section 1. AS 05.15.060 is amended by adding a new paragraph to read:

10 (13) the determination of the percentage of total wagers in  
11 an off-track parimutuel wagering event that must be distributed to the  
12 holders of tickets on winning horses or combinations of horses; the  
13 department may differentiate between the total wagers involving com-  
14 binations of horses and the total wagers involving a single horse, and  
15 may authorize the permittee or operator to retain breakage not to  
16 exceed 20 percent of the total pool in a race.

17 \* Sec. 2. AS 05.15.100(a) is amended to read:

18 (a) The commissioner may issue a permit to a municipality or  
19 qualified organization. The permit gives the municipality or quali-  
20 fied organization the privilege of conducting bingo, raffles and  
21 lotteries, pull-tab games, ice classics, rain classics, goose clas-  
22 sics, mercury classics, salmon classics, dog mushers' contests, fish  
23 derbies, off-track parimutuel wagering events, and contests of skill.

24 \* Sec. 3. AS 05.15.115(c) is amended to read:

25 (c) A permittee may not contract with more than one operator at  
26 a time to conduct the same type of activity. For the purposes of this  
27 subsection, bingo games, raffles, lotteries, pull-tab games, ice  
28 classics, rain classics, goose classics, mercury classics, salmon  
29 classics, dog mushers' contests, off-track parimutuel

1        wagering, contests of skill, and all activities permitted under  
2 AS 05.15.100(b) are each a different type of activity.

3 \* Sec. 4. AS 05.15.128 is amended by adding a new subsection to read:

4            (c) Except as provided in this subsection, subsections (a) and  
5 (b) of this section do not apply to the extent an operator is conduct-  
6 ing off-track parimutuel wagering on behalf of a permittee. The  
7 department shall adopt regulations specifying the percentage of  
8 adjusted gross income from off-track parimutuel wagering that an  
9 operator must pay to a permittee. The department shall revoke the  
10 license of an operator who fails to comply with these regulations for  
11 two consecutive quarters. The operator may appeal the revocation as  
12 provided in (b) of this section.

13 \* Sec. 5. AS 05.15.160(a) is amended to read:

14            (a) The only expenses that may be incurred or paid in connection  
15 with the operation of an activity under a permit issued under this  
16 chapter are bona fide expenses reasonably necessary for

17                    (1) goods, wares, [AND] merchandise, and, in the case of  
18 off-track parimutuel wagering, televising rights, necessary for the  
19 operation of the activity;

20                    (2) personal services involved with the operation of the  
21 activity, including those performed by

22                                    (A) an employee of the permittee; or

23                                    (B) an operator hired by the permittee to conduct the  
24 activity if the compensation is not related to the receipts from  
25 the activity.

26 \* Sec. 6. AS 05.15.180(a) is amended to read:

27            (a) Except as provided in AS 05.15.100(b), this chapter does not  
28 authorize the use of playing cards, dice, roulette wheels, coin-  
29 operated instruments or machines, or other objects or instruments

1 used, designed, or intended primarily for gaming or gambling or any  
2 other method or implement not expressly authorized by the commission-  
3 er. Equipment for the processing of parimutuel wagers may be used in  
4 off-track parimutuel wagering.

5 \* Sec. 7. AS 05.15.180(b) is amended to read:

6 (b) With the exception of raffles, lotteries, bingo games, pull-  
7 tab games, rain classics, goose classics, mercury classics, salmon  
8 classics, off-track parimutuel wagering, and other activities author-  
9 ized under AS 05.15.100(b), an activity may not be licensed under this  
10 chapter unless it existed in the state in substantially the same form  
11 and was conducted in substantially the same manner before January 1,  
12 1959.

13 \* Sec. 8. AS 05.15.180(f) is amended to read:

14 (f) A person under the age of 19 years may not play a bingo game  
15 or engage in off-track parimutuel wagering.

16 \* Sec. 9. AS 05.15.180(g) is amended to read:

17 (g) A municipality or a qualified organization may award a  
18 maximum of \$1,000,000 in prizes each year in activities authorized  
19 under this chapter; however, if a municipality or a qualified organi-  
20 zation contracts with an operator to conduct on its behalf activities  
21 authorized under this chapter, the municipality or qualified organiza-  
22 tion may award a maximum of \$500,000 in prizes each year. In this  
23 subsection, "activities authorized under this chapter" means all  
24 activities subject to this chapter other than bingo and off-track  
25 parimutuel wagering.

26 \* Sec. 10. AS 05.15.210 is amended by adding new paragraphs to read:

27 (35) "breakage" means the odd cents by which the amount  
28 payable on each dollar wagered in an off-track parimutuel wagering  
29 event exceeds a multiple of 10 cents;

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(36) "off-track parimutuel wagering" means a form of wagering on the outcome of horse races shown by closed-circuit television at a location different from the location where the race takes place in which those who wager personally purchase tickets of various denominations on a horse or combination of horses and all wagers for each race are pooled and held by the race televisor for distribution; when the outcome of the race has been decided, the race televisor distributes a percentage of the total wagers, according to regulations adopted by the department, to the holders of tickets on the winning horses or combination of horses.

ROUGH DRAFT

FOR AN ACT ENTITLED: "AN ACT AUTHORIZING OFF TRACK PARIMUTUEL HORSE RACING AS CHARITABLE GAMING."

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

\* Section 1. AS 05.15.020 is amended by adding a new subsection:

c. A parimutuel operator shall pay a fee to the Department of 1% of the gross receipts. The fee shall be paid every four weeks or at the time of any change of authorizing permittee.

\* Section 2. AS 05.15.100 (a) is amended to read:

(a) The Commissioner may issue a permit to a Municipality or qualified organization. The permit gives the Municipality or qualified organization the privilege of conducting bingo, raffles and lotteries, pull-tab games, ice classics, dog mushers contests, fish derbies, off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering events and contests of skill.

\* Section 3 AS 05.15.115 (c) is amended to read:

(c) A permittee may not contract with more than one operator at a time to conduct the same type of activity. For the purposes of this subsection, bingo games, raffles, lotteries, pull-tab games, ice classics, dog mushers contests, fish derbies, off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering, contests of skill, and all activities permitted under AS 05.15.100 (b) are each a different type of activity.

\* Section 4 AS 05.15.128 is amended by adding a new subsection to read:

(c) Except as provided in this subsection, subsections (a) and (b) of this section do not apply to the extent an operator is conducting off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering on behalf of permittee.

1. A parimutuel operator licensee shall pay to each authorizing permittee two (2) percent of all daily gross receipts or thirty (30) percent of the net profit, whichever is greater.

2. A parimutuel operator licensee shall replace the authorizing permittee every four weeks or at any time the gross receipts for any authorizing permittee reaches \$3,000,000, whichever occurs first.

3. A parimutuel operator licensee may retain from daily gross receipts:

- a. 18 percent of all daily gross receipts
- b. An additional 5 percent of gross receipts from multiple wagers

The Department shall revoke the license of an operator who fails to comply with these regulations for two consecutive quarters. The operator may appeal the revocation as provided in (b) of this section.

\* Section 5 AS 05.15.160 (a) is amended to read:

(a) The only expenses that may be incurred or paid in connection with the operation of an activity under a permit issued under this chapter are bona fide expenses reasonably necessary for

(1) goods, wares, and merchandise, and, in the case of off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering, television rights, necessary for the operation of the activity

(2) personal services involved with the operation of the activity, including those performed by

- (A) an employee of the permittee; or
- (B) an operator hired by the permittee to conduct the activity if the compensation is not related to the receipts from the activity.

\* Section 6 AS 05.15.180 (A) is amended to read:

(a) Except as provided in AS 05.15.100 (b), this chapter does not authorize the use of playing cards, dice, roulette wheels, coin operated instruments or machines, or other objects or instruments used, designed, or intended primarily for gaming or gambling or any other method or implement not expressly authorized by the Commissioner. Equipment for the processing of parimutuel wagers may be used in off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering.

\* Section 7 AS 05.15.180 (b) is amended to read:

(b) With the exception of raffles, lotteries, bingo games, pull-tab games, fair classics, goose classics, mercury classics, salmon classics, off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering and other activities authorized under AS 05.15.100 (b), an activity may not be licensed under this chapter unless it existed in the State in substantially the same form and was conducted in substantially the same manner before January 1, 1959.

\* Section 8 AS 05.15.180 (f) is amended to read:

(f) A person under the age of 21 years may not play a bingo game or engage in off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering.

\* Section 9 AS 05.15.180 (g) is amended to read:

(g) A Municipality or a qualified organization may award a maximum of \$1,000,000 in prizes each year in activities authorized under this chapter; however, if a Municipality or a qualified organization contracts with an operator to conduct on its behalf activities authorized under this chapter, the Municipality or qualified organization may award a maximum of \$500,000 in prizes each year. In this subsection, "activities authorized under this chapter" means all activities subject to this chapter other than bingo and off-track Thoroughbred horses, Standard bred and Quarter horses race parimutuel wagering.

\* Section 10 AS 05.15.210 is amended by adding new paragraphs to read:

(35) "Breakage" means the odd cents by which the amount payable on each dollar wagered in an off-track parimutuel wagering event exceeds a multiple of 10 cents;

(36) "off-track parimutuel wagering" means a form of wagering on the outcome of horse races shown by closed circuit television at a location different from the location where the race takes place in which those who wager personally purchase tickets of various denominations on a horse or combination of horses and all wagers for each race are pooled and held by the race televisior for distribution; when the outcome of the race has been decided, the race televisior distributes a percentage of the total wagers to the holders of tickets on the winning horses or combination of horses.

1 IN THE SENATE

2 SENATE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing off-track parimutuel racing as  
7 charitable gaming."

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

9 \* Section 1. AS 05.15.060 is amended by adding a new paragraph to read:

10 (13) the determination of the percentage of total wagers in  
11 an off-track parimutuel wagering event that must be distributed to the  
12 holders of tickets on winning horses or combinations of horses; the  
13 department may differentiate between the total wagers involving com-  
14 binations of horses and the total wagers involving a single horse, and  
15 may authorize the permittee or operator to retain breakage not to  
16 exceed 20 percent of the total pool in a race.

17 \* Sec. 2. AS 05.15.100(a) is amended to read:

18 (a) The commissioner may issue a permit to a municipality or  
19 qualified organization. The permit gives the municipality or quali-  
20 fied organization the privilege of conducting bingo, raffles and  
21 lotteries, pull-tab games, ice classics, rain classics, goose clas-  
22 sics, mercury classics, salmon classics, dog mushers' contests, fish  
23 derbies, off-track parimutuel wagering events, and contests of skill.

24 \* Sec. 3. AS 05.15.115(c) is amended to read:

25 (c) A permittee may not contract with more than one operator at  
26 a time to conduct the same type of activity. For the purposes of this  
27 subsection, bingo games, raffles, lotteries, pull-tab games, ice  
28 classics, rain classics, goose classics, mercury classics, salmon  
29 classics, dog mushers' contests, fish derbies, off-track parimutuel

1 wagering, contests of skill, and all activities permitted under  
2 AS 05.15.100(b) are each a different type of activity.

3 \* Sec. 4. AS 05.15.128 is amended by adding a new subsection to read:

4 (c) Except as provided in this subsection, subsections (a) and  
5 (b) of this section do not apply to the extent an operator is conduct-  
6 ing off-track parimutuel wagering on behalf of a permittee. The  
7 department shall adopt regulations specifying the percentage of  
8 adjusted gross income from off-track parimutuel wagering that an  
9 operator must pay to a permittee. The department shall revoke the  
10 license of an operator who fails to comply with these regulations for  
11 two consecutive quarters. The operator may appeal the revocation as  
12 provided in (b) of this section.

