

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

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INTRODUCTION

This report is intended to provide the reader with general information regarding state operated lotteries. Types of customary lottery games are described and the most common questions about lotteries are answered based on validated research completed by numerous state governments and lottery industry organizations over the past twenty years.

Revenue generation in states currently operating lotteries is examined and comparisons are presented to assist the reader analyze those factors affecting projection of revenue that could be expected from an Alaskan lottery. Among those factors examined are the economic and physical, characteristics of the population of our state, marketing area configurations, and tourist impact on Alaska. A projection of probable profits from a lottery is presented based upon most current population figures, tourist influences and conservative expectations of per capita expenditures on lottery products.

State responsibility for the social affects of government sponsored activities must be of paramount concern to all involved in effecting legislation establishing authority for these activities. The social impact from the operation of a state lottery is discussed and the most current research available is presented.

A brief discussion on implementation and operation of a state lottery is presented from recommendations by several recognized authorities with many years of experience in directing state lotteries.

The conclusions of a November 1985 state-wide opinion poll conducted in Alaska are presented for the readers examination.

Part I: LOTTERY BASICS

Nutshell History of Lotteries

Lottery, according to Webster, is "a drawing of lots in which prizes are distributed to the winners among persons buying a chance." The lottery is not an invention of conventional America. Lotteries have been used by kings, emperors and representative governments throughout history to finance building projects or to increase revenues. The first reported government lottery was instituted by Ceasar Augustus to rebuild Rome. In 1612, King James authorized a lottery to help finance the "colonial settlement" which paid the cost of settling Virginia. In 1751 and 1754 Benjamin Franklin helped sponsor a series of "Academic Lotteries" and helped fund the University of Pennsylvania. The Congress of 1776 provided a National Lottery strongly supported by Thomas Jefferson and others of the nation's founding fathers. Some 70 acts were passed by Congress before 1820 authorizing lotteries for the building of schools and roads and other public projects. Lotteries helped erect Harvard, Yale, Brown, Dartmouth, Columbia, Princeton, William and Mary and many of the nations other prest gious academic institutions. Today over 112 countries around the world sponsor government lotteries, including most of Western Europe, Canada, Mexico, and many Central and South American nations. The modern U.S. lottery started in 1964 in New Hampshire.

Thomas Jefferson once said that "Lotteries are a wonderful thing; they tax only the willing." Indeed many states have turned to state-operated lotteries as a means of raising revenue "painlessly." Lotteries are currently legal in the District of Columbia and 22 states - Arizona, California, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and West Virginia; (Puerto Rico and Guam also have lotteries). Well over 50% of the population of the U.S. lives in lottery states.

Types of Lottery Games

Lottery games can be divided into two category - "active" and "passive." Active games are those in which the player participates in the bet by choosing a number or set of numbers. The winning numbers are drawn completely at random, so the player's choice has no bearing on the outcome of the game. However, many players enjoy active games because they can choose numbers that have some significance to them which gives an added dimension of entertainment and interest. Active games currently offered by the U.S. lottery states include three and four digit numbers games and lotto.

Passive games are those in which the player takes no action to determine whether he has won or lost; a ticket is purchased and the outcome is then revealed. Passive games offered in the U.S. include instant

games, traditional "draw" type lottery games and some subscription games.

The games mentioned above are all easy to play, and none involve any skill. Features of the various games can be described as follows.

1. Draw Lotteries

Though rare in the U.S., this was the original lottery game, and remains the main game in overseas lotteries. Players purchase pre-numbered tickets and wait for a weekly drawing, similar to a raffle. Payouts vary among games, but generally start at around \$5 and cap off at either \$50,000 or in some cases into the hundreds of thousands of dollars and more.

2. The Instant Game

Instant lottery games involve a fixed price for a ticket, usually \$1. The ticket normally has a scratch-off spot to reveal whether or not it is a winner. The advantage of this game is no waiting: the player knows immediately whether or not he has won.

Prizes range anywhere from a free ticket up to hundreds of thousands of dollars. Most lotteries hold some type of grand prize drawing for winners of some lower-tier prizes, the winner of that drawing receiving a prize sometimes as high as \$1 million or \$1,000 a week for life. Most lotteries offer several instant games per year, and grand prize drawings are generally held when a specific game is sold out or otherwise ended.

3. Lotto

A traditional European lottery game in which the player selects four, five or six numbers from a field ranging from 30 to 49, depending on the size of the population of the state.

Payout is parimutuel; i.e. the jackpot is created from money wagered, and the more that people bet, the larger the prize becomes. If no one selects the winning six numbers in any order, the jackpot "rolls over" to the next drawing. If there no winners for a number of weeks the jackpot can become enormous. Prizes can be divided when more than one bet is placed on the same numbers, and many states offer smaller prizes if one chooses most of the correct numbers.

4. Subscription Games

Many lotteries offer subscriptions to their lotto games, allowing the player to select certain numbers, pay a bulk rate, and automatically be issued a ticket for each drawing. The same concept is applied to many draw-type games, and many lotteries offer a stand-alone subscription game that doubles as a weekly draw lottery.

5. Numbers Games

Numbers games have been one of the traditional games of state lotteries since the 1970's. The player selects a three- or four-digit number and places a bet on it, normally starting at \$.50.

The winning number is drawn at a preset time, and the drawing is usually broadcast on television and/or radio. Drawings are held daily for three-digit games, and anywhere from once a week to daily for four-digit games. All but one numbers game in the U.S. offer a

fixed payout for winning numbers, i.e. the payout ratio does not change when more people bet money. Several options for betting combinations are available to play at a variety of predetermined odds and pay-off formulas. Payouts are determined by the amounts bet.

Questions and Answers about a State Lottery

Are lotteries a good method of raising state revenues?

Not as effective as taxes ... taxation is the most effective way of raising revenues. No responsible person in the industry has ever claimed that lotteries replace broad based taxes. Lotteries are best described as a supplemental revenue source only. Lotteries were never designed to solve tax revenue collection problems - only to assist.

How much revenue will a state lottery produce?

Fiscal year 1985 statistics indicate that total gross lottery sales in the U.S. exceeded \$8.8 billion. This means the average annual state lottery gross revenue was about \$90.00 per capita. A simplified means of predicting a state's likely gross lottery sales is to multiply this number by a state's total population. On the average, about 35 - 40% of gross lottery sales goes to the state as profits from the lottery. (see Pt. II for complete discussion of revenue projections for Alaska)

Is a state-run lottery the answer to the economic problems currently facing Alaska?

Certainly a state-run lottery is not the answer to all the financial needs of the state. At the same time, in many states the lottery has stabilized some of their problems. Connecticut raised \$148,000,000 from its lottery; Pennsylvania, \$572,600,000; Michigan, \$320,000,000; and little old Rhode Island \$18,600,000 in FY 85. All of this revenue is raised voluntarily. Needless to say, there are people who oppose lotteries or gambling in any form. These people are free not to buy tickets.

Are lotteries popular?

Yes. More people participate in state-run lotteries than in any other form of legalized gaming. In present lottery states, 75% of the residents of those states favor the lottery programs. At one time or another 60% of the residents of a lottery state will buy lottery tickets. Recent ballots in four states (California, Oregon, West Virginia, and Missouri) showed an overwhelming acceptance vote (over 60%). Alaskans support the concept of a state operated lottery by a margin of two to one according to a poll completed in November, 1985 by the Dittman Research Corporation of Anchorage (see Pt. V for

complete Dittman Research Corporation report). A survey of voters in AK House District 1 A-B by Rep. Robin Taylor, also completed in November '85, concluded the same level of support for a lottery; 66% of the respondents (from a total of 228) would support a "tightly regulated state operated Lottery Program" in Alaska. Polls taken in other non-lottery states such as Nebraska, Missouri, Florida indicate overwhelming support (two or three to one) for state-run lotteries.

Has any lottery in modern times ever failed ... or failed to show a profit? How are sales doing?

No lottery has ever failed ... or failed to show a profit. Sales are soaring! In 1982 lottery ticket sales exceeded \$4.2 billion .. with lottery profits exceeding \$1.5 billion. In calendar year 1983, sales exceeded \$6.0 billion with profits exceeding \$2.4 billion. In 1984, sales hit \$6.9 billion, generating \$2.8 billion in profits; and in FY 85 gross sales were \$8.8 billion providing an estimated \$3.8 billion in profits for those states with lotteries.

What do states do with their lottery profits?

Most states put their lottery profits into their general funds. However, some states earmark lottery profits for specific purposes. California, Michigan, New Hampshire, New York and New Jersey use their profits to aid education ... Pennsylvania donates its profits for senior citizen programs ... Massachusetts shares its profits with all the towns and cities in the state ... Colorado earmarks some of its profits for parks and recreation.

What happens to the lottery dollar and how does a lottery affect the economy of the state?

Generally, 45¢ to 50¢ of every dollar is returned to ticket buyers in the form of prizes ... 5¢ to 7¢ of every dollar is paid to local merchants as commissions for selling tickets ... about 5¢ to 10¢ of every dollar is used to pay state lottery employees, rent and utility bills for office and warehouse space, to purchase lottery products from established and experienced vendors, to establish a computer system, and promote the lottery ... and the balance, about 35¢, ends up as the profit for the state. Almost all lottery dollars stay in the state.

Are lotteries difficult to administer?

Absolutely not! Modern-day lotteries have been in existence for 20 years (since 1964) and there certainly isn't any "mystery" concerning their operations. Present lottery states are only too happy to share their experiences and their techniques with new entrants into the lottery field. Most states have lottery commissions overseeing their operation. All lotteries have full-time Directors or Executive

Secretaries ... people with extensive backgrounds in lottery operations. Few problems have arisen in the lottery industry during the past twenty years. When problems have arisen the industry has been quick to react. Recent studies indicate that a majority of ticket buyers believe that lotteries are well run and honest. Lottery staff can run from 50 to 150 depending on the size of the state. (see Pt. IV for additional discussion regarding lottery operations)

Where are lottery tickets sold?

Most states license retail establishments that are easily accessible to the public such as drug stores, supermarkets, convenience stores, newsstands and package stores. As a rule of thumb one license is granted for each 1,000 of population. As stated previously, these agents usually receive 5% to 7% of their sales as commissions for selling lottery tickets. In granting licenses lottery agencies will investigate each prospective licensee as to past criminal records ... their financial condition ... their ability to serve the public ... and their general fitness to serve as agents.

Aren't lotteries, for the most part, supported by poor people?

Definitely not! Extensive studies of the state-run lotteries indicate that an overwhelming majority of ticket purchasers are in the middle income ranges. Whereas citizens in the low income ranges buy lottery tickets, they buy fewer tickets proportionately than their percentage of the population. (see Pt. III for complete discussion of social impacts of a lottery on Alaska)

Don't lotteries appeal to the under-educated?

Current demographic information obtained from actual prize claim forms filed with the Washington State Lottery (a perfect sampling of lottery ticket purchasers) show that 65.6% of players are high school graduates or better and that those with less than eight years of schooling play the lottery in far less proportion than they represent in the population. This study's conclusion repeats that of every study of lottery participation conducted in the U.S. over the last twenty years. (see Pt III for complete discussion of social impacts of a lottery on Alaska)

How much money does the average citizen spend on lottery tickets per year?

The "per capita" spending on lottery tickets in 1984 was about \$72.02. Since only about 60% of a state's population is expected to buy tickets, actual expenditures for tickets is about \$120, or about \$2 per week.

How about "organized crime" and lotteries?

... there is absolutely no evidence of any state lottery being infiltrated by "organized crime." As a matter of fact some lottery Directors believe that state-run lotteries have taken customers away from illegally-run numbers games. A Connecticut study came to the conclusion that the state's legal games had, in fact, impacted illegal wagering in that state. A 1976 report of the National Gambling Commission stated that 11% of all Americans wager illegally. In lottery states that percentage drops to 6% ... almost a 50% decrease in illegal wagering. Modern day lotteries are run by state governments and there are no avenues available for illegal operators to ply their trade. There is no similarity between state-run lotteries and casino gambling or horse racing. The latter two are usually operated by private individuals or corporations that are licensed by the state. (see Pt. II for additional discussion)

What about the social implications of advocating a form of legalized gambling as a method of raising revenue?

People have been known to gamble for thousands of years and will continue to gamble. Most sociological studies (and there are many) have concluded that state-run lotteries are a "harmless" form of legalized gambling. A comprehensive, independent, state-commissioned study completed in 1981 concerning Connecticut's legalized gambling programs gave the state "a clean bill of health" ... "no increase in welfare cases, no increase in bankruptcies, no increase in compulsive gambling, and no increase in unemployment." Newsweek concluded an article on gambling in its March 3, 1980 issue by stating: "The only games that apparently pose no real threat of addiction are state lotteries. That is because they don't have enough action." (again, see Pt. II for further comment on social implications of lotteries)

PART II: ALASKA LOTTERY INCOME

Alaska Compared to Current Lottery States

Consideration of an Alaska state operated lottery always prompts the question of how much profit could the state generate on an annual basis. A responsible answer to this question is dependent on many factors and requires careful consideration. Because lotteries are businesses operated for a profit, they are dependent upon the same factors that affect other businesses. These basic marketing factors must be studied to determine if Alaska has those characteristics indicative of lottery success. To date there has been no in-depth analysis of the characteristics which are generally present in states currently operating successful lotteries and the degree to which these characteristics exist in Alaska. The following discussion provides, for the first time, this analysis.

Since every state lottery has always produced a profit, it could be said that all are successful. However, as Table 1 indicates, some states are more successful than others; that is some states produce both a higher net profit and a higher per capita profit from their lotteries. A review of the marketing conditions of the lottery states quickly reveals why some are more successful than others. These factors are:

1. The economic characteristics of the population of the state,
2. The physical characteristics of the population of the state (age, sex, education level, etc.),
3. The population concentration/dispersion patterns for the state.
4. Unique conditions usually affecting a particular state or region (neighboring state's lotteries, high volume of non-resident traffic, etc.)

Table 1-II lists the 18 states which have operated lotteries for over one year and the income generated for the years 1981-1985. Gross, net and per capita income has been presented from available sources. Because of the tremendous variation in the size of the population of the states listed a comparison of gross or net lottery income does little to help determine which states are successful and which are not. The key measure of just how successful a state has been in operation of its lottery is the per capita profit to the state. A sound per capita measure will also be of most help to project the possibilities for Alaska. As can be seen, Maryland is the most successful and Vermont is the least successful in per capita income of all 18 states.

Those top five states experiencing the most success with lotteries in 1983 thru 1985 were Maryland, New Jersey, Pennsylvania, Connecticut, Colorado ('83), Wash. D.C. ('84 & '85), and Massachusetts ('85). Those states with the least successful record with regard to per capita income were Vermont, Maine, New Hampshire, Arizona, Ohio ('83), Colorado ('84) and Rhode Island ('85). Colorado ranked in the top five for 1983 and in the bottom five states in 1984 and 1985.

Table 1-II
STATES LOTTERY INCOME

State	1981 ^a		1982 ^b		1983 ^a			1984 ^a				1985 ^c		
	\$Mil Gross	\$Mil Gross	\$Mil Net	\$Mil Gross	\$Mil Net	\$ Per Capita	Rnk*	\$Mil Gross	\$Mil Net	\$ Per Capita	Rnk*	\$Mil Net	\$ Per Capita	Rnk*
AZ				75.0	30.0	11.04	15	60.0	18.0	6.62	15	22.0	8.09	14
CO				208.0	72.8	25.19	4	120.0	40.7	14.08	14	32.0	11.77	13
CT	515.1	169.8	71.0	188.0	75.2	24.20	5	254.4	105.4	33.92	5	148.8	47.88	6
DW	20.1	25.6	9.5	29.8	11.0	18.51	10	33.0	14.0	23.56	9	15.0	25.24	11
DC				54.1	14.2	22.25	7	68.2	21.7	34.00	4	29.7	49.97	3
IL	206.1	334.8	142.9	467.0	214.4	18.76	9	911.9	377.1	33.00	6	517.8	45.31	7
MN	6.4	9.7	2.4	13.7	3.3	2.93	17	16.0	4.5	4.00	17	4.4	3.91	17
MD	385.6	457.4	199.0	462.8	198.5	47.07	1	485.5	209.2	49.61	1	263.7	62.53	1
MA	224.0	279.8	92.5	352.0	97.3	16.33	11	506.1	169.1	29.48	7	284.0	49.50	4
MI	502.3	527.3	205.6	557.6	221.2	23.88	6	620.0	250.0	26.99	8	320.0	34.55	9
NH	11.0	12.4	3.6	13.6	3.7	4.02	16	18.7	5.7	6.19	16	4.3	4.67	15
NJ	417.0	517.8	220.3	690.1	295.0	40.06	2	847.8	359.7	48.84	2	388.0	52.68	2
NY	236.7	424.9	179.8	646.9	262.4	14.94	13	888.7	389.8	22.20	11	615.0	35.03	8
OH	295.9	363.9	144.0	397.7	144.8	13.41	14	603.0	250.0	23.15	10	338.0	31.30	10
PN	427.0	562.2	227.1	885.4	335.4	29.96	3	1,236.0	516.3	43.52	3	572.6	48.26	5
RI	36.2	38.0	13.7	44.0	15.0	15.84	12	52.9	18.4	19.43	12	18.6	4.42	16
VT	2.5	3.8	.9	4.6	1.1	2.15	18	5.1	1.3	2.54	18	1.2	2.35	18
WA				225.0	90.0	21.78	8	164.6	71.0	17.18	13	58.8	14.23	12
Mean	234.7	266.2	108.0	295.3	115.9	19.57		382.9	156.8	24.35		201.9	29.53	
Median	258.8	265.5	114.	445.0	168.3	24.61		620.6	258.8	26.08		286.9	27.52	

* Lottery states ranked by highest per capita income first (#1).