13 \* Sec. 5. AS 05.15.160(a) is amended to read:

14 (a) The only expenses that may be incurred or paid in connection  
15 with the operation of an activity under a permit issued under this  
16 chapter are bona fide expenses reasonably necessary for

17 (1) goods, wares, [AND] merchandise, and, in the case of  
18 off-track parimutuel wagering, televising rights, necessary for the  
19 operation of the activity;

20 (2) personal services involved with the operation of the  
21 activity, including those performed by

22 (A) an employee of the permittee; or

23 (B) an operator hired by the permittee to conduct the  
24 activity if the compensation is not related to the receipts from  
25 the activity.

26 \* Sec. 6. AS 05.15.180(a) is amended to read:

27 (a) Except as provided in AS 05.15.100(b), this chapter does not  
28 authorize the use of playing cards, dice, roulette wheels, coin-  
29 operated instruments or machines, or other objects or instruments

1 used, designed, or intended primarily for gaming or gambling or any  
2 other method or implement not expressly authorized by the commission-  
3 er. Equipment for the processing of parimutuel wagers may be used in  
4 off-track parimutuel wagering.

5 \* Sec. 7. AS 05.15.180(b) is amended to read:

6 (b) With the exception of raffles, lotteries, bingo games, pull-  
7 tab games, rain classics, goose classics, mercury classics, salmon  
8 classics, off-track parimutuel wagering, and other activities author-  
9 ized under AS 05.15.100(b), an activity may not be licensed under this  
10 chapter unless it existed in the state in substantially the same form  
11 and was conducted in substantially the same manner before January 1,  
12 1959.

13 \* Sec. 8. AS 05.15.180(f) is amended to read:

14 (f) A person under the age of 19 years may not play a bingo game  
15 or engage in off-track parimutuel wagering.

16 \* Sec. 9. AS 05.15.180(g) is amended to read:

17 (g) A municipality or a qualified organization may award a  
18 maximum of \$1,000,000 in prizes each year in activities authorized  
19 under this chapter; however, if a municipality or a qualified organi-  
20 zation contracts with an operator to conduct on its behalf activities  
21 authorized under this chapter, the municipality or qualified organiza-  
22 tion may award a maximum of \$500,000 in prizes each year. In this  
23 subsection, "activities authorized under this chapter" means all  
24 activities subject to this chapter other than bingo and off-track  
25 parimutuel wagering.

26 \* Sec. 10. AS 05.15.210 is amended by adding new paragraphs to read:

27 (35) "breakage" means the odd cents by which the amount  
28 payable on each dollar wagered in an off-track parimutuel wagering  
29 event exceeds a multiple of 10 cents;

1 (36) "off-track parimutuel wagering" means a form of wager-  
2 ing on the outcome of horse races shown by closed-circuit television  
3 at a location different from the location where the race takes place  
4 in which those who wager personally purchase tickets of various denom-  
5 inations on a horse or combination of horses and all wagers for each  
6 race are pooled and held by the race televisor for distribution; when  
7 the outcome of the race has been decided, the race televisor distrib-  
8 utes a percentage of the total wagers, according to regulations  
9 adopted by the department, to the holders of tickets on the winning  
10 horses or combination of horses.  
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## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Commerce & Economic Dev.  
 Title: Establishing Alaska Racing BRU: Alaska Racing Commission  
Commission and authorizing off-track pari-mutuel wagering  
 Sponsor: Senate C & RA Components: \_\_\_\_\_  
 Requestor: Senate C & RA

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	131.4	326.1	326.1	326.1	326.1	326.1
TRAVEL	9.2	10.6	10.6	10.6	10.6	10.6
CONTRACTUAL	34.2	78.3	78.3	78.3	78.3	78.3
SUPPLIES	2.5	5.0	5.0	5.0	5.0	5.0
EQUIPMENT	20.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>197.3</b>	<b>420.0</b>	<b>420.0</b>	<b>420.0</b>	<b>420.0</b>	<b>420.0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>690.0</b>	<b>2,760.0</b>	<b>2,760.0</b>	<b>2,760.0</b>	<b>2,760.0</b>	<b>2,760.0</b>

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	197.3	420.0	420.0	420.0	420.0	420.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>197.3</b>	<b>420.0</b>	<b>420.0</b>	<b>420.0</b>	<b>420.0</b>	<b>420.0</b>

**POSITIONS:**

FULL-TIME	5	6	6	6	6	6
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

The effective date of SB 279 is July 1, 1990; therefore, no costs would be incurred until FY 91. See attached analysis.

Prepared by: Guy Bell, Director Phone: 465-2505  
 Division: Administrative Services Date: 4-18-90  
 Approved by Commissioner: Larry Merculieff Date: 4-19-90  
 Agency: Department of Commerce & Economic Development

**Distribution (by preparer):**

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

Under Sec. 05.40.100 (e), the Commission may establish an annual fee for each location, which must reflect the cost of regulating off-track betting. Further, the amount of the fee shall be offset by the amount paid to the commission under AS 05.40.110(b) (1% of gross receipts from exotic races). As the Commission will set license fees by regulation, it is not possible at this time to estimate revenues generated by those fees.

The department recommends that Sec. 05.40.110 be amended to include standard program receipt authority language.

This fiscal note assumes that there would be two licensees in the state, with two major facilities, as well as branches in Anchorage, Fairbanks, Juneau and Kodiak.

**FY 91 Expenditure Detail:**

**Personal Services**

Executive Director, Range 24A, 6 months	\$ 37.3
Clerk Typist III, Range 8A, 6 months	14.5
Licensing Examiner, Range 12A, 6 months	17.8
State Satellite Supervisor, Range 21A x 6 months x 2	<u>61.8</u>

Each major location will have a full-time supervisor on site; branch locations will receive frequent but unscheduled visits by a supervisor.

This analysis assumes two major locations the first year and full operation by the second year.

Subtotal	\$131.4
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**Travel**

Three commission meetings in Anchorage at two days each. The travel budget assumes three commissioners are appointed from the Anchorage area, one from Fairbanks and one from Juneau. Staff positions, except some of the supervisors, are located in Anchorage.

Commission meetings	\$ 4.2
Staff travel	<u>5.0</u>
Subtotal	\$ 9.2

**Contractual**

Audits, security, investigator, hearing officer, etc.	\$ 20.0
Postage, communications, printing, advertising, etc.	7.5
Office space (600 sq. ft. @ \$1.85/sq.ft. x 6 mos.)	<u>6.7</u>
Subtotal	\$ 34.2

Supplies	\$ 2.5
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Equipment	\$ 20.0
<b>FY 91 Total General Fund Expenditures</b>	<b>\$197.3</b>

FY 91 Revenue Detail:

Revenue estimates are based on the following for full operation:

Total daily handle \$300,000	
2% tax on \$100,000 =	\$ 2,000/day
3% tax on \$200,000 =	\$ 6,000/day
	\$ 8,000/day
	x 300 days of operation/year
	<u>\$ 2,400,000/year</u>

An additional 1% of the exotic race wagering (40% of total) would produce an additional \$1,200 per day for municipalities and state fairs (AS 05.40.110(b) and (c)), or \$360,000 annually.

2,400,000
<u>360,000</u>
2,760,000

For the first year of operation, this fiscal note assumes that revenues would be one-fourth of the above, or \$690,000.

FY 92 and Beyond Expenditure Detail:

**Personal Services**

Executive Director, Range 24A	\$ 74.3	
Clerk Typist, Range 8B	29.8	
Licensing Examiner, Range 12B (3 @ \$61.8)	36.6	
Satellite Supervisors, Range 21A	<u>185.4</u>	
(Supervisors in each main location, and one who regularly visits each branch)		
Subtotal		<b>\$326.1</b>

**Travel**

Four commission meetings in Anchorage	\$ 5.6	
Director's travel	2.0	
Staff travel	<u>3.0</u>	
Subtotal		<b>\$ 10.6</b>

**Contractual**

Audits, security, investigator, hearing officer	\$ 50.0	
Postage, communications, printing, advertising	15.0	
Office space (600 sq. ft. @ \$1.85/sq.ft. x 12 mos.)	<u>13.3</u>	
Subtotal		<b>\$ 78.3</b>

<b>Supplies</b>	<b>\$ 5.0</b>
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<b>FY 92 and Beyond Total General Fund Expenditures</b>	<b>\$420.0</b>
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FY 92 and Beyond Revenue Detail:

See analysis under FY 91	<b>\$ 2,760,000</b>
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**FISCAL NOTE**

**REQUEST:**

Revision Date: April 26, 1990  
Title: "An act authorizing off-track  
parimutuel racing as charitable gaming."  
Sponsor: Senate C & RA  
Requestor: Senate C & RA

Agency Affected: Department of Law  
BRU: Prosecution, Legal Services

Components: All, Legal Services

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	75.0	-0-	-0-	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>75.0</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	75.0	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS : (Attach a separate page if necessary)**

Please see the attached analysis.

Prepared by: Richard L. Peques Director Phone: 465-3672  
Division: Administrative Services Date: April 26, 1990  
Approved by Commissioner: Richard L. Peques / FOR /  
Douglas B. Bailly, Attorney General Date: April 26, 1990  
Agency: Department of Law

**Distribution (by preparer):**

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 279 (C & RA)

This committee substitute for SB279 substantially revises the original bill, which would have established off-track parimutuel wagering and a Racing Commission. The new version of the bill permits off-track wagering, but would do so under existing law (AS 05.15) governing games of chance and contests of skill conducted by municipalities and qualified not-for-profit organizations.

In view of the difficulties now coming to light concerning existing charitable gaming operations, the department still believes that a substantial body of regulations will need to be drawn in order to insure proper regulatory oversight. Consequently, the department's original request for an outside consultant to accomplish the regulations drafting is continued.

The department cannot predict future legal costs that may occur once off-track wagering is established, because this form of wagering is totally new to Alaska. Currently, nearly all of the time of one of our civil attorney's is being spent assisting the Department of Commerce in its efforts to regulate existing forms of charitable gaming. Because of the large sums that would become involved with off-track wagering, and due to apparent arising problems between permittees and operators, future legal costs could significantly eclipse the current cost for such services. Moreover, the potential for fraud cannot be overlooked and new prosecution services may also be required at some future date. Because of the severe budget constraints already being felt by the Department of Law, it will be necessary to request additional funds at such time as off-track wagering activities require additional legal or prosecution services. Otherwise, effective state regulation of off-track parimutuel wagering will not be possible.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1990

SUBJECT: Bill authorizing off-track betting as charitable gaming  
(Work Order No. 6-2104)

TO: Senator Al Adams  
Attn: Martha Stewart

FROM: John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

Enclosed is a bill that would authorize permittees and operators under AS 05.15 to conduct off-track betting. I have used SB 279 as a general model, but, as you can see, this bill is much simpler than SB 279. One major difference is that SB 279 sets out by statute the various percentages of gross receipts that the off-track license holder must give to the state and may keep for itself, while this bill allows the Department of Commerce and Economic Development to set those percentages by regulation. (The bill does specify that failure of an operator to turn over to the permittee 15% of the gross income from off-track betting will not lead to revocation of the operator's license, since I believe that off-track betting will return a higher percentage of the gross to the bettors than do pull-tabs or bingo.) If you want, I can put the percentages of SB 279 into this bill, although, since the money is now going to a charity, rather than the state, the numbers likely should be different.

Another major difference is that SB 279 would create a racing commission with employees to regulate off-track betting, while this bill would leave the regulatory function with DCED. As long as DCED was adequately funded to handle this function, I do not see the lack of a separate commission as a problem.

Note that SB 279 limits the number of off-track betting permits that can be issued to three (although each of those three can apparently open an unlimited number of locations).

Senator Al Adams  
Page 2  
February 2, 1990

I have not tried to put any limits in this bill, as I figure the expense of equipping and running an off-track operation should create an adequate limit. If you wish I can include a limit, but then there would have to be a mechanism for deciding who gets the limited number of permits.

Under this bill persons under the age of 19 cannot bet. I used 19 because it was already in the law as the minimum age for bingo. It does not make much sense to me - 18 would seem more sensible.

Section 9 of the bill exempts off-track betting from the \$1,000,000 annual ceiling (\$500,000 if there is an operator in charge), as you requested. I think that this is necessary - I don't think an off-track betting operation could possibly succeed if its gross receipts were limited to \$1,000,000 a year, let alone \$500,000.

One area that you might want to include here is beefed-up criminal penalties. Currently violations of AS 05.15 are punishable only as violations (\$300 maximum fine for natural persons) for the first offense, and class B misdemeanors (90 days in jail, \$1000 fine maximum for natural persons) for subsequent violations. Since off-track betting will likely be generating substantially more money than the activities currently covered by AS 05.15, stiffer criminal penalties might be warranted.

If I may be of further assistance, please advise.

JBG:pl  
WKP1/083

Enclosure



# Alaska State Legislature

Senator Mike Szymanski

While in Session:  
P.O. Box V  
Juneau, Alaska 99811  
(907) 465-4978


Interim:  
3111 C Street, Suite 510  
Anchorage, Alaska 99503  
(907) 561-7617

or  
165 E. Parks Highway  
Wasilla, Alaska 99687  
(907) 376-6453

April 30, 1990

## MEMORANDUM

TO: Senator Jan Faiks, Chairman  
Senate Judiciary Committee

FROM: Senator Mike Szymanski 

RE: Request for Hearing

I respectfully request that you schedule CSSB 279 (C&RA), authorizing off-track parimutuel racing as charitable gaming, at the earliest possible date.

Thank you for your consideration.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 12, 1990

SUBJECT: Sectional analysis of SB 279  
(Work Order No. 6-1249)

TO: Senator Mike Szymanski  
Chairman, Senate Community and Regional  
Affairs Committee

FROM: John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

As you requested, enclosed is a section-by-section analysis of SB 279.

Section 1 adds a new chapter to Title 5 (Amusements and Sports) that would authorize and regulate off-track parimutuel wagering. The new chapter, 05.40, would have three articles.

Article 1 creates the Alaska Racing Commission in the Department of Commerce and Economic Development. The commission would have five members, appointed by the governor, with certain qualifications required for three of the five; the members would serve staggered terms of four years. The governor would be authorized to remove a member for cause. Members would receive per diem only.

The commission is charged with 1) adopting regulations on off-track events (televised showings of horse races at other locations, where betting is allowed where the race is televised), including the issuance, suspension and revocation of licenses, the required parimutuel equipment for licensees, and auditing procedures; 2) regulating and supervising off-track events; 3) inspecting and approving the location of off-track events; 4) setting license fees; 5) reporting annually to the legislature; 6) keeping records of off-track events; and 7) supervising the making and distribution of parimutuel pools for off-track events. To enable it to carry out these functions, the commission is authorized to

hire staff and hearing officers and to compel witness testimony and document production. Staff would be in the partially exempt service. All records of the commission would be public records, and all fees received by the commission would go into the general fund. Article 2 of AS 05.40 would require a license for conducting parimutuel wagering at an off-track event. A license could be revoked if its holder violates AS 05.40, and certain persons could not receive one. No more than one license for every 200,000 people in the state may be issued, although one licensee may operate at multiple locations. The commission may assess an annual fee for each location at which an off-track event is held, the fee to reflect the commission's expected costs connected to the location.

Article 2 also provides that the holder of an off-track license pay to the commission each day 2% of the first \$100,000 of gross receipts that day, and 3% of gross receipts above \$100,000. In addition, the holder must pay the commission 1% of gross receipts on exotic races (races where a multiple wager such as a perfecta or an exacta is allowed). The commission shall deposit this money into the general fund, and shall segregate the amount received due to exotic races. The legislature may appropriate one-half of the exotic races money to the Alaska State Fair and one-half to municipalities where off-track events are located. The license holder may retain 17% of the first \$100,000 of daily gross receipts, and 16% of all daily gross receipts above \$100,000. In addition, the holder may retain 4% of the daily gross receipts from exotic races.

Article 2 also prohibits certain acts, and provides for penalties for violations. Among the acts prohibited to members of the public are the circulation of handbooks related to off-track betting, betting other than through the parimutuel method with a license holder, and violating AS 05.40. License holders are prohibited from retaining more than the statutorily set percentages of gross receipts, and computing breakage at points that are not multiples of \$.10.

Article 3 adds some general provisions and definitions. Operations of the commission are subject to the Administrative Procedure Act, and members of the commission are subject to the conflict-of-interest act.

Section 2 of SB 279 requires the Department of Public Safety to ascertain whether commission appointees and applicants

Current population is ~525,000 - this would allow only 2 licenses statewide

dedicated funds? Not with inclusion of "may"

What if all races

Senator Mike Szymanski  
Page 3  
January 12, 1990

for commission employment have been convicted of felonies or gambling offenses.

Section 3 puts commission employees in the partially exempt service.

Section 4 makes commission members subject to the conflict-of-interest law, AS 39.50.

Section 5 makes the commission subject to the administrative adjudication procedures of the Administrative Procedure Act.

Section 6 requires the governor to make initial appointments to the commission within 120 days of the effective date of the bill.

Section 7 makes the bill effective on July 1, 1990.

If I may be of further assistance, please advise.

JG:mi  
wkmi6/026

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 279

This bill amends AS 05 by adding a new chapter that establishes the Alaska Racing Commission and authorizes off-track parimutel wagering. The bill provides that the commission and its staff would be responsible for regulating all aspects of off-track horse racing parimutel wagering, including; licensing, inspection, location, auditing, equipment, making and distributing parimutel pools, and keeping records of all collections and disbursements from off-track events. The bill defines an "off-track event" as an event during which a horse race can be viewed simultaneously at a location different from the location at which the race takes place, and during which the viewers can use a parimutel system to place wagers on the outcome of the race being viewed. It therefore appears that, under the provisions of the bill, parimutel wagering on horse races occurring outside the state could occur in Alaska "horse parlors" via satellite telecommunications. The bill provides that the commission shall adopt its regulations and carryout its regulatory duties in consultation with the attorney general. The bill further provides that the attorney general shall enforce the regulations of the commission.

It is the Department of Law's view that a substantial body of regulations will need to be drafted and adopted in order to implement the bill. A one-time cost of \$75,000 will be required by the department's Legal Services BRU to hire an outside consultant to accomplish this regulations drafting effort. This is probably the minimum amount necessary to insure proper regulatory oversight, if this form of wagering is legalized in the state.

Unfortunately, we cannot predict future legal costs that may occur once off-track wagering is established, because of our total lack of experience in this area. It is conceivable, however, that if parimutel wagering becomes well established that at least one civil attorney and one criminal attorney, plus support costs, could be required on a continuing basis due to off-track wagering activity. Because of the severe budget constraints that have already been felt by the department, and because of further budget reductions that appear likely in FY 90, it will be necessary to request additional funds when and if off-track wagering makes it necessary to do so. Otherwise, state regulation of off-track wagering may not be possible.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "Alaska Racing Commission...off-track parimutuel wagering..."  
 Sponsor: Senate C & RA  
 Requestor: Senate C & RA

Agency Affected: Department of Law  
 BRU: Legal Services  
 Components: Operations

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL			75.0			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>75.0</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	75.0	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Please see the attached analysis.

*Richard I. Pegues*  
 Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: April 24, 1989  
*Richard I. Pegues / FOR*  
 Approved by Commissioner: Douglas B. Bailey, Attorney General Date: April 24, 1989  
 Agency: Department of Law

**Distribution (by preparer):**

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

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU, ALASKA 99811  
707-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 2, 1990

SUBJECT: Bill authorizing off-track betting as charitable gaming  
(Work Order No. 6-2104)

TO: Senator Al Adams  
Attn: Martha Stewart

FROM: John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

Enclosed is a bill that would authorize permittees and operators under AS 05.15 to conduct off-track betting. I have used SB 279 as a general model, but, as you can see, this bill is much simpler than SB 279. One major difference is that SB 279 sets out by statute the various percentages of gross receipts that the off-track license holder must give to the state and may keep for itself, while this bill allows the Department of Commerce and Economic Development to set those percentages by regulation. (The bill does specify that failure of an operator to turn over to the permittee 15% of the gross income from off-track betting will not lead to revocation of the operator's license, since I believe that off-track betting will return a higher percentage of the gross to the bettors than do pull-tabs or bingo.) If you want, I can put the percentages of SB 279 into this bill, although, since the money is now going to a charity, rather than the state, the numbers likely should be different.

Another major difference is that SB 279 would create a racing commission with employees to regulate off-track betting, while this bill would leave the regulatory function with DCED. As long as DCED was adequately funded to handle this function, I do not see the lack of a separate commission as a problem.

Note that SB 279 limits the number of off-track betting permits that can be issued to three (although each of those three can apparently open an unlimited number of locations).

*Percentages to be returned to the state be set by regulations*

*DCED regulates off-track betting not a racing commission*

*No limited number of permits*

Senator Al Adams  
Page 2  
February 2, 1990

I have not tried to put any limits in this bill, as I figure the expense of equipping and running an off-track operation should create an adequate limit. If you wish I can include a limit, but then there would have to be a mechanism for deciding who gets the limited number of permits.

*19 - minimum age to bet*  
Under this bill persons under the age of 19 cannot bet. I used 19 because it was already in the law as the minimum age for bingo. It does not make much sense to me - 18 would seem more sensible.

*Exempt off-track betting from \$1 million ceiling*  
Section 9 of the bill exempts off-track betting from the \$1,000,000 annual ceiling (\$500,000 if there is an operator in charge), as you requested. I think that this is necessary - I don't think an off-track betting operation could possibly succeed if its gross receipts were limited to \$1,000,000 a year, let alone \$500,000.

One area that you might want to include here is beefed-up criminal penalties. Currently violations of AS 05.15 are punishable only as violations (\$300 maximum fine for natural persons) for the first offense, and class B misdemeanors (90 days in jail, \$1000 fine maximum for natural persons) for subsequent violations. Since off-track betting will likely be generating substantially more money than the activities currently covered by AS 05.15, stiffer criminal penalties might be warranted.

If I may be of further assistance, please advise.

JBG:p1  
WKP1/083

Enclosure

6-1249E ✓  
Gaguine  
4/9/90

Original sponsor(s): C&RA Committee

1 IN THE SENATE

BY THE C&RA COMMITTEE

2 CS FOR SENATE BILL NO. 279 (C&RA)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing off-track parimutuel racing as  
7 charitable gaming."

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

9 \* Section 1. AS 05.15.060 is amended by adding a new paragraph to read:

10 (13) the determination of the percentage of total wagers in

11 an off-track parimutuel wagering event that must be distributed to the

12 holders of tickets on winning horses or combinations of horses; the

13 department may differentiate between the total wagers involving com-

14 binations of horses and the total wagers involving a single horse, and

15 may authorize the permittee or operator to retain breakage not to

16 exceed 20 percent of the total pool in a race.

17 \* Sec. 2. AS 05.15.100(a) is amended to read:

18 (a) The commissioner may issue a permit to a municipality or

19 qualified organization. The permit gives the municipality or quali-

20 fied organization the privilege of conducting bingo, raffles and

21 lotteries, pull-tab games, ice classics, rain classics, goose clas-

22 sics, mercury classics, salmon classics, dog mushers' contests, fish

23 derbies, off-track parimutuel wagering events, and contests of skill.