^a Lottery Journal; Vol. 1, No. 1.

^b Games and Wagering Business; May 1985.

^c "USA Today"; 9/12/85.

CORRECTION

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

Table 1-II
STATES LOTTERY INCOME

State	1981 ^a		1982 ^b		1983 ^a			1984 ^a				1985 ^c		
	\$Mil Gross	\$Mil Gross	\$Mil Net	\$Mil Gross	\$Mil Net	\$ Per Capita	Rnk*	\$Mil Gross	\$Mil Net	\$ Per Capita	Rnk*	\$Mil Net	\$ Per Capita	Rnk*
AZ				75.0	30.0	11.04	15	60.0	18.0	6.62	15	22.0	8.09	14
CO				208.0	72.8	25.19	4	120.0	40.7	14.08	14	32.0	11.77	13
CT	515.1	169.8	71.0	188.0	75.2	24.20	5	254.4	105.4	33.92	5	148.8	47.88	6
DW	20.1	25.6	9.5	29.8	11.0	18.51	10	33.0	14.0	23.56	9	15.0	25.24	11
DC				54.1	14.2	22.25	7	68.2	21.7	34.00	4	29.7	49.97	3
IL	206.1	334.8	142.9	467.0	214.4	18.76	9	911.9	377.1	33.00	6	517.8	45.31	7
MN	6.4	9.7	2.4	13.7	3.3	2.93	17	16.0	4.5	4.00	17	4.4	3.91	17
MD	385.6	457.4	199.0	462.8	198.5	47.07	1	485.5	209.2	49.61	1	263.7	62.53	1
MA	224.0	279.8	92.5	352.0	97.3	16.33	11	506.1	169.1	29.48	7	284.0	49.50	4
MI	502.3	527.3	205.6	557.6	221.2	23.88	6	620.0	250.0	26.99	8	320.0	34.55	9
NH	11.0	12.4	3.6	13.6	3.7	4.02	16	18.7	5.7	6.19	16	4.3	4.67	15
NJ	417.0	517.8	220.3	690.1	295.0	40.06	2	847.8	359.7	48.84	2	388.0	52.68	2
NY	236.2	424.9	179.8	646.9	262.4	14.94	13	888.7	389.8	22.20	11	615.0	35.03	8
OH	295.9	363.9	144.0	397.7	144.8	13.41	14	603.0	250.0	23.15	10	338.0	31.30	10
PN	427.0	562.2	227.1	885.4	335.4	29.96	3	1,236.0	516.3	43.52	3	572.6	48.26	5
RI	36.2	38.0	13.7	44.0	15.0	15.84	12	52.9	18.4	19.43	12	18.6	4.42	16
VT	2.5	3.8	.9	4.6	1.1	2.15	18	5.1	1.3	2.54	18	1.2	2.35	18
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* Lottery states ranked by highest per capita income first (#1).

^a Lottery Journal; Vol. 1, No. 1.

^b Games and Wagering Business; May 1985.

^c "USA Today"; 9/12/85.

Table 2-II provides a comparison of Alaska to all states which have lotteries or are in the process of starting lotteries, with regard to income levels and physical characteristics of the populations within these states. These comparisons have been illustrated for those factors generally considered to be indicators of positive characteristics for the operation of a profitable lottery. States are ranked in descend order for each category of economic and physical characteristics of their population. Rankings for Table 2-II have been made from information contained in Tables 3-II and 4-II, for which specific values for rankings can be ascertained.

Columns A-G contain economic comparisons for the 21 states involved in this analysis. The ranking is straight-forward, the state with the highest income figure for each category is ranked first, for each of these columns except for columns D and E. Columns D and E are reversed, with the state with the lowest income figure for this category ranked first. For example, Alaska has the lowest percentage of its population in the \$0 to \$10,000 household income category. Since lottery participation by the lower income groups is less than their proportion to the population in general the state with the lowest percentage of its population in this group should be ranked first. The same reasoning has been applied to column E.

For all categories of income measures indicating ability to operate a profitable lottery, Alaska ranks first. In addition, those states with a record for operating the most successful lotteries (see Table 1-II) rank with Alaska in the top one-third of states compared in Table 2-II, (Pennsylvania an exception). Those least successful lottery states (see Table 1-II) fall at the opposite end of the spectrum from Alaska.

An analysis of personal, family and household income, comparing Alaska to other lottery states indicates that Alaska should expect to be able to operate a profitable lottery.

Column H compares Alaska and the current lottery states as to how urban their population is. History has shown that state operated lotteries generally are more successful in urban versus rural states. States rank from first, Washington D.C., with a 100% urban population, to last, Vermont, with a 33.8% urban population. The percentage of Alaska population living in urban areas is 64.3%; this is 35.7 percentage points below D.C. and 30.5 percentage points above Vermont.

The rank order in column H is less conclusive than the percentage point differences between the states. This is confirmed by the fact that each of the top five most successful lotteries are represented in the highest, middle and lowest one-third of the order. The closest state (with an income history) to Alaska in its percentage of urban population is the third most successful lottery state Pennsylvania, with 69.3%. Those least successful lottery states, Vermont, Maine and New Hampshire, have the most rural populations by far. Contrary to the belief of many, that we in Alaska live in remote areas, the large majority of our population lives in urban areas, and, according to the Alaska Department of Labor we are becoming more urban each year.

Alaska's population grew by 30% in the 2.25 years between 5/1/80 and 7/1/84 and 90% of that growth was in the Anchorage, Kenai Penn., Mat-Su, Fairbanks, and Juneau Boroughs.¹

Again, Alaska appears to be in a favorable situation for probable lottery success when considering its percentage of urban population.

Column I of Table 2-II illustrates the ranking of lottery states and Alaska for their population mix of males to females. Numerous studies of lottery players indicate that more males than females play lottery games. (see Pt. III) Alaska leads all states in the number of males to 100 females, with a total of 112 (Table 4-II). A significant point here is that all lottery states, except Washington D.C., have between 90 and 99 males for every 100 females. This large difference between Alaska and other lottery states is a factor in support of being able to implement a successful lottery.

Column J presents a ranking of the percentage of populations over eighteen years of age. Alaska's population is youngest compared to those in lottery states. However, information from Table 4 indicates that the percentage of population eighteen and older for lottery states (excluding DC at 77.5%) ranges from a high of 74.0% (RI) to a low of 70.3% (MI). Alaska's eighteen and older population makes up 67.5% of its total population. Two points need to be made here; first the difference between Alaska's percentage and that of the more normal lottery states is not significantly large; and Alaska, like Washington D.C., is subject to peculiar circumstances. Alaska has the lowest percentage of elderly population in the nation (2.8% compared to a U.S. average of 11.8%), this reduces our percentage of eighteen and older population. This second point is actually a positive characteristic for lottery success in Alaska since the elderly play lotteries in numbers less than their proportion to the total population. Although the total percentage of eighteen and older population is lower than other lottery states, the percentage of age levels that play lotteries the most, is higher than this 67.5% figure. This conclusion Washington D.C. has the highest percentage of female population in the nation due to occupational opportunities there.

Columns K and L of Table 2-II provide a comparison of Alaska and the lottery states regarding the education levels for their populations. Studies of lottery players indicate that the typical player has more education than the average for the total population. (see Part III) Again Alaska ranks first with the highest percentage of its population having more than 12 years of school, and third highest for the percentage of its population with 16 or more years of education.

Alaska's ranking in all of the categories examined in Table 2-II are high and indicate, that from the basis of this information, Alaska would be successful if it implemented a lottery. That is, Alaska could expect to generate for its general fund, a level of revenue per capita on a par with the most successful lotteries now in operation.

¹ Alaska Department of Labor, Research and Analysis, (Draft) Alaska Population Overview, 1985; Chapt. II.