24 \* Sec. 3. AS 05.15.115(c) is amended to read:

25 (c) A permittee may not contract with more than one operator at

26 a time to conduct the same type of activity. For the purposes of this

27 subsection bingo games, raffles, lotteries, pull-tab games, ice

rain classics, goose classics, mercury classics, salmon

og mushers' contests, fish derbies, off-track parimutuel

*Allow DCE  
to adopt  
reg. covering  
percentages*

*Authorizes  
off-track  
betting for  
charities*

*Only 1 operator  
1 location?*

1 wagering, contests of skill, and all activities permitted under  
2 AS 05.15.100(b) are each a different type of activity.

3 \* Sec. 4. AS 05.15.128 is amended by adding a new subsection to read:

4 (c) Except as provided in this subsection, subsections (a) and  
5 (b) of this section do not apply to the extent an operator is conduct-  
6 ing off-track parimutuel wagering on behalf of a permittee. The  
7 department shall adopt regulations specifying the percentage of ad-  
8 justed gross income from off-track parimutuel wagering that an opera-  
9 tor must pay to a permittee. The department shall revoke the license  
10 of an operator who fails to comply with these regulations for two  
11 consecutive quarters. The operator may appeal the revocation as  
12 provided in (b) of this section.

13 \* Sec. 5. AS 05.15.160(a) is amended to read:

14 (a) The only expenses that may be incurred or paid in connection  
15 with the operation of an activity under a permit issued under this  
16 chapter are bona fide expenses reasonably necessary for

17 (1) goods, wares, [AND] merchandise, and, in the case of  
18 off-track parimutuel wagering, televising rights, necessary for the  
19 operation of the activity;

20 (2) personal services involved with the operation of the  
21 activity, including those performed by

22 (A) an employee of the permittee; or

23 (B) an operator hired by the permittee to conduct the  
24 activity if the compensation is not related to the receipts from  
25 the activity.

26 \* Sec. 6. AS 05.15.180(a) is amended to read:

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28 authorize the use of playing cards, dice, roulette wheels, coin-  
29 operated instruments or machines, or other objects or instruments

1 used, designed, or intended primarily for gaming or gambling or any  
2 other method or implement not expressly authorized by the commission-  
3 er. Equipment for the processing of parimutuel wagers may be used in  
4 off-track parimutuel wagering.

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10 chapter unless it existed in the state in substantially the same form  
11 and was conducted in substantially the same manner before January 1,  
12 1959.

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14 (f) A person under the age of 19 years may not play a bingo game  
15 or engage in off-track parimutuel wagering.

16 \* Sec. 9. AS 05.15.180(g) is amended to read:

17 (g) A municipality or a qualified organization may award a  
18 maximum of \$1,000,000 in prizes each year in activities authorized  
19 under this chapter; however, if a municipality or a qualified organi-  
20 zation contracts with an operator to conduct on its behalf activities  
21 authorized under this chapter, the municipality or qualified organiza-  
22 tion may award a maximum of \$50,000 in prizes each year. In this  
23 subsection, "activities authorized under this chapter" means all  
24 activities subject to this chapter other than bingo and off-track  
25 parimutuel wagering.

26 \* Sec. 10. AS 05.15.210 is amended by adding new paragraphs to read:

27 (35) "breakage" means the odd cents by which the amount  
28 payable on each dollar wagered in an off-track parimutuel wagering  
29 event exceeds a multiple of 10 cents;

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(36) "off-track parimutuel wagering" means a form of wagering on the outcome of horse races shown by closed-circuit television at a location different from the location where the race takes place in which those who wager personally purchase tickets of various denominations on a horse or combination of horses and all wagers for each race are pooled and held by the race televisor for distribution; when the outcome of the race has been decided, the race televisor distributes a percentage of the total wagers, according to regulations adopted by the department, to the holders of tickets on the winning horses or combination of horses.

STATE OF ALASKA  
THE LEGISLATURE

POUCH \* STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 12, 1990

SUBJECT: Sectional analysis of SB 279  
(Work Order No. 6-1249)

TO: Senator Mike Szymanski  
Chairman, Senate Community and Regional  
Affairs Committee

FROM: John B. Gaguine <sup>JBG</sup>  
Legislative Counsel

As you requested, enclosed is a section-by-section analysis of SB 279.

Section 1 adds a new chapter to Title 5 (Amusements and Sports) that would authorize and regulate off-track parimutuel wagering. The new chapter, 05.40, would have three articles.

Article 1 creates the Alaska Racing Commission in the Department of Commerce and Economic Development. The commission would have five members, appointed by the governor, with certain qualifications required for three of the five; the members would serve staggered terms of four years. The governor would be authorized to remove a member for cause. Members would receive per diem only.

The commission is charged with 1) adopting regulations on off-track events (televised showings of horse races at other locations, where betting is allowed where the race is televised), including the issuance, suspension and revocation of licenses, the required parimutuel equipment for licensees, and auditing procedures; 2) regulating and supervising off-track events; 3) inspecting and approving the location of off-track events; 4) setting license fees; 5) reporting annually to the legislature; 6) keeping records of off-track events; and 7) supervising the making and distribution of parimutuel pools for off-track events. To enable it to carry out these functions, the commission is authorized to

hire staff and hearing officers and to compel witness testimony and document production. Staff would be in the partially exempt service. All records of the commission would be public records, and all fees received by the commission would go into the general fund. Article 2 of AS 05.40 would require a license for conducting parimutuel wagering at an off-track event. A license could be revoked if its holder violates AS 05.40, and certain persons could not receive one. No more than one license for every 200,000 people in the state may be issued, although one licensee may operate at multiple locations. The commission may assess an annual fee for each location at which an off-track event is held, the fee to reflect the commission's expected costs connected to the location.

Article 2 also provides that the holder of an off-track license pay to the commission each day 2% of the first \$100,000 of gross receipts that day, and 3% of gross receipts above \$100,000. In addition, the holder must pay the commission 1% of gross receipts on exotic races (races where a multiple wager such as a perfecta or an exacta is allowed). The commission shall deposit this money into the general fund, and shall segregate the amount received due to exotic races. The legislature may appropriate one-half of the exotic races money to the Alaska State Fair and one-half to municipalities where off-track events are located. The license holder may retain 17% of the first \$100,000 of daily gross receipts, and 16% of all daily gross receipts above \$100,000. In addition, the holder may retain 4% of the daily gross receipts from exotic races.

Article 2 also prohibits certain acts, and provides for penalties for violations. Among the acts prohibited to members of the public are the circulation of handbooks related to off-track betting, betting other than through the parimutuel method with a license holder, and violating AS 05.40. License holders are prohibited from retaining more than the statutorily set percentages of gross receipts, and computing breakage at points that are not multiples of \$.10.

Article 3 adds some general provisions and definitions. Operations of the commission are subject to the Administrative Procedure Act, and members of the commission are subject to the conflict-of-interest act.

Section 2 of SB 279 requires the Department of Public Safety to ascertain whether commission appointees and applicants

Senator Mike Szymanski  
Page 3  
January 12, 1990

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If I may be of further assistance, please advise.

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wkmi6/026

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BY THE C&RA COMMITTEE

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3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

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9 ed by the department, to the holders of tickets on the winning horses  
0 or combination of horses.

**COMMUNITY AND REGIONAL AFFAIRS COMMITTEE  
TUESDAY  
APRIL 25, 1989**

**SENATE BILL 279, ESTABLISHING THE ALASKA RACING COMMISSION AND  
AUTHORIZING OFF-TRACK PARIMUTUEL WAGERING AND PROVIDING FOR  
AN EFFECTIVE DATE.**

**SPONSOR: C&RA COMMITTEE**

**FISCAL: COMMERCE \$184.7 W/ \$307.5 REVENUE IN FY90**

**THE NEXT BILL BEFORE THE COMMITTEE IS SENATE BILL 279,  
ESTABLISHING THE ALASKA RACING COMMISSION AND AUTHORIZING  
OFF-TRACK PARIMUTUEL WAGERING AND PROVIDING FOR AN EFFECTIVE  
DATE.**

**THIS BILL IS GOING INTO A SUB-COMMITTEE WITH SENATOR PEARCE AS  
CHAIR AND ...**



STATE OF WASHINGTON

WASHINGTON HORSE RACING COMMISSION

210 E. Union Ave. • Olympia, Washington 98501 • (206) 753-3741

*North*

April 7, 1989

The Honorable Senator Al Adams  
Capitol Building  
Room 423  
Juneau, Alaska 99811

Dear Senator Adams:

In regard to your Committee question on the amount of revenue which would occur if the satellite amendment were to become law, I would reply as follows.

Based on the Alaskan population of between 500,000 - 550,000 and four to six locations and further based on the formula in the Amendment and on the projections submitted to the Committee, I would estimate a daily gross of \$300,000. The revenue to the State would be \$8,000 per day ( Two percent of \$100,000, three percent of \$200,000), plus one percent on the exotic race wagering (Forty percent of the total) which would produce an additional \$1,200 per day for cities and state fairs.

Yours very truly,

*John Crowley/ps*

John Crowley  
Executive Secretary

JC:ps

SYNOPSIS - CS HOUSE BILL 29

HB 29 PROVIDES FOR THE ESTABLISHMENT OF AN ALASKA RACING COMMISSION AND DELINEATES THE REQUIREMENTS FOR THE CONDUCT OF "RACE MEETS". "RACE MEETS" MEANING THE ACTUAL PERFORMANCE OF LIVE HORSES RACING AT A TRACK FACILITY APPROVED BY THE APPROPRIATE STATE COMMISSION AND CONDUCTED BY A LICENSED RACE MEET OPERATOR IN ACCORDANCE WITH ALL APPLICABLE LAWS AND REGULATIONS. MUCH INFORMATION HAS ALREADY BEEN AVAILABLE ON THIS SECTION OF THE BILL SO THIS REPORT WILL CONCENTRATE MORE FULLY ON THAT PORTION OF THE BILL COMMENCING WITH ARTICLE 3, "OFF TRACK EVENTS".

THIS "OFF TRACK EVENTS" LEGISLATION IS SIMILAR TO THAT WHICH IS NOW IN EXISTENCE IN SOME 15 STATES. IT ALLOWS AN "OFF TRACK EVENT" LICENSEE TO PROVIDE FOR THE PUBLIC, SUBJECT TO THE RULES AND REGULATIONS PROMULGATED BY THE COMMISSION, FACILITIES WHEREIN ONE CAN WATCH LIVE RACING FROM STATES SUCH AS WASHINGTON AND CALIFORNIA MUCH IN THE SAME MANNER AS YOU VIEW YOUR TELEVISION AT HOME. THE THREE MAIN DIFFERENCES BEING (1) THE TELEVISION SCREENS WOULD BE LOCATED IN A SEPERATE BUSINESS FACILITY SIMILAR TO A RESTAURANT LOUNGE, (2) THE TELECAST WOULD BE VIEWED SIMULTANEOUSLY WITH ITS HAPPENING AT THE ORIGINATING RACE TRACK THROUGH THE TECHNOLOGY OF SATELLITE COMMUNICATIONS AND, (3) ONE WOULD BE PERMITTED TO MAKE WAGERS ON THE OUTCOME OF EACH RACE WITH ALL WAGERS REGISTERED INTO AND ALL PAYOFFS DETERMINED BY SOPHISTICATED COMPUTER SYSTEMS DESIGNED SPECIFICALLY FOR SUCH PURPOSE, EXACTLY AS ONE WOULD PARTICIPATE WERE HE/SHE ACTUALLY AT THE RACE TRACK.

LICENSEE'S SHARE

THE LEGISLATION DIRECTS THAT A MAXIMUM OF 17% OF THE DAILY GROSS RECEIPTS BE RETAINED BY THE LICENSEE FOR COSTS OF OPERATION AND PROFIT. THIS, COUPLED WITH THE 3% PROVIDED FOR STATE TAXES ASSURES A RETURN OF 80% TO THE PARTICIPANTS.