TABLE 2-II

LOTTERY STATES DEMOGRAPHIC COMPARISONS REGARDING POSITIVE CHARACTERISTICS
FOR OPERATION OF PROFITABLE LOTTERY

Rank	A Personal Income/ Capita	B Median Family Income	C Median Hshld Income	D % of Hshld \$0-10K	E % of Hshld \$10-20K	F % of Hshld \$30-40K	G % of Hshld \$40K +	H % Pop Urban Areas	I Male/ 100 Female	J % Pop over 18 Yrs Old	K % Pop w/ 12+ Yrs Sch	L % Pop w/ 16+ Yrs Sch
1	AK	AK	AK	AK	AK	AK	AK	DC	AK	DC	AK	DC
2	DC	CT	MD	MI	MD	MD	MD	CA	WA	RI	CO	CO
3	CT	MD	CT	CT	NJ	NJ	CT	NJ	CO	MA	WA	AK
4	NJ	NJ	NJ	NJ	IL	MI	NJ	RI	CA	PN	OR	CT
5	CA	IL	IL	IL	MO	CT	DC	NY	OR	CT	CA	MD
6	IL	MI	MI	CO	CT	IL	CA	AZ	AZ	NY	AZ	MA
7	NY	WA	WA	MI	CA	WA	IL	MA	MI	CA	NH	CA
8	MD	CA	CA	WA	WA	CA	MI	IL	NH	NJ	MA	WA
9	WA	CO	CO	CA	NY	CO	CO	CO	VT	OR	VT	VT
10	CO	MA	DW	NH	MA	OH	DW	MD	MN	WA	CT	NJ
11	MA	OH	OH	DW	DW	MA	NY	CT	IL	MD	MN	NH
12	DW	DW	MA	OH	DC	DW	RI	WA	MD	CO	DW	NY
13	MI	NY	NH	MA	OH	NY	WA	OH	OH	DW	MI	OR
14	PN	OR	PN	PN	CO	OR	MA	MI	CT	NH	MD	DW
15	OH	PN	OR	OR	OR	PN	OR	DW	DW	IL	NJ	AZ
16	RI	NH	NY	AZ	PN	AZ	OH	PN	NJ	VT	DC	IL
17	NH	RI	AZ	NY	RI	NH	AZ	OR	PN	MN	OH	RI
18	OR	DC	RI	DC	AZ	DC	PN	AK	RI	OH	IL	MN
19	AZ	AZ	VT	RI	NH	RI	NH	NH	MA	AZ	NY	MI
20	VT	VT	MN	VT	MN	VT	VT	MN	NY	MI	PN	OH
21	MN	MN	*	MN	VT	MN	MN	VT	DC	AK	RI	PN

* District of Columbia omitted from this column by source; not a state.

Source: TABLE 3-II, & TABLE 4-II.

Column Explanations:

A, B, & C. First ranked (#1) state has highest income for category; last ranked (#21) has lowest income for category of lottery states.

D & E. First ranked (#1) states have lowest percent of households in income category; last ranked (#21) states have highest percent of households in income category.

F & G. First ranked (#1) states have highest percent of households in income category; last ranked (#21) states have lowest percent of households in income category.

H. First ranked state has highest percent of population living in urban areas.

I. First ranked state has the highest number of males per 100 females.

J, K, & L. First ranked states have the highest percent of population in each category.

Table 3-II

INCOME CHARACTERISTICS OF POPULATIONS IN LOTTERY STATES AND ALASKA

	Personal Income 1981				Money Income 1979									
	Total (Mil \$)	Per Capita (\$)	Trnsfr. Pymnts. (Mil \$)	Median Family Income (\$)	Household Income						Median (\$)	Rnk.	Per Capita (\$)	Pov. Level Fam. (%)
					Percent Within									
					Less than \$10K	\$10K to \$20K	\$20K to \$30K	\$30K to \$40K	\$40K to \$50K	\$50K and Over				
New England														
Maine	9,662.7	8,530	1,748.2	16,167	34.9	35.7	19.3	6.4	1.9	1.8	13,816	46	5,768	9.8
New Hampshire	9,367.3	10,013	1,208.3	19,723	26.3	33.2	23.6	10.0	3.6	3.4	17,013	21	6,966	6.1
Vermont	4,498.7	8,727	699.3	17,205	31.8	35.7	19.6	7.6	2.7	2.6	14,790	37	6,178	8.9
Massachusetts	64,243.9	11,128	9,423.4	21,166	27.7	28.8	22.5	11.3	4.9	4.7	17,575	19	7,458	7.6
Rhode Island	9,678.0	10,155	1,657.6	19,448	30.7	31.0	21.9	9.4	3.6	3.3	16,097	29	6,897	7.7
Connecticut	40,131.1	12,805	4,410.6	23,149	22.2	27.6	24.1	13.1	6.0	7.0	20,077	4	8,511	6.2
Middle Atlantic														
New York	201,707.2	11,460	30,386.4	20,180	30.4	28.4	20.8	10.6	4.7	5.2	16,647	26	7,498	10.8
New Jersey	90,001.3	12,156	11,460.8	22,906	23.8	26.7	23.0	13.4	6.3	6.7	19,800	6	8,127	7.6
Pennsylvania	123,056.8	10,366	20,583.8	19,995	28.6	30.6	22.9	10.2	4.0	3.7	16,880	22	7,077	7.8
East North Central														
Ohio	111,186.4	10,313	15,978.2	20,909	26.9	29.5	24.0	11.4	4.4	3.8	17,754	15	7,285	8.0
Illinois	132,638.0	11,572	17,003.6	22,746	25.0	25.7	23.5	13.1	5.8	5.9	19,321	7	8,066	8.4
Michigan	99,016.6	10,758	14,244.3	22,107	25.5	26.4	23.5	13.3	5.9	5.3	19,223	8	7,688	2.2
South Atlantic														
Deleware	6,643.5	11,102	836.1	20,817	26.5	29.3	22.7	11.2	5.1	5.1	17,346	13	7,449	8.9
Maryland	48,821.9	11,452	6,332.6	23,112	22.1	27.1	23.1	14.0	6.8	6.9	20,281	3	8,293	7.5
Wash. D.C.	8,522.8	13,509	1,916.2	19,099	30.5	29.4	17.6	9.6	5.2	7.7	16,211	X	8,960	15.1
Mountain														
Colorado	33,257.4	11,216	3,680.6	21,279	25.4	29.9	23.0	11.6	5.1	5.1	18,056	12	7,998	7.4
Arizona	27,285.8	9,765	4,008.1	19,017	28.8	31.3	21.8	10.1	4.1	4.0	16,448	27	7,041	9.5
Pacific														
Washington	47,546.4	11,274	6,521.9	21,696	26.0	28.4	23.6	12.2	5.0	4.7	18,367	9	8,073	7.2
Oregon	26,528.8	10,009	4,042.0	20,027	28.7	30.5	22.3	10.5	4.0	3.9	16,780	24	7,557	7.7
California	289,583.8	11,968	38,308.8	21,537	26.3	28.1	21.5	12.1	5.7	6.4	18,243	10	8,295	8.7
Alaska	5,660.7	13,749	500.2	28,395	18.3	21.2	18.4	15.1	11.3	15.7	25,414	1	10,193	8.6

Source: U.S. Bureau of Census, County & City Data Book, 1983

Table 4-II

PHYSICAL CHARACTERISTICS OF POPULATIONS IN LOTTERY STATES AND ALASKA

	1980										
	Land Area (Sq Mi)	Total Persons	Urban (%)	Males Per 100 Females	18 Yrs and Older	Median Age	Total Households	College Enrollment	25 Years and Older		
									Total	Yrs of Sch 12+ 16+	
								(%)	(%)		
New England											
Maine	30,995	1,124,660	47.5	94.4	803,273	30.4	395,814	45,764	661,840	68.7	14.4
New Hampshire	8,993	920,610	52.2	95.0	662,528	30.1	323,493	50,344	541,953	72.3	18.2
Vermont	9,273	511,465	33.8	94.9	366,138	29.4	178,325	29,703	295,051	71.0	19.0
Massachusetts	7,824	5,737,037	83.8	90.8	4,246,648	31.2	2,032,717	415,897	3,463,256	72.2	20.0
Rhode Island	1,055	947,154	87.0	91.0	704,303	31.8	338,590	64,128	575,243	61.1	15.4
Connecticut	4,872	3,107,576	78.8	93.1	2,284,657	32.0	1,093,678	177,255	1,900,164	70.3	20.7
Middle Atlantic											
New York	47,377	17,558,072	84.6	90.5	12,870,209	31.9	6,340,429	1,076,133	10,721,012	66.3	17.9
New Jersey	7,468	7,364,823	89.0	92.2	5,373,962	32.2	2,548,594	384,885	4,504,247	67.4	18.3
Pennsylvania	44,888	11,863,895	69.3	91.9	8,740,599	32.1	4,219,606	550,786	7,240,244	64.7	13.6
East North Cent.											
Ohio	41,004	10,797,630	73.3	93.5	7,703,310	29.9	3,833,828	514,105	6,291,667	67.0	13.7
Illinois	55,645	11,426,518	83.3	94.0	8,183,481	29.9	4,045,374	617,759	6,678,759	66.5	16.2
Michigan	56,954	9,262,078	70.7	95.2	6,510,092	28.8	3,195,213	531,671	5,254,040	68.0	14.3
South Atlantic											
Delaware	1,932	594,338	70.6	93.1	427,743	29.8	207,081	34,286	344,657	68.6	17.5
Maryland	9,837	4,216,975	80.3	94.0	3,049,445	30.3	1,460,865	256,872	2,499,096	67.4	20.4
Wash. D.C.	63	638,333	100.0	86.1	494,842	31.1	253,143	59,302	398,653	67.1	27.5
Mountain											
Colorado	103,595	2,889,964	80.6	98.5	2,081,151	28.6	1,061,249	179,073	1,663,891	78.6	23.0
Arizona	113,505	2,718,215	83.8	96.9	1,926,728	29.2	957,032	179,503	1,558,891	72.4	17.4
Pacific											
Washington	66,511	4,132,156	73.5	98.7	2,992,796	29.8	1,540,510	243,004	2,439,417	77.6	19.0
Oregon	96,184	2,633,105	67.9	97.0	1,910,048	30.2	991,593	149,400	1,579,841	75.6	17.9
California	156,299	23,667,902	91.3	97.2	17,278,944	29.9	8,629,866	1,720,087	14,043,986	73.5	19.6
Alaska	570,833	401,851	64.3	112.8	271,106	26.1	131,463	18,778	211,397	82.5	21.1

Source: U.S. Bureau of Census; County & City Data Book, 1983

So far we have only looked at the first two marketing conditions listed above; the economic and physical characteristics of the population of Alaska in relation to other lottery states. The third marketing condition needing examination is how the population of Alaska is concentrated and/or dispersed.