STATE REVENUE

THE LEGISLATION DIRECTS A DAILY MUTUEL TAX ON "OFF TRACK EVENTS" OF 2% OF THE FIRST \$100,000 OF WAGERING AND 3% OF WAGERING IN EXCESS OF \$100,000. ADDITIONALLY, 1% OF ALL EXOTIC (MULTIPLE WAGERS I.E., DAILY DOUBLE, EXACTA, QUINELLA, PICK SIX, ETC.) WAGERING. ALL PAYMENTS ARE REMITTED ON A DAILY BASIS. ESTIMATED FISCAL IMPACT ON THE STATE OF ALASKA IS:

TOTAL DAILY HANDLE	\$150,000	
2% TAX ON \$100,000		\$2,000 per day
3% TAX ON 50,000		1,500 per day
1% TAX ON EXOTIC RACES 60,000		600 per day
(EXOTICS COMPRISE 40% OF TOTAL HANDLE BY NATIONAL AVERAGE)		\$4,100 per day
ANTICIPATED DAYS OF OPERATION		300
		\$1,230,000 PER YEAR

ADDITIONAL REVENUES WILL BE REALIZED FROM ADMISSION TAXES, FOOD AND BEVERAGE TAXES, AND CORPORATION INCOME TAX.

EMPLOYMENT

THE CREATION OF 30 TO 50 NEW JOBS IS CONTEMPLATED, DEPENDING ON THE DEGREE OF PUBLIC ACCEPTANCE.

ADDITIONAL BENEFICIAL CONSIDERATIONS

BENEFIT TOURISM EFFORTS BY PROVIDING RECREATION AND ENTERTAINMENT OPTIONS. PROVIDE ENTERTAINMENT TIE-IN WITH SPORTS COMPLEX DEVELOPMENT PROPOSED AT EAGLE RIVER AND HATCHER PASS AS WELL AS ALYESKA. COULD BE USED AS A NETWORK TO SIMULCAST PALMER AND OTHER FAIRGROUND RACES THROUGHOUT ALASKA BENEFITING THE FAIR CIRCUIT WITH ENHANCED PARIMUTUEL HANDLE. COULD BE ADAPTED TO INCLUDE FUR RENDEZVOUS, FAIRBANKS ICE CARNIVAL, AND IDITAROD DOG RACES FOR THE PURPOSE OF DEVELOPING PURSE MONEY.



"OFF TRACK EVENT" FACILITY - BELLINGHAM, WA.

BILL NO: SB 279

DATE: April 20, 1989

TITLE: An Act establishing the  
Alaska Racing Commission  
and authorizing off-track  
parimutuel wagering...

CONTACT: Gayle A. Horetski  
Deputy Commissioner  
465-4322

DEPARTMENT OF  
PUBLIC SAFETY

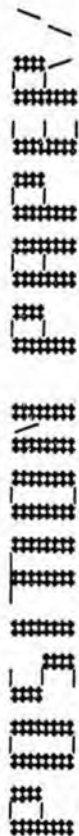
Senate Bill 279 will legalize off-track parimutuel betting.

Under Section 2 of the bill, the Department of Public Safety will be required to run criminal history checks on certain individuals. Because the number of persons whose records must be checked is expected to be very small, the Department believes that this impact can be absorbed using existing staff and resources.

The Department of Public Safety takes no position on this bill.



Arthur English  
Commissioner



FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: Public Safety  
 Title: Alaska Racing Commission/off-track betting BRU: Alaska State Troopers  
 Sponsor: Senate C&RA Component: \_\_\_\_\_  
 Requestor: Senate C&RA

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Under Section 2 of the bill, the Department of Public Safety will be required to run criminal history checks on certain individuals. Because the number of persons whose records must be checked is expected to be very small, the Department believes that this impact can be absorbed using existing staff and resources.

Prepared by: Gayle A. Horetski, Deputy Commissioner  
 Division: Office of the Commissioner

Phone: 465-4322  
 Date: 4/20/89

Approved by Commissioner: Arthur English  
 Agency: Department of Public Safety

Date: 4/20/89

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "Alaska Racing Commission...off-track parimutuel wagering..."  
 Sponsor: Senate C & RA  
 Requestor: Senate C & RA

Agency Affected: Department of Law  
 BRU: Legal Services  
 Components: Operations

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL			75.0			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>75.0</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	75.0	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: April 24, 1989  
 Approved by Commissioner: Douglas B. Bailly, Attorney General Date: April 24, 1989  
 Agency: Department of Law

**Distribution (by preparer):**

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 279

This bill amends AS 05 by adding a new chapter that establishes the Alaska Racing Commission and authorizes off-track parimutel wagering. The bill provides that the commission and its staff would be responsible for regulating all aspects of off-track horse racing parimutel wagering, including; licensing, inspection, location, auditing, equipment, making and distributing parimutel pools, and keeping records of all collections and disbursements from off-track events. The bill defines an "off-track event" as an event during which a horse race can be viewed simultaneously at a location different from the location at which the race takes place, and during which the viewers can use a parimutel system to place wagers on the outcome of the race being viewed. It therefore appears that, under the provisions of the bill, parimutel wagering on horse races occurring outside the state could occur in Alaska "horse parlors" via satellite telecommunications. The bill provides that the commission shall adopt its regulations and carryout its regulatory duties in consultation with the attorney general. The bill further provides that the attorney general shall enforce the regulations of the commission.

It is the Department of Law's view that a substantial body of regulations will need to be drafted and adopted in order to implement the bill. A one-time cost of \$75,000 will be required by the department's Legal Services BRU to hire an outside consultant to accomplish this regulations drafting effort. This is probably the minimum amount necessary to insure proper regulatory oversight, if this form of wagering is legalized in the state.

Unfortunately, we cannot predict future legal costs that may occur once off-track wagering is established, because of our total lack of experience in this area. It is conceivable, however, that if parimutel wagering becomes well established that at least one civil attorney and one criminal attorney, plus support costs, could be required on a continuing basis due to off-track wagering activity. Because of the severe budget constraints that have already been felt by the department, and because of further budget reductions that appear likely in FY 90, it will be necessary to request additional funds when and if off-track wagering makes it necessary to do so. Otherwise, state regulation of off-track wagering may not be possible.

# McGrane Jewelers

427 D Street  
Anchorage, Alaska 99501



Diamonds

Johannesburg  
So. Africa

April 22, 1989

Senator Drue Pearce  
P. O. Box V  
Juneau, Alaska 99811

Dear Senator:

I thank you for taking of your time from a very busy schedule to respond to my letter regarding off track parimutuel betting in Alaska. Unfortunately your response created more questions in my mind than it did answers.

1. You did not state why you do not support this activity in Alaska. It is a proven form of popular entertainment and tax revenue in a very large part of the United States. Perhaps your concerns can be addressed satisfactorily.

2. The off track events aspects of the bill is patterned after the State of Washington legislation, considered by many in the industry to be a model bill. Section 05.40.990, "Definitions" provides proper definitions that are standard in the industry. Additional definitions, if required, would presumably be included in the Regulations that would be promulgated to govern the activity.

3. Safeguards are provided by the host track, ie, Longacres, Santa Anita, Del Mar, etc., where the purity of racing is diligently protected, not only for the public's sake but also to preserve the integrity of racing in order to ensure continued public acceptance and enjoyment. Other safeguards, for the State and the public, is built into the sophisticated computer equipment utilized to record all wagers and determine all payouts.

4. How much net revenue from a single source is necessary to attract the interest of the Legislature? Is it in the millions, or should any new industry be of interest to this economically stricken State.



MEMBER

Manufacturing Jeweler

Goldsmith

Accredited Gem Laboratory

Custom Jewelry

Jewelry Repair

Appraisals



Certified Gemologist

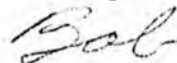
5. Is the creation of 50 to 100 jobs in todays ailing market place of any interest to the Legislature?

6. Is the creation of an additional tourist entertainment industry of any interest to the Legislature?

Remember this new industry is at no cost to the State but will pay the State a percentage of all revenue and create 50 to 100 jobs for tax revenue to local governments.

We would like your support of this bill to bring a new industry to Alaska. If you have any other concerns please contact me.

Sincerely,



Robert J. McGrane



State of Washington

Washington Horse Racing Commission  
210 E. Union Avenue, Suite C  
MS/EP-11  
Olympia, WA 98501

Joe Shabaz  
Mount

*Phone  
206-263-2536*

SCAN 443 8442  
(206) 764-6444

Ronda - Please ask Jo-funit  
for the Kohat camp's name  
and address - then send a  
short letter to them - saying  
how much I enjoyed myself  
at the Jungoedens facility  
with them. I understand  
what a car was a great  
host, they really made  
the trip enjoyable.

I'm looking forward to  
visiting them in Kohat.

J.M.

See above

Letter to Morris Almadoff - Chief

Ex. Officer  
Just a short note to say  
thanks for your hospitality during  
our recent trip to Longview, with  
Mr. Carl Banker and Heigo Toshi.

It was a great opportunity  
for me to get a better  
understanding of your line and  
television racing work and in  
its completion on matters.

I hope the A.K. Television  
Racing legislation in my  
committee can be reported  
and passed out this year.  
If I ever over recipitate  
the hospitality in Alaska,  
please feel free to call on me.

Sincerely,  
Mel El

P.S. Your son Michael really  
did a great job for us.

To your RAINTER  
Chief Stewart - State of Wash.  
<sup>see address on Joe Shabaz card</sup>  
Dear Tom, Joe and Bernd.

Just a short note to say  
thanks! You guys really  
made our trip exciting and  
gave us a good perspective on  
New-mutual Savings from a  
State perspective. Its clear to  
me that no matter what type of  
policy we do, whether linear  
televised in Alaska, its important  
to have a State Steward or supervisor  
position, employed to protect the  
public's interest.

You were impressive in your quiet,  
gentle professionalism and dedication  
to the job.  
Copy others <sup>pick up the good folks,</sup>  
Sincerely  
M. S. T.

To Hugo Torche

Exec card.

Just a short note to say  
thanks for the excellent and  
most professional presentation  
on fair-metish racing from  
both a live and televised  
perspective. It's certain that  
you are a real expert and  
professional in the horse  
racing industry. I'm sure  
we will be calling on you  
again - before the State of  
Alaska - passing and legislation  
to allow us live or televised  
professional horse racing.

Keep up the good work and  
look forward to seeing you  
again. Sincerely, NLS

To Michael  
President

Al. Markt  
Long Ocean Pass  
Executive

Dear Michael

~~Just a~~ I hope let me extend  
my sincere wishes to you and  
your family for having our  
Alaska Delegation this week and  
we all hope you are enjoying  
your trip. I hope you are  
professing your appreciation of  
the fact that we are very  
honored to have you here to be  
a real asset to our organization  
stay during your visit to Seattle.

I only hope we are successful  
in passing the new Duff track.  
Facing our Alaska and feeling of  
unity is a genuine fact not only  
Alaskans, but our good friends  
course.

As we move through the  
legislation of this legislation  
I maybe call on you for  
expert testimony. As a third  
generation, I am a course operator,  
but sure you are a very good  
deliberating. I hope you are  
Really should be a very good  
operator and a very good  
operator.

all sides of your operation.  
I come away from looking at  
both your live and telegraphed  
operations with a real  
sense that Alky would be  
missing a real bet, by not  
working with your Pass  
course.

Sincerely Yours  
-Neil

© 1910 W. G. B. D. O.