Alaska is unique in its vastness with over one-half million square miles of land, 3.7 times the area of the next largest lottery state, California, and 541 times the size of Rhode Island, the smallest lottery state (excluding DC). However, as we saw in Table 2-II, Alaska is quite urban; twice as urban as Vermont, and only 36% less urban than Wash. D.C. with 100% of its population living in urban areas. When we examine the degree to which the population in Alaska is concentrated we find that there exists similarities with some of the other lottery states. These states are the relatively large western states of Arizona, Colorado, Oregon and Washington. Table 5-II and maps of these states following Table 5-II illustrate this similarity in population concentration in marketing terms.

As Table 5-II illustrates, each of these states has one marketing area which contains approximately one-half of the states total population. This area has been identified as the primary marketing area for that state. In addition, each of these states has from one to three other major marketing areas within the state which, when combined with the primary marketing area, contain approximately 80% of the state's total population. The conclusion made from this comparison is that these states would be reasonable candidates for use as a comparative model to help predict possible revenue levels for an Alaskan lottery.

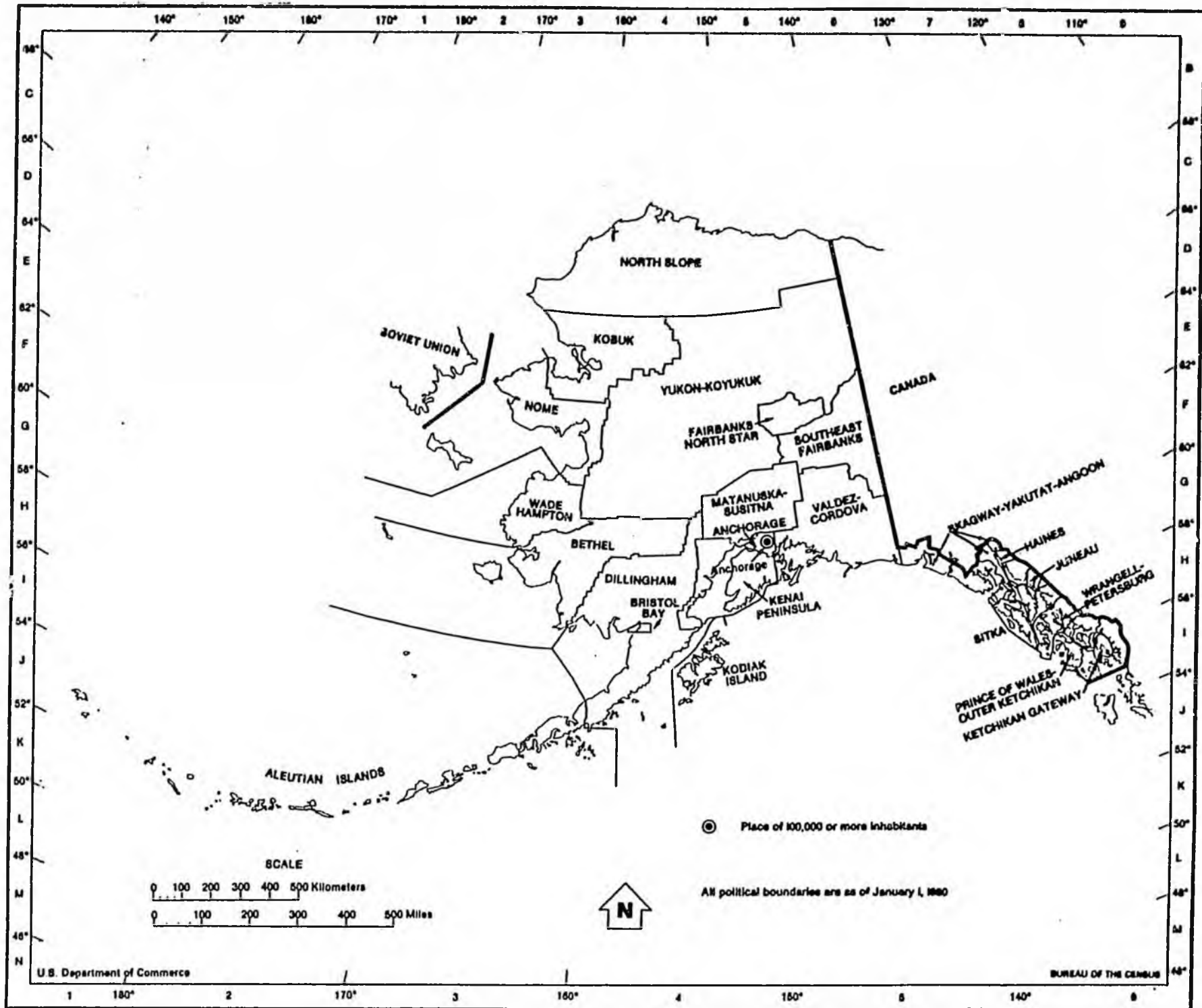
The three western states with lottery history at this time are Arizona, Colorado and Washington. Of these states the most similar to Alaska is Colorado, with the same pattern of population concentration (one primary marketing area and two additional major marketing areas). Colorado is also a very close match with its percentages of total population in these marketing areas very similar to Alaska's.

Also included is a map of Vermont, a state often used as an example to compare with Alaska for projections of lottery revenue because its total population size is similar to Alaska's. Three factors should be considered to illustrate why Vermont is not a reliable example for this comparison. Note that although Vermont's population is about the same as Alaska's, there is only one city, Burlington, with over 25,000 people. Also note that 66.2% of Vermont's total population lives in rural settings (Table 4-II); only 35.7% of Alaska's population lives in rural settings (Table 4-II). Vermont lacks the population concentration necessary for effective marketing of lottery products. Last, note that Vermont is surrounded by larger lotteries of New Hampshire, Massachusetts, New York and Quebec; Vermont residents have until recently been able to easily access all of these high prize lotteries.

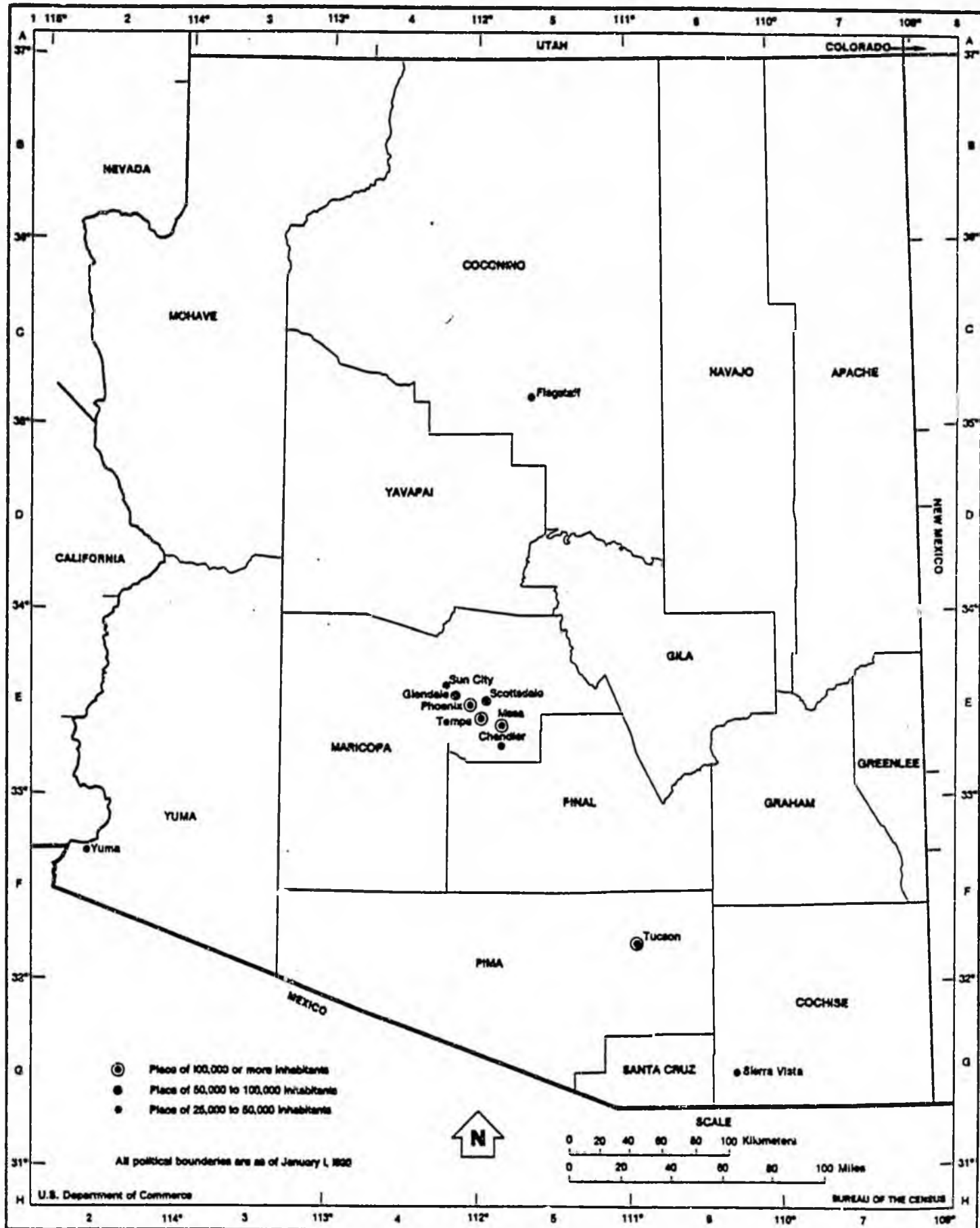
Table 5-II
WESTERN LOTTERY STATES MARKETING AREAS COMPARISON
(1980 U.S. Census Data)