# Longacres



**S B**

**281**

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 4.21.89  
IN ACCORDANCE WITH UNIFORM RULE 23

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

FURTHER

JUD  
FIN

4/17/89

DATE TURNED INTO OFFICE 4.28.89

Mr. President:

C&RA

Committee considered

SB 281

Local Boundary Commission; efd

and recommended:

- replace with CS \_\_\_\_\_  same title
- attached amendment(s) and  new title
- \_\_\_\_\_ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

FISCAL NOTE(S) attached  zero  
 appropriation no FN attached

fiscal impact  
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Mike Snyder: No Rec.*  
*Pat Patrick: no rec*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Al L... -DO PASS*  
Chair : signature and recommendation

Committee backup attached

# Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly  
Publisher

Howard Weaver  
Managing Editor

Michael Carey

Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983

Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

## The right vote was 'No' vote

Lawmakers made the right decision last week when they rejected the Fairbanks North Star Borough's attempt to annex a portion of the trans-Alaska pipeline.

The proposed addition, crafted to annex 10 miles of the pipeline sitting on a 216-square-mile parcel of land northwest of Fairbanks, would have set a very bad precedent.

Fairbanks wanted the pipeline for one reason: to tax it. The annexation would have been worth about \$2 million in property-tax revenue in 1990. That \$2 million would have gone a long way to ease the Golden Heart City's current budget crisis.

The Local Boundary Commission apparently thought Fairbanks' financial need was adequate justification for the annexation. It wasn't — nor should financial need ever be the basis of flawed policies. Such an approach is nothing more than arbitrary no matter what kind of covering it wears. Boundary changes are supposed to be in the public interest — and Fairbanks clearly had only a financial interest in the matter.

Annexations typically have revenue implications, but they never should be strictly revenue-generating actions. Lawmakers had it right when they told Fairbanks it was out of line to go after the pipeline. Now they ought to tell the Local Boundary Commission to establish tougher standards for annexations.

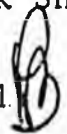
STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 1, 1989

SUBJECT: Local Boundary Commission: HB 131  
TO: Representative Dick Shultz  
FROM: Richard A. Bradley  
Legislative Counsel 

It is clear to me that familiarity with the matters that are pending before the commission is not a ground for disqualification by a member of the commission. The law establishing the commission, AS 44.47.565, requires that a member be from each of the four regions of the state.

While there are many valid policy reasons for requiring that members of a state commission be widely representative of the state, one result is that the law requires that one member of the commission be, to some extent, familiar with the issues that are coming before the commission.

While many laws in recent years have addressed the question of ethics (as, for example, AS 39.51) or conflict of interest (as, for example, AS 39.50), I am aware of no law that disqualifies a member of a state board or commission because the member is familiar with the issues. That person is an asset to a state commission, not a liability.

Both AS 39.50 and AS 39.51 are concerned, in part, with the financial interests of the state officer. Nothing described to me suggested that the member of the local bounda-

---

ry commission had the kind of interest that should have disqualified him.

Finally, it seems that the members of a state commission with a relatively small membership should be especially careful about their failure to attend the meetings. Since three votes remain necessary to take action (see AS 44.47.-577), the absence of a member increases the difficulty for the commission in taking action.

If I may be of further assistance, please advise.

RAB:gc  
WKG7/077

*A Citizen's Guide to*

**The  
Constitution  
of the State  
of Alaska**

PREAMBLE

*We the people of Alaska grateful to God  
and to those who founded our nation and  
pioneered this great land, in order to secure  
and transmit to succeeding generations our  
heritage of political, civil, and religious liberty*



*Gordon S. Harrison*

does Section 2), but it requires that they be "part of" a surrounding borough if one exists. The section gives broad power to the legislature to build a statutory framework for the creation and operation of cities. The constitution suggests by reference to "classification" of cities and boroughs in this and other sections that flexibility may be provided by authorizing the creation of local governments with different sets of duties and responsibilities. At the present time, two classes of cities and three classes of boroughs are recognized by statute—each with different powers.

### Section 8. Council

The governing body of a city shall be the council.

### Section 9. Charters

The qualified voters of any borough of the first class or city of the first class may adopt, amend, or repeal a home rule charter in a manner provided by law. In the absence of such legislation, the governing body of a borough or city of the first class shall provide the procedure for the preparation and adoption or rejection of the charter. All charters, or parts or amendments of charters, shall be submitted to the qualified voters of the borough or city, and shall become effective if approved by a majority of those who vote on the specific question.

This language gives effect to the declaration in Section 1 that the constitution provide "maximum local self government." Home rule charters—that is, locally drafted "constitutions" for local government—are the means for municipalities to exercise the largest measure of self government. "First class" municipalities (these are defined in law, not in the constitution) may adopt home rule charters. Cities and boroughs that do not have home rule charters—first class or otherwise—must operate within the limits of the powers delegated to them by the state. These are known as general law municipalities. Home rule municipalities, in contrast, may exercise all powers not explicitly denied them by state law or by their own charter (see Section 11).

### Section 10. Extended Home Rule

The legislature may extend home rule to other boroughs and cities.

By the previous section the constitution extends home rule to "first class" cities and boroughs, which the legislature is to define. In this section, the convention delegates made it clear that the legislature can extend home rule to other categories of municipalities as well if it wants to do so.

### Section 11. Home Rule Powers

A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

This broad grant of home rule power is unique among state constitutions. It means that the governing body of a home rule city or borough can exercise any constitutional power of the state legislature if it is not explicitly denied by law or by the charter itself. Typically, other state constitutions narrowly enumerate the powers of home rule municipalities. With the simple and concise language of this section, the authors of Alaska's local government article sought to make the home rule power as expansive as possible. Article II, Section 19 protects home rule and other municipalities from selective intervention in their affairs by the legislature and thereby further strengthens local autonomy.

### Section 12. Boundaries

A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

Few if any other state constitutions provide for a body of this type. The independent authority of this agency to establish the borders of local government units, subject only to legislative veto, recognizes that the most "rational" boundaries may not always result from the local tug and tussle of politics. In the words of the convention committee on local government, this scheme allows boundary decisions to be made "at a level where area-wide or statewide needs can be taken into account. By placing authority in this third party, arguments for and against boundary change can be analyzed objectively." In its deliberations, the local boundary commission must refer to the standards for borough and city formation established by the legislature.

The veto power (exercised here by a simple majority of both houses acting separately) has been exercised freely by the legislature over decisions of the commission.

### Section 13. Agreements; Transfer of Powers

Agreements, including those for cooperative or joint administration

and Peninsula REAA had filed a brief in court opposing the LBC's decision based on these factors.

Number 137

DAVE WILDER, VICE-PRESIDENT, LAKE AND PENINSULA SCHOOL BOARD testified on behalf of HJR 23.

Mr. Wilder reiterated that the Aleutians East Borough had been granted by the LBC a large portion of land previously held by the Lake and Peninsula REAA. He pointed out that there was a court case pending on that action and that the manager of the Aleutians East Borough now sat on the commission. He maintained that if the commission decided against the Kodiak Island Borough annexation that it would badly reflect on the Aleutians East Borough's claims.

Mr. Wilder further maintained that the conflict stated by the commission's chairman, C.B. Bettisworth, was a result of a newspaper article which appeared in the Kodiak Island Fisherman Newspaper on February 23, 1989. The article quoted the Kodiak Island Borough Mayor, Jerome Selby, as saying that as far as annexation goes that the commission had assured him "if you want it you've got it." This article came eight months before the petition was filed. He added that the annexation process had been compromised and the legislature needed to stop the process and define the goals and procedures of the commission.

Number 158

Rep. Cato asked who would pay for the court costs of the REAA.

Number 168

Mr. Wilder replied that he thought the Lake and Peninsula School District would cover the costs.

Number 178

Rep. Cato asked if that was not the state fighting the state.

Number 180

Mr. Wilder replied that there was no other entity to represent the area.

Mr. Wilder stated that the process of borough formation by the Lake and Peninsula School District had been rushed due to the Kodiak Island Borough annexation and that because of

COMMENTS ON LOCAL BOUNDARY COMMISSION PROCESS  
FOR CONSIDERING BOROUGH PROPOSALS

January 31, 1989

The following comments are based on the three borough proposals within the the Bristol Bay region in the last two years: the Aleutians East incorporation in 1987; the Lake and Peninsula incorporation which will go to public vote this spring, and the Kodiak annexation currently before the legislature.

The proposals have generated much controversy within the region and have highlighted serious flaws in the Local Boundary Commission (LBC) process. Indeed the process is so flawed as to almost guarantee arbitrary and short-sighted results. If large areas of the unorganized borough continue to be carved into jurisdictional units under existing LBC practice, a statewide planning disaster of monumental proportions is in the making.

Most of the problems fall into three broad categories: 1) lack of meaningful standards, 2) procedural, particularly relating to public notice and the ability to contest particular proposals, and 3) problems in substantive decision-making, which involve institutional or structural problems with the LBC and its inability to follow statutory and regulatory mandates.

Each of these areas of concern will be discussed below. However, these comments are not intended to be a thorough analysis of the LBC or its procedures but rather concern particular problems identified from its actions in Bristol Bay. And although examples will be used to illustrate the problems, the comments are not intended to address the merits of any pending proposal.

I. Standards

A. Incorporation

1. Statutory standards

The four statutory standards for incorporation of AS 29.05.031 would be adequate if they were evenly applied and properly construed. However, in practice they have given inadequate guidance for drawing territorial boundaries between widely separated population centers.

The first standard requires that "the population of the area [be] interrelated and integrated as to social, cultural and economic activities" and be large and stable enough for borough government.

The second requires that the borough boundaries "conform generally to natural geography and include all areas necessary for full development of municipal services." The third requires the economy of the area to include the human and financial resources necessary for municipal services, and lists a number of factors to be considered. The fourth speaks to transportation facilities.

Except for the requirement for following natural geography, all deal more with population characteristics and with developed areas rather than with the vast uninhabited areas in the unorganized borough.

The standards would be improved by clearly specifying that traditional use patterns and existing land planning units be followed in unpopulated areas.

## 2. Regulatory standards.

The regulatory standards of 19 AAC 10.160 also need improvement. 19 AAC 10.160(5) requires a new borough to include at least one entire REAA, and as interpreted it seems to create a bias in favor of following REAA lines. Yet as pointed out in the 1988 DCRA Regional Government study, following REAA boundaries for borough formation results in conflicts with other standards. Some REAAs have only one community or less than 1,000 people; some form enclaves within others, which may violate constitutional and statutory standards.

Worse, the external boundaries of REAAs often cut across natural geography and socio-economic use patterns, thereby violating the mandatory statutory standards for borough formation. REAAs should not be used to determine the external territorial boundaries of boroughs. The intent of 19 AAC 10.160(5) can be met by using REAAs merely as a guideline for deciding which community should go with which borough.

There is also a problem with the "transportation" standard of 19 AAC 10.160(2). This standard requires that communities within a new borough be connected by road or have transportation services "available at least once a week ... on a regularly scheduled or chartered basis." Chartered services are almost universally available and it is difficult to see how any two Alaskan communities could fail to meet this standard. Although the intent of the provision may be sound, standards that are always met are no standards at all, and this provision should either be rewritten or deleted.

## B. Annexation.

There are no statutory standards for annexation. The LBC by regulation (19 AAC 10.190) has set up separate standards for the annexation of contiguous territory and of non-contiguous territory. The latter, for obvious reasons, is much more stringent.

### 1. Definition of "Contiguous."

The LBC recently approved the annexation of a large area on the Alaska Peninsula to the Kodiak Island Borough under its standards for annexation of contiguous territory. The annexed area is separated from the Kodiak Island Borough by Shelikoff Strait, the center of which for its entire course is federal water beyond the territorial limit of Alaska. The LBC rejected Lake and Pen's competing claim for the same territory.

Neither the LBC decision nor its staff report discuss the crucial preliminary issue of whether the annexed territory is contiguous to the original Kodiak Island Borough. Under a dictionary or common sense definition, it surely is not contiguous. However, contiguous is defined at 19 AAC 10.840(4) "as territory which is immediately adjacent to or which is separated only by natural or artificial barriers which do not disrupt or impede the supplying or receiving of municipal services."