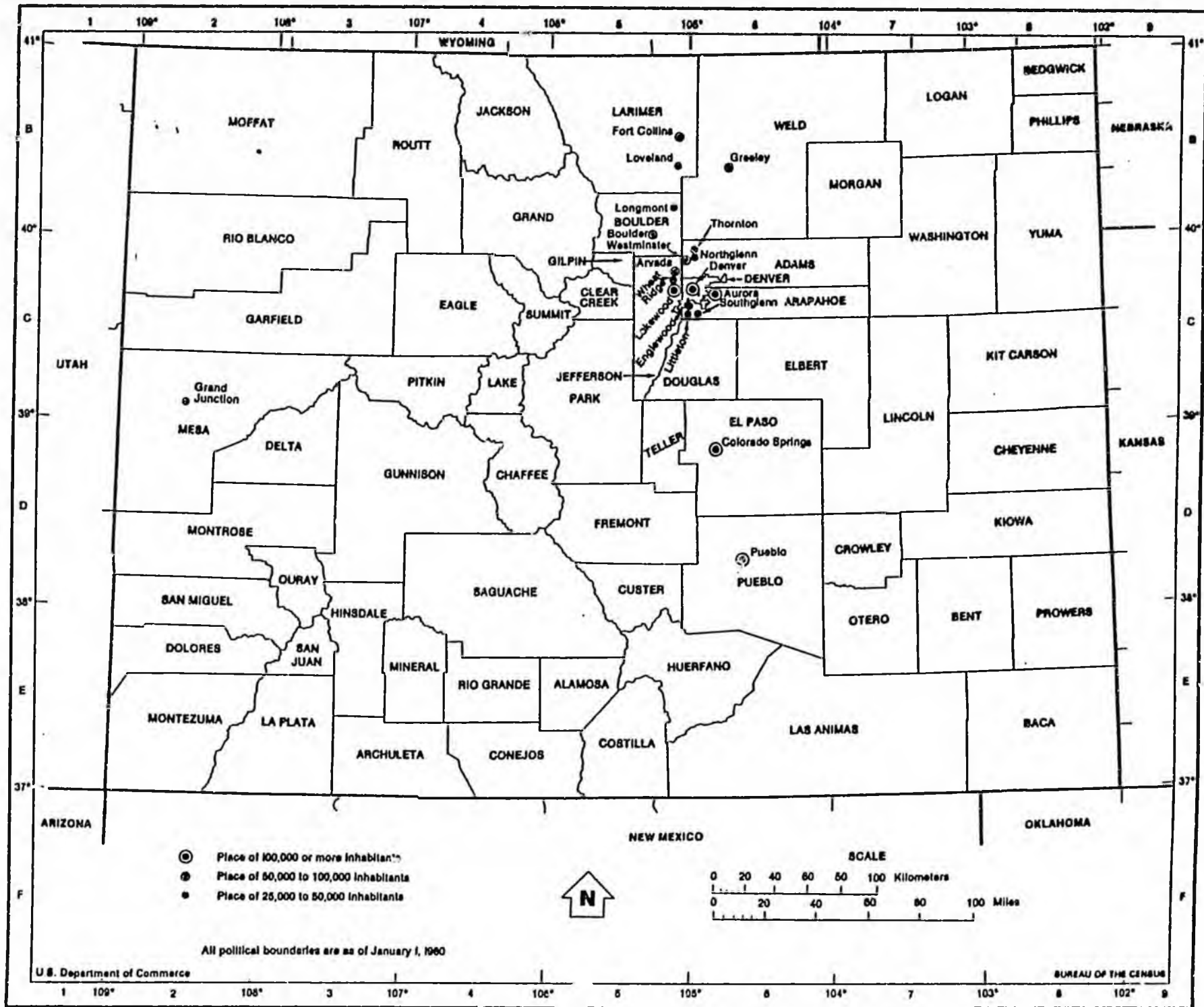
State	County	Total Pop	Prim Mkt Area Pop	PMA % of St	Maj Mkt Area Pop	MMA % of St
AK	Anchorage	174,431				
	Mat-Su	17,816				
	Kenai Pen.	25,282	217,529	<u>54.1</u>		
	Fbnks-NS	53,983				
	Juneau	19,528				
	Ketchikan	11,316				
	Sitka	7,803				
	Wrang-Pet	6,167				316,326
AZ	Maricopa	1,509,052				
	Pinal	90,918	1,599,970	<u>58.9</u>		
	Pima	531,443			2,131,413	<u>78.4</u>
CO	Denver	492,365				
	Adams	245,944				
	Arapahoe	293,621				
	Douglas	25,153				
	Boulder	189,625				
	Jefferson	371,753	1,622,461	<u>56.1</u>		
	El Paso	309,424				
	Pueblo	125,972				
Larimar	149,184					
Weld	123,438				2,330,479	<u>80.6</u>
WA	King	1,269,749				
	Kitsap	147,152				
	Pierce	485,643				
	Snohomish	337,320				
	Thurston	124,264	2,364,128	<u>57.2</u>		
	Clark	192,227				
	Spokane	341,835				
	Yakima	172,508				3,070,698
OR	Clackamas	241,919				
	Multnomah	562,640				
	Washington	245,808				
	Marion	204,692	1,255,059	<u>47.7</u>		
	Lane	275,226				
	Linn	89,495				
	Benton	68,211				
	Jackson	132,456				1,820,447

Source: U.S. Census Bureau; County & City Data Book, 1983

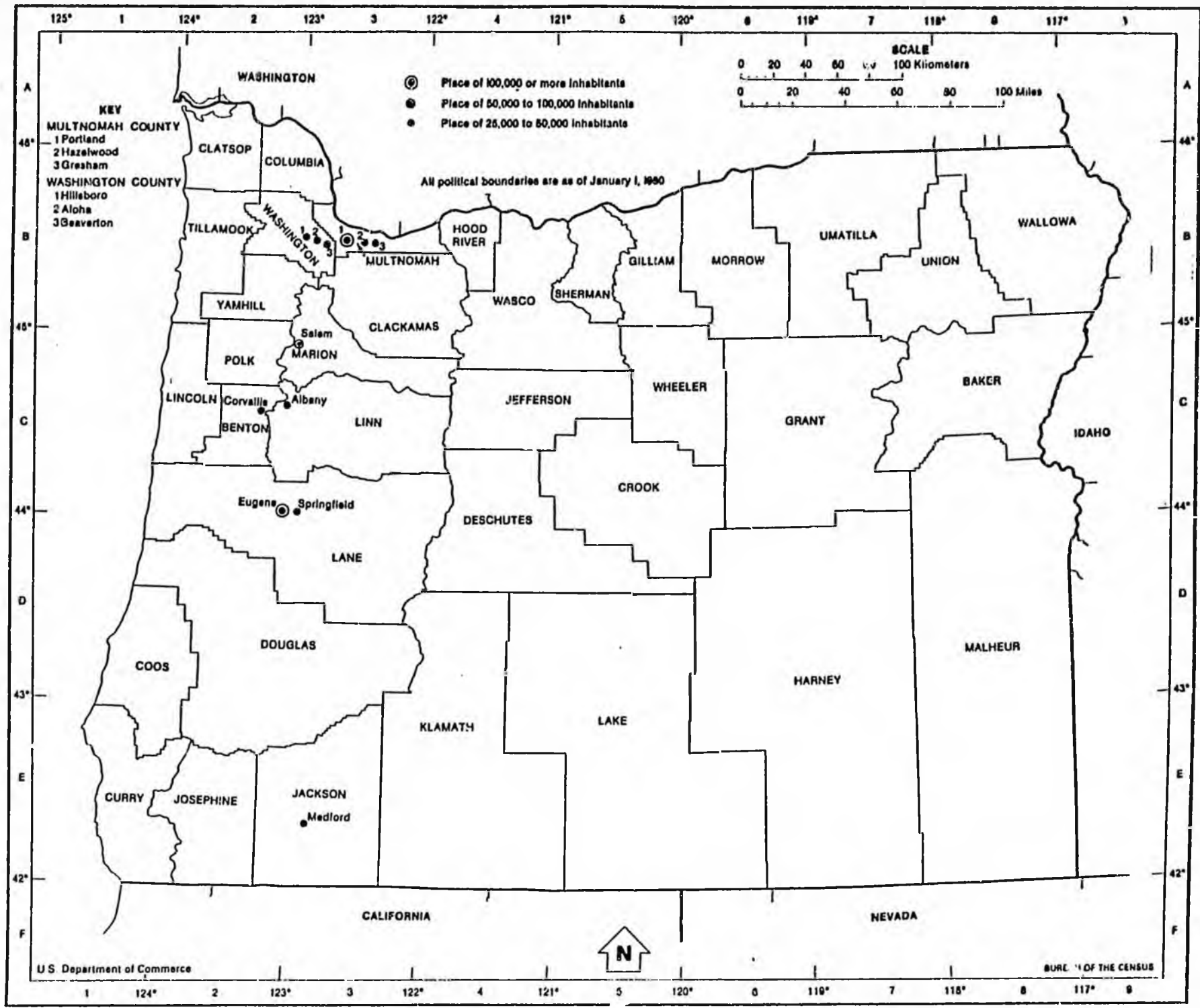


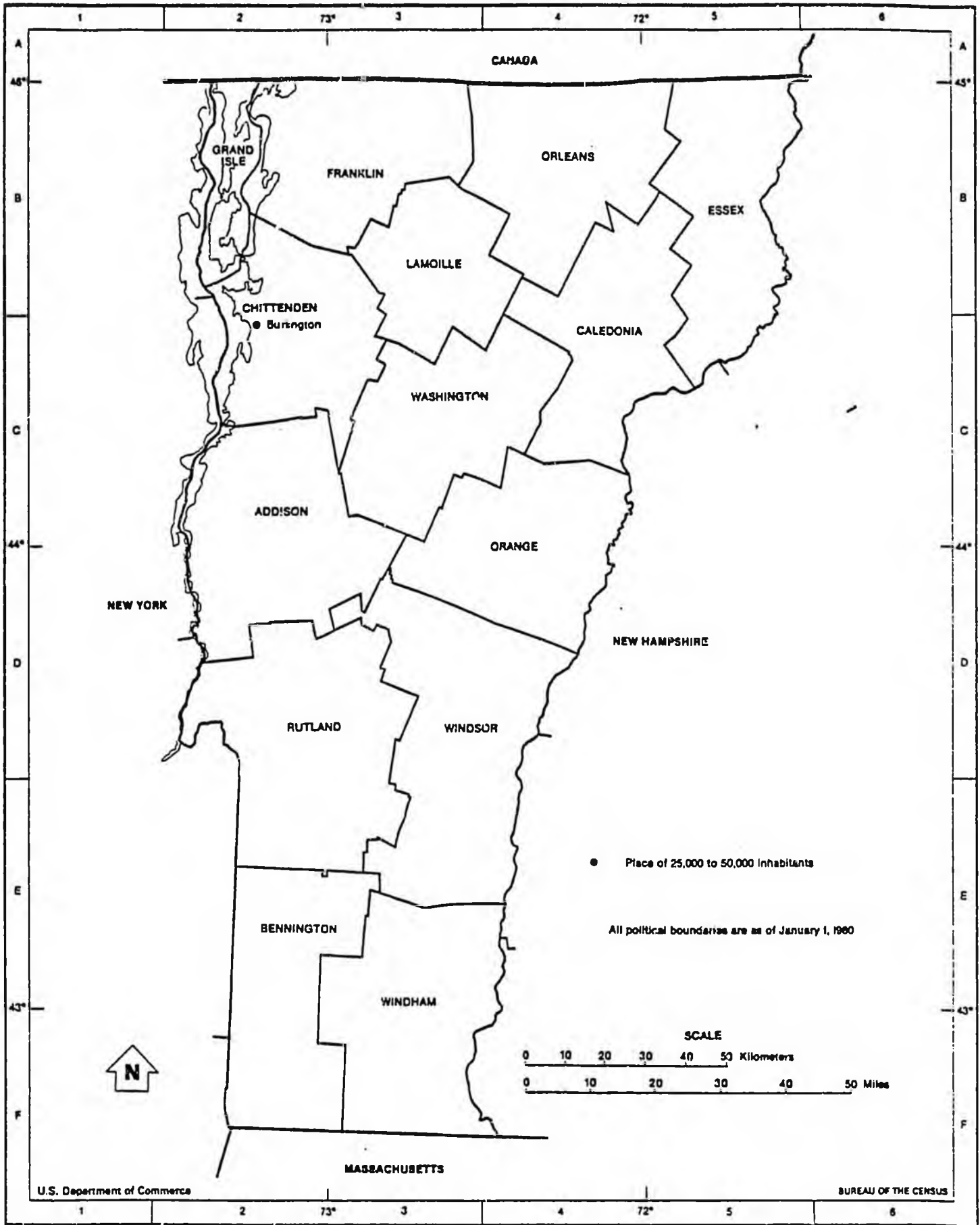
Arizona











The fourth, and last, marketing factor listed above was that of unique conditions affecting a particular market. There are several obvious and some not-so-obvious conditions present in some of the currently operating lottery states which impact their sales.

Small states with large populations in the East have an advantage over large less populated states with regard to the physical marketing of their lottery product.

People in the northeastern states have experienced a long history of exposure to illegal lottery type games and are therefore familiar with the concept. They do not have to be educated about how lotteries are played.

Those least successful lottery states of Vermont, Maine, New Hampshire and Rhode Island are surrounded by the neighboring giant lottery states of Pennsylvania, Massachusetts, Connecticut, New York and New Jersey. The convenience of buying lottery tickets from the large lotteries, with large prize structures, is such that many resident players from these smaller states choose to buy out of state. Why spend \$1 on a chance to win \$500,000, when the same \$1 will buy a chance to win several million dollars? This will likely change in the near future with the implementation of the Tri-State Lottery partnership of Maine, Vermont and New Hampshire, and the recent (May '85) reversal in federal law interpretation by the U.S. Postal Service resulting in a ban on subscription lottery sales across state lines.

Alaska is unique in the fact that it experiences a tremendous annual influx of tourists, in comparison to its resident population estimated to reach 533,000 in 1985². This tourist influx is large in the sense of its total volume, 776,600 projected for CY 86³, and as percentage of the resident population, 147.5%. In addition to the number of tourists, a significant number of airline and cruise ship crews, a total of 6,000⁴, are effectively part-time residents of the state. This situation is unique to Alaska, and of the lottery states only Colorado experiences a similar condition, although to a much lesser degree. These additional people would affect lottery sales Alaska in a positive direction.

² Alaska Department of Labor, Research and Analysis, (Draft) Alaska Population Overview, 1985: "If the in balance of migration to Alaska during 1984-85 were to be zero, which seems unlikely, the 1985 population of the state should reach 533,000 due to natural increase alone."

³ Alaska Department of Commerce and Economic Development, Division of Tourism.

⁴ The McDowell Group (cruise ship crews), and telephone survey of major Anchorage hotels (airline crews).

Alaska Compared to Colorado

Information contained so far in this discussion provides a basis for reasonable conclusions regarding a method to estimate probable net revenue for an Alaskan lottery. Although Alaska shares similarities with the most successful lottery states (economic and physical composition of its population), our population size does not reasonably allow for a direct comparison with these states. Likewise, although our population size compares with some of the least successful lottery states, other marketing factors; our degree of urban versus rural population, our degree of population concentration, the lack of accessible neighboring lotteries, and the economic and physical composition of our population; does not allow for a direct comparison with these states.

One lottery state, with a three year lottery income history, does have a number of similar characteristics to Alaska and qualifies as a reasonable model for generating revenue projections. Colorado is similar to Alaska in more aspects than any of the other lottery states.

A review of Table 2-II and the discussion pertaining to it illustrates that Colorado provides a basis for conservative comparisons from a per capita, family and household economic perspective. It provides for a very close comparison from the perspective of educational level of the populations. And when including the information from Table 5-II with columns H, I and J from Table 2-II, Colorado is a good match with Alaska regarding comparisons of the urban nature and population concentration patterns of the two states, as well as the male to female ratio and population over eighteen years of age factors.

Alaska Lottery Income Projections

Using an average of Colorado's last three years per capita net income, \$17.01 (Table 1-II), as a probable per capita income for Alaska will give a reasonable, conservative estimate for annual profit from an Alaskan lottery.

A second projection, using an average median per capita income from all lottery states for the last three years, \$26.07 (Table 1-II), will provide a second, possibly less conservative and more simplified projection for Alaska.