The problem with that definition, as apparently construed by the LBC in the Kodiak decision, is that the exception swallows the rule. Boroughs provide very few municipal services in roadless, unpopulated areas, and those services they do provide (i.e., planning) are not hampered by geographic barriers. If the Alaska Peninsula is "contiguous" to Kodiak Island despite the jurisdictional barrier of federal waters, it is difficult to conceive of any roadless, sparsely populated area of the state that is not contiguous to any other area. An ocean, another borough, a mountain range, or 500 miles of land are just barriers which do not "disrupt or impede" borough services when those services are almost non-existent to begin with.

The definition of contiguous in 19 AAC 10.840(4) could be salvaged if the LBC were to construe it more closely to the dictionary definition. But following the Kodiak decision, there is no longer a distinction between contiguous and non-contiguous lands for purposes of borough annexations, and the whole framework of 19 AAC 10.190 is undermined.

## 2. Standards for contiguous annexations.

Eight standards are set forth in 19 AAC 10.190(a) for annexation of contiguous territory. Only one of these standards must be met for the annexation to be approved. In addition, the annexation must meet the four statutory standards for borough incorporation of AS 29.05.031.

Some of the eight standards of 10.190(a) are relatively straight-forward and easy to apply, i.e. whether the land is totally surrounded by the borough or wholly owned by the borough. Others, however, have been so watered down by the LBC that virtually any proposal will meet them. Such standards are meaningless.

The problem can best be illustrated by reference to an LBC decision. In the Kodiak decision the LBC found that three of the regulatory standards for annexation were met, those of 19 AAC 10.190(a)(3),(4) and (8).

### (a) Application of 10.190(a)(3)

The LBC found that the Kodiak annexation met the third regulatory standard: "the territory is in need of municipal services which the organized borough can provide more efficiently than another municipality or the state." Specifically, the LBC found that the area was in need of "planning, economic development and solid waste collection and disposal which can best be provided by the Kodiak Island Borough."

This ruling is particularly surprising since earlier in the decision the LBC said: "The contested area is uninhabited. Therefore, the need for services in that area is greatly limited."

In regard to "planning," the area consists almost entirely of state and federal land (with some subsurface rights owned by a Native regional corporation). Coastal management and state and federal land use plans are already in place and could not easily be changed by a borough, nor did Kodiak indicate it would try to do so. The decision offered no explanation at all of how planning services would be improved; arguably planning services could suffer due to the dismemberment of the CRSA.

The "economic development" consisted of "salmon enhancement projects" which were never identified in the decision, the DCRA report, or testimony. Worse, there was no finding or evidence that salmon enhancement is actually needed, which would be necessary to meet the standard. Moreover, given exclusive federal jurisdiction on federal lands and ADF&G's authority over fish stocks, it is doubtful that any such borough-sponsored project is feasible. (The LBC decision did not discuss the legal obstacles to it.)

As for "solid waste collection and disposal," the opinion discussed fisheries-related waste disposal in the City of Kodiak and at the Borough's landfill on Kodiak Island. It did not find that such services were needed within the annexed area. Indeed, there was no discussion of such services within the annexed area and the Kodiak Borough did not indicate it would extend such services into the area.

Since there is no population to be served and since planning services are already in place, it is apparent that the LBC bent over backwards to find this standard met. It is quite difficult to conceive of any area in the state which would not meet it as applied.

(b) Application of 10.190(a)(4)

The LBC also found the fourth standard met, that "there is a reasonable likelihood that future growth and development will occur within the territory considered for annexation and that annexation of that territory will enable the borough to plan for and control that development."

The LBC cited testimony from Kodiak officials that "there is potential for development of mineral, oil and gas and fishing activities in the area considered for annexation." The specific examples cited were the federal oil and gas lease sale scheduled for 1990, "likely" growth in the number of offshore processors, and Kodiak's complaint it hadn't been consulted on federal land use plans.

One problem with this analysis is that both the federal lease sale and the growth of offshore processors apply only to the waters and not to the annexed territory on the Alaska Peninsula. Indeed, the federal lease sale will occur by definition outside of state and borough jurisdiction. Likewise, there was no discussion of how the borough could plan for and control the growth of offshore processors, a process that (if true) will likely occur outside the boundary of the state. The reference to federal land use plans is a non sequiter, irrelevant to the issue of whether there is a reasonable likelihood of growth and development.

There was no finding of fact and no evidence of any projected shoreside development in that part of the Alaska Peninsula. No land disposals, no mineral discoveries, no development of canneries or other fishery-related infrastructure were indicated. The LBC did not even look behind the federal lease sale to find if oil is actually expected to be discovered. (In fact, the Shelikoff Strait is not considered a good oil prospect and the lease sale has generated little interest by the oil industry.)

A better interpretation of this standard would apply it to areas experiencing specific, identifiable development that distinguishes them from the unorganized borough in general, or in which such development is planned. Examples would include rapid population growth or industrial or mineral development such as the Red Dog Mine. To extend the standard to areas such as the south side of the Alaska Peninsula, which at most is experiencing slow incremental development no different in scope from that in any other unpopulated area, is to render the standard meaningless.

(c) Application of 10.190(a)(8)

The LBC also concluded that the eighth standard was met, that "the annexation is otherwise necessary to accomplish a valid public purpose." The decision refers to the growth of offshore fish processors which are replacing shore-based processors, thereby diminishing local employment and depriving municipal governments of raw fish taxes. It concludes: "Annexation of the area in question would mitigate these negative effects."

This again is completely irrelevant as applied to the annexed land on the Alaska Peninsula. Even in regard to the waters it is difficult to see how annexation to the borough could curtail the growth of offshore processors, or confine them to the three-mile limit. Although the annexation may give Kodiak more raw fish tax revenues simply by increasing the area in which it collects them, if that is all the standard means then raising revenue alone becomes a "valid public purpose" sufficient to justify annexation.

I. Procedural Problems

A. Timeframe.

The timeframe used by the LBC to reach borough decisions precludes rational decision-making and may in itself violate constitutional standards of due process. The Aleutian's East process took just two months from the filing of the petition to the decisional meeting (May 7 - July 8, 1987). The Kodiak process took just over seven weeks (Oct. 14 - Dec. 4, 1988), and the Lake and Pen process lasted just three and one-half weeks (Nov. 10 - Dec. 4, 1988). It is inconceivable that all factors relevant in applying all the standards to all the boundaries can be adequately weighed in those time frames.

DCRA is under statutory duty to investigate borough proposals. AS 29.05.080. Some indication of the depth of investigation which should be required may be found in the —

legislation which authorizes DCRA to contract for borough studies and allows up to three years for completion of the studies. AS 44.47.730. Nowhere near that depth of analysis was given to any of the Bristol Bay proposals.

It is equally impossible for an opponent of a borough proposal to adequately respond in the time allowed. The borough petitioners have months or years to prepare the proposal, and an adequate response would require considerable marshalling of facts, evidence and legal arguments. The LBC's own regulations call for "answering briefs" to be filed (19 AAC 10.390), but no time is provided to prepare them, especially considering that the governing bodies of cities and most other organizations are not in continuous session and need time to react.

Ironically, the LBC has no legal deadline for considering borough petitions. It rushes decisions only as a matter of policy. (Deadlines come into play only after the LBC's public hearing. And, in practice, the LBC doesn't take as long as those deadlines allow.)

#### B. Notice.

##### 1. Outside the boundary.

One major flaw with the regulations governing notice and public hearings is that as interpreted they don't recognize the rights of those outside of proposed boundaries.

AAC 10.370(a) requires that the petition be served directly on "every municipality in or adjoining the territory." In the unorganized borough, of course, municipal boundaries rarely meet. The only interpretation of this regulation that makes sense in the unorganized borough is to apply it to communities in the adjoining geographical area. The regulation should also be expanded to include unincorporated communities.

The LBC, however, and its staff interpret it to require direct notice only to municipalities with a common legal boundary with the new borough. As a result, in the Lake and Pen process villages in the Nushagak drainage did not receive direct notice of the Lake and Pen proposal, and at the time the decision was made DCRA's mailing list did not include one village or village corporation on the western side of boundary. Nor did it include BBNA or the Southwest Region School District - even though the latter would lose one of its villages to the proposal.

Likewise, in the Aleutians East incorporation the villages of Ivanof Bay and Port Heiden were not "entitled" to direct notice even though the proposed boundary included an airstrip, a proposed new village site and Native corporation lands of Ivanof Bay and the traditional village site (Iinik) and much of the subsistence territory of Port Heiden. (DCRA did put these villages on its mailing list, however.)

The LBC believes that publishing notice in the newspapers is sufficient protection for those outside proposed boundaries. But 19 AAC 10.380(a) only requires the petitioner to publish notice of the petition "in a newspaper of general circulation in the territory." Lake and Pen published this notice in the Borough Post, which is distributed only within the Lake and Pen school district and the Bristol Bay Borough, not in the Nushagak villages. This particular notice was the only one ever published containing critical information such as the place for inspecting the petition and brief and the right to file an answering brief.

In any event, few people even in urban areas read legal notices in the newspapers. And the Bristol Bay newspapers are mailed fourth class and are not reliably delivered or read in the villages. Anchorage newspapers rarely make it to most villages at all. Direct notice would be much more effective, and cheaper.

## 2. Noncompliance with regulations.

The LBC does not strictly follow its own regulations on notice and scheduling. For example, it is required to publish notice of its public hearing "at least 15 days before the date of the hearing, at least three times in a newspaper of general circulation in the territory ...." That was not followed for Lake and Pen, at least as publication rules are normally construed by the courts. The third publication was on November 25, a week before its public hearings began.

Regardless of technical procedural arguments, it is crystal clear from an overview of the regulations regarding incorporation petitions, 19 AAC 10.325-10.440, that the process is designed to take several months at a minimum and that the LBC bends over backwards to rush decisions. For example, the LBC decisional meeting on Lake and Pen was one day after its public hearings concluded, although 90 days is allowed. Another example is the speed with which the LBC scheduled the public hearings. The regulations provide that a petition isn't considered pending until proof of publication of the notice required by 19 AAC 10.380(a) is received. That publication did not occur until November 18. Yet the first notice of the LBC hearing was published November 11, and because of ad deadlines had to be placed several days before that. The petition wasn't even filed with DCRA until November 10, and it is clear the LBC scheduled action on the petition before it had it!

### C. Hearings.

Current law requires very little in the way of public information and decisional hearings. By statute, DCRA is required to have one public informational meeting in the area and the LBC to have one public hearing. AS 29.05.080 and 090. (More may be held at the discretion of the LBC.) A decisional meeting must be held within 90 days of the LBC's public hearing. In recent practice, most of the LBC hearings have been teleconferenced rather than held in the area.

Again, there is no built-in practical mechanism for involvement of villages immediately outside the boundaries. Port Heiden or Ivanof Bay residents would have had to go to Cold Bay or False Pass in the middle of fishing season to participate in the Aleutians East hearings. Nushagak village residents would have had to go to Anchorage or the Iliamna Lake area to attend Lake and Pen's hearings. (The LBC later scheduled teleconference hearings in the Nushagak, but that was to consider a reconsideration request after the decision had already been made.)

The existing requirements for informational meetings and formal public hearings are clearly inadequate given the importance of the decision, the lack of general public knowledge about boroughs, and the vast territory involved.

Moreover, villages a few miles outside borough boundaries have as much at stake in determining where the line is drawn as communities within the boundary - which may be much farther away. The Aleutians East line was drawn far closer to Port Heiden and Ivanof Bay than to any populated area within the borough; Ekwok is only 12 miles from the new Lake and Pen boundary. To give such villages substantially less procedural protection than communities within the borough likely violates the constitutional standards of due process and equal protection.