A population factor of 730,000 for Alaska has been determined to be most useful for computing a probable FY 87 net profit, should Alaska implement a state operated lottery by July, 1986. This population factor is based on the assumption that tourists to the state would play a lottery with much more frequency than the average for the state. Tourists are here to be entertained and they have the money to spend (82% of the visitors to Alaska in 1983 had household incomes over \$20,000, 25% over \$60,000⁴). However, since tourists are in the state for an average of only 16.8 nights (this represents more than

10.8 million person-nights per year spent in the state)⁵ a factor must be based on their short duration here. Therefore, an assigned factor of .25 is used as an approximation of their lottery play, compared to residents with a factor of 1.0. Likewise a factor of .50 is used to approximate the frequency of lottery play by crews from the airlines and cruise ships, who spend about one-fourth of the year in Alaska.

We now have enough information to compute a projection for an annual profit from operation of an Alaskan lottery.

<u>Population Base</u>	<u>Number</u>	<u>Factor</u>	<u>Total</u>
Alaska Total Population (Est. 1985):	533,000	x 1.00	= 533,000
Alaska Tourist Volume (Est. 1986):	776,600	x .25	= 194,150
Cruise Ship and Airline Crews (1985):	6,000	x .50	= <u>3,000</u>
Total Effective Population			730,150

Using this "effective population" figure and the two per capita profit amounts, one from Colorado (\$17.01) and the other from a national average (\$26.07), an expected range of total net revenue for Alaska can be determined.

1. Alaska Total Effective Population	730,150
Colorado '83-'85 Average Per Capita Profit	<u>x \$17.01</u>
Estimated Alaska Net Revenue (low)	<u>\$12,419,851</u>
2. Alaska Total Effective Population	730,150
National '83-'85 Average Per Capita Profit	<u>x \$26.07</u>
Estimated Alaska Net Revenue (high)	<u>\$19,035,011</u>

An Alaska lottery could expect to generate between \$12.4 and \$19.0 million in FY 87.

This low end estimate, \$12.4 million, is a very conservative figure when we consider that it is based on the Colorado lottery which is restricted to only operating instant games. A parallel comparison to this restriction would be to restrict a jewelry store to only selling gold jewelry. There is a large market for gold jewelry, but it's only a percentage of the total market.

The high estimate, \$19.0 million, is a fairly realistic estimate, and is only dependent on how freely the enabling legislation for an Alaska lottery allows it to respond to the market.

⁵ Overview, Alaska Traveler Survey and Visitor Industry Analysis 1983;
Dept. of Commerce and Economic Development, Div. of Tourism PART

III: SOCIAL IMPACTS OF LOTTERIES

The five questions most often asked regarding lottery social impact are:

1. What affect do state lotteries have on the "poor?"
2. What affect do state lotteries have on the "less educated?"
3. How do lotteries affect the incidence of compulsive gambling?
4. Does winning disrupt the lives of winners of large cash prizes?
5. Do lotteries cause a negative economic drain on rural communities?

Questions 1 and 2:

The most often raised objection to state operated lotteries is that people from lower income households and/or the less educated buy a disproportionate amount of lottery tickets. The implicit suggestion is that a lottery should be prohibited in order to protect the "poor" and "less educated." As a matter of empirical fact, it is simply untrue that the poor and/or less educated buy lottery products disproportionately to their percentage of the population.

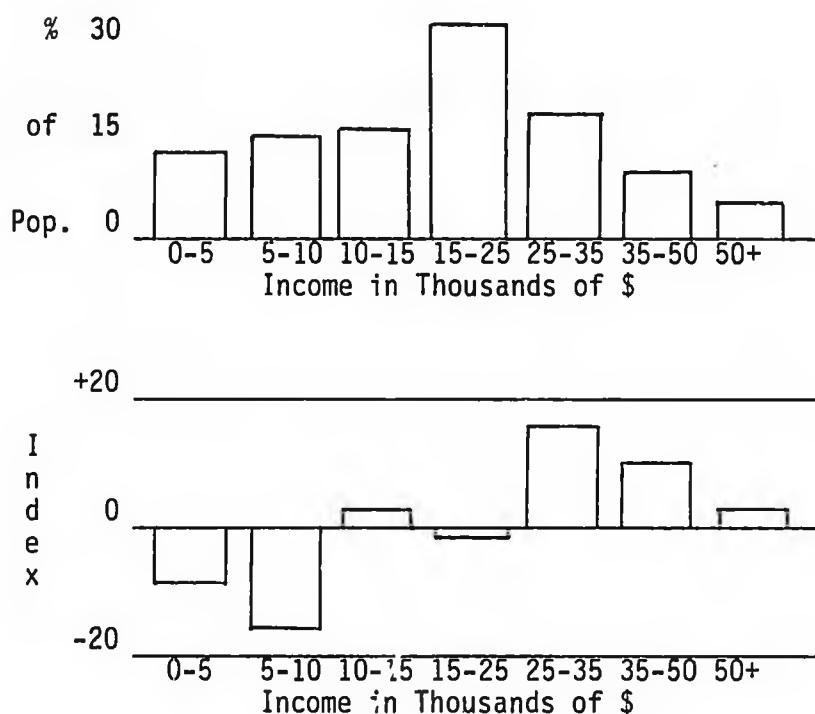
Research has been conducted in every state with a lottery operating for over one year regarding these questions (#1 & #2), and the conclusion is always the same; the poor and less educated play the lottery to a lesser degree than their proportion of the population.

Some comments from a sampling of the numerous studies conducted follow. Please bear in mind that every statement to follow is based upon statistical evidence, not opinion.

Colorado: Chart 1-III, below, is comprised of two bar graphs. The top graph represents the income group's percentage of the Colorado population. The bottom graph represents an index of lottery participation by the income group. Where the bar is above zero, that group plays the lottery more than their relative proportion in the population, and vice versa.¹

¹ Chart reproduced from "Colorado Lottery Facts", Oct. 1983, included in the Report to the Colorado Legislature by the Lottery, dated Dec. 6, 1983.

Chart 1-III
 COLORADO LOTTERY PLAYER



As the chart dramatically shows, the lower income groups play the Colorado Lottery substantially less than their proportion in the population. The Colorado Lottery explained the methodology of their analysis and also commented generally on this issue.

"Analysis of the winners in lottery games is a statistically perfect sampling of the players. During each year, several state lotteries do research on the profile of their players through analysis of winners' age, income, occupation, sex, residence, and lifestyle. Every study conducted in the legal lottery business in North America has shown that the bulk of the lottery tickets are purchased by middle income consumers. Typically, most tickets are bought by persons between the ages of 35 and 54 although the play of the lotteries ranges in age from 18 to over 65. In addition, although the range of players runs from low income to high income, the majority of the tickets are purchased by persons whose household incomes are between \$12,000 and \$36,000. Research in Colorado indicates that the average education and income of the players are higher than the national average. Even low income players play the lottery from their discretionary income,

low income players play the lottery from their discretionary income, that is to say, even low income persons purchase lottery tickets on a competitive basis with their purchase of candy, movies and softdrinks. An average of 90¢ a week played on the lottery, while being a higher percentage of the discretionary income of a low income person than it is in a middle income person, is still a minor decision..."²

The results of the Colorado studies are confirmed by numerous other studies about the income levels of lottery players in other states. For example:

Arizona: An independent study concluded that "the poor are dramatically underrepresented among lottery players."³

Delaware; 89% of the buyers of "Daily Numbers" lottery tickets had an annual family income in excess of \$10,000. The median family income of players was \$19,200 a year, while the median income of non-players was \$18,200 a year.⁴

Illinois; People with incomes below \$11,000 only participated in lotteries about 75-78% of their percentage of the population.⁵

Maine; Studies "conclusively demonstrate that it is the middle income segment of the population that is the primary market for lotteries... [T]he poor (under \$5,000 in income) are extremely underrepresented among lottery players."⁶

Illinois, Michigan, New Jersey, New York, Pennsylvania; An analysis of the household income profiles of over 6.5 million winners established that "the poor participate in the state lottery games at levels disproportionately less than their percentage of the population."⁷

² "Colorado Lottery Fact Sheet", Oct. 1983, p.8, included in Report, op. cit. fn. 1.

³ "Using Demographics to Increase Lottery Sales", G.E. Shippee, D.J. Schwartzman, K. Reynolds, Public Gaming Magazine, Aug. 1983. See also, "Analysis of Sales Data of Lotteries", July 1983, Scientific Games, Inc., cited in Public Gaming Magazine, Dec. 1983, p.29 (hereafter "Analysis"), and Time, May 28, 1984, p.42.

⁴ Report by Dr. Keiser, University of Delaware, College of Business and Economics, 1979.

⁵ Public Gaming Magazine, Jan. 1982, p.33, Table II.

⁶ "Analysis," op.cit., fn. 3.

⁷ "The Myth of the Poor Buying Lottery Tickets", by Dr. J.R. Koza, Public Gaming Magazine, Jan 1982, at p.40.

Washington; An analysis of all players in the lottery during the 1983 reporting period indicated the group which played the lottery the least was the under-\$10,000 income range.

These are only a sampling of the numerous studies on this issue