### III. Substantive Decision-Making

#### A. The Problems

The LBC Board is charged with a statutory and constitutional duty to consider proposed changes in the boundaries of local governments. Its duties have been elaborated by the legislature, which has also established specific standards for the LBC to apply in AS 29.05.031. Through its regulatory power the LBC has established further standards and established basic procedures.

Although the commissioners are not judges, they are

nonetheless charged with making quasi-judicial decisions, applying law to facts. Part of their duty is to serve a "watchdog" function, ensuring that boundary changes which do not meet the legal standards fail. Each of the statutory incorporation standards, for example, is mandatory as written and must by law be applied. While under normal rules of statutory construction the statutory standards can be balanced against each other, they must be evenly applied. The regulations must conform to them.

Although some of the statutory standards, such as the one dealing with socio-economic interrelationships, are difficult to apply, it is possible to do so if enough research is done. A great wealth of information on land and resource use patterns is available from agencies such as ADF&G, USF&W, CRSAs, and so forth. In Bristol Bay, massive resource inventories with much relevant data were compiled in the context of various management plans.

Particularly given DCRA's statutory duty to investigate borough proposals, one would think that this wealth of information and expertise on land use would be used to make rational boundary decisions. The process should be time-consuming but rather straight-forward.

The actual practice is far different. Some of its worse characteristics follow:

1. The statutory standards are not applied. The requirement regarding natural geography, for example, was completely ignored for the northwestern boundary of Lake and Pen, and was brushed over in the decision on the eastern boundary of Aleutians East.

LBC decisions focus too much on borough finances. While this is important, the standards only require that a borough be able to support itself. In practice, the LBC has allowed expanded boundaries which violate the other standards in order to put the borough in an better financial posture. For example, the Aleutians East boundary was allowed to extend into the Bristol Bay region primarily so that the borough would not have to rely on a property tax, despite a finding that this was not necessary to ensure the borough's financial viability.

Subsistence and traditional land use patterns patterns are rarely considered despite their importance in determining the socio-economic unity of a region.

2. Similarly, the LBC treats the unorganized borough as a blank slate, ignoring and jeopardizing years of planning already in place. For example, the Bristol Bay CRSA - widely viewed a model program - has been dismembered into a minimum —

of four parts, assuming the current borough proposals go through. This makes no sense from a planning perspective.

3. The LBC renders conflicting decisions and applies "standards" not found in the law. For example, the LBC would not even consider Nushagak village arguments based on a borough's potential impact on natural resource management. Yet the identical argument was found a valid basis for the Kodiak annexation. The LBC's focus on commercial fishing districts to the exclusion of other economic activities is a "standard" not found in the law, as is the "maximizing fish tax revenues" rationale applied for Kodiak and Aleutians East.

4. LBC decisions are based primarily on the bare assertions of fact in the petition and unsworn "testimony" at public hearings. There is rarely any checking of facts or reliance on experts such as ADF&G or the CRSA. This factor, coupled with the failure to seriously follow the standards, results in the decisional process being little more than a shuffling of words on paper, divorced from reality.

5. The DC&A and the LBC will not consider any factor not raised by a party, despite DCRA's duty to investigate. While to a certain extent this is understandable, there is no excuse for not analyzing glaring problems such as the "contiguous" issue in Kodiak's annexation or the failure of a boundary to generally conform to natural geography.

#### B. Causes and Possible Remedies

Some of these problems are due to the following "institutional" flaws:

1. The existing standards and regulations were promulgated before the political and economic climate changed dramatically in favor of boroughization. There is now an institutional bias in favor of boroughs which creates a tendency on the part of the LBC and its staff to neglect its "watch-dog" duty and ignore rules which "get in the way" of borough formation. This results in a standardless system, creating a land-grab mentality where anything goes, first-come first-served.

If circumstances are now so changed that it is desirable for all or most of the unorganized borough to incorporate, the rules should also be changed and meaningful standards established for drawing lines in unpopulated areas. It is imperative that regions be looked at as a whole.

2. The LBC and its staff seem to lack understanding of the basic rules of statutory construction and administrative analysis. Although they are laymen, they are nonetheless charged with a quasi-judicial duty. This flaw was exemplified by comments by commissioners at a recent reconsideration hearing on the Lake and Pen proposal.

One commissioner said that the Nushagak villages arguments relating to subsistence use had no merit because state and federal government have exclusive jurisdiction over their respective lands and the borough could have no impact them. Two things are wrong with that statement: 1) it ignores the fact that subsistence and other resource use is the primarily indicia of the socio-economic ties of the region, which by law is something the LBC has to consider; 2) it is an incorrect statement of law and actual practice in regard to state lands.

Other commissioners indicated that their decision to favor Kodiak's annexation at the expense of Lake and Pen made them unwilling to adjust Lake and Pen's western boundary. That shows remarkable willingness to disregard the LBC's statutory duty to impartially apply law to facts.

3. There seems to be an institutional confusion about the nature of the proceedings. Case law has made clear that they are legislative rather than adversarial in nature. In practice, they are treated as adversarial in many respects but without the procedural safeguards that normally exist in adversarial proceedings.

4. The same DCRA staff who investigate proposals and prepare recommendations for the LBC provide technical assistance to those putting together proposals. This creates a built-in bias in favor of the petition. These two functions should be separated, with the DCRA investigation and report and recommendations done by neutral parties after the petition is filed.

5. Neutral hearing officers, with legal training and preferably a land-use background, should conduct public hearings and make recommended decisions whenever contested issues arise. This would alleviate some of the problems discussed above.

### Conclusion

Borough decisions are quite important and have long-range implications not fully understood even by the LBC and DCRA. This is particularly true in regard to land and —

resource management, local influence on which is one of the major incentives for forming boroughs. Judging from our region's experiences, the LBC process results in short-sighted and arbitrary decisions. It is absolutely astounding that any agency would think that it can rationally make decisions redrawing the map of southwestern Alaska in a process taking less than two months.

Moreover, the process and the implications of borough formation are poorly understood by the public in Bristol Bay. This factor, combined with procedural impediments imposed by the LBC, greatly diminishes the ability of the local populace to have a meaningful voice in the decisions. A great deal of unnecessary divisiveness has resulted.

This situation can only serve to harm the state in the long run.

# 4 B

February 7, 1989  
Box 762  
Dillingham, Ak 99576

Sen. Al Adams, Chairman  
Senate Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Rep. Eileen Maclean, Chairman  
House Community and Regional Affairs Committee  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Re: Local Boundary Commission - HB-131, Kodiak Island Borough  
annexation, Lake and Peninsula incorporation

Dear Sen. Adams and Rep. Maclean:

I write to urge your committees to consider a major overhaul of the Local Boundary Commission process for considering borough incorporations and annexations. I also urge you to put borough decisions on hold in the meantime, and more particularly to veto the Kodiak Island Borough annexation and, if possible, to remand the Lake and Peninsula decision to the LBC for further consideration.

As a Dillingham city councilman, an attorney employed by a Native association, and a former newspaper writer in Bristol Bay I have closely scrutinized the above-referenced actions and also the 1987 Aleutians East incorporation. In terms of substantive analysis these three LBC decisions are probably the worst administrative decisions I have seen in ten years of legal practice.

While Rep. Shultz's bill is a good starting point, it does not go far enough. A major problem is that the statutory and regulatory standards, probably inadequate to begin with, have been so loosened in application that they no longer mean anything. The LBC simply substitutes its own judgement for the legally-premulgated standards whenever a contested issue arises, with the result that its decisions are arbitrary and inconsistent.

The process encourages land-grabs and results in further concentration of the tax base in the more politically sophisticated, urbanized communities at the expense of villages. It also results in boundaries that are irrational from a geographic and demographic perspective. You simply cannot carve up large regions of the state on a first-come

first-served basis, requiring only minimal compliance with weak standards, and hope to have a fair and rational result.

The Kodiak Island Borough annexation. This annexation should be vetoed because it is bad public policy and because the LBC threw its standards to the winds to allow it.

The Kodiak borough was allowed to annex a large uninhabited portion of the Alaska Peninsula and adjacent waters of the Shelikoff Strait that Lake and Pen also sought to incorporate. It should be borne in mind that Lake and Pen had only to meet the standards for incorporation, while Kodiak had to meet those standards and the regulatory standards for annexation.

The LBC's rationale for giving the area to Kodiak instead of Lake and Pen seems to have been that the Shelikoff Strait is fished primarily by Kodiak-based fishermen and that taxes from that fishery should, in fairness, go to Kodiak. While that may seem reasonable, no such standard is found in the statute or the regulations. This is a prime example of the LBC substituting its own judgement of what "ought" to happen for the legally-established rules.

The Kodiak annexation was granted under the LBC's regulations governing "contiguous" annexations, under which it had to meet one of eight regulatory standards. However, a preliminary issue not even discussed in the decision was whether the annexed territory is contiguous to the original borough. By any common sense definition it is not contiguous because it is separated from the original Kodiak Island Borough by federal waters beyond the territorial limit of Alaska and will be a separate enclave.

Likewise, the eight regulatory standards were not meaningfully applied. The LBC found that three of them were met, but not one of these findings withstands scrutiny. The LBC merely accepted the bare representations of the petitioners without independent analysis or research - despite DCRA's statutory duty to "investigate" proposals.

There was no evidence of likely development in the area which Kodiak could realistically plan for or control, no evidence that municipal services were needed and no evidence that the borough would provide any additional services in the area, which after all is uninhabited. In short, the only real reason for the annexation was to provide the Kodiak borough an additional revenue source, and that alone does not meet the legal standards. It should also be noted that most of the reasons the LBC cited for approving the annexation applied only to the waters of Shelikoff Strait and not to the Alaska Peninsula.

From a public policy perspective one has to question the wisdom of giving this revenue source to a borough with a relatively vibrant economy and healthy tax base at the expense of nearby chronically depressed villages with no tax base. Kodiak has numerous fisheries and is one of the communities directly benefitting from the "Americanization" of the North Pacific bottom fishery. It has year-round harbors and processing plants. The Lake Iliamna villages in contrast are almost solely dependent on the Bristol Bay salmon fishery, for which non-residents hold most permits. There are no processing plants. The typical village has only a few salmon permits and a handful of salaried jobs in the schools and local government. Unemployment is astronomical in the winter months.

One would think it in the state's interest that such villages have access to nearby fisheries, if only through taxation. And perhaps the new borough could develop programs enabling its people to more directly benefit from the Shelikoff Strait fisheries.

The LBC's decision itself found that the revenues from this territory would be much more important to Lake and Pen than to Kodiak, although not critical to either. Kodiak's benefit would be negligible.

Lake and Peninsula incorporation. This decision should be held open by whatever legal mechanism is available to do so. For one thing, a veto of the Kodiak annexation will not alone give Lake and Pen the additional territory it sought, and deserves.

For another, the borough's northwestern boundary was approved without adequate notice to neighboring communities in the Nushagak drainage. In my view, the procedures used effectively precluded any meaningful opportunity to be heard by residents of the adjacent area and thereby violated their constitutional rights of due process and equal protection.

Substantively, the northwestern boundary clearly violates the statutory standards by following longitudinal lines rather than natural geography and socio-economic use patterns. By slashing arbitrarily across the drainages, it divides historic (and logical) planning units and puts valuable spawning grounds for the Nushagak salmon fishery in the new borough. It also places subsistence hunting and fishing areas that Nushagak village residents say are traditionally "theirs" in the Lake and Pen Borough.

Depending on Lake and Pen's evidence, of course, the boundary might be moved in either direction if the legal standards were applied. But the northwestern boundary was not even addressed in the LSC decision, and the LBC refused to grant reconsideration of the decision so that it could be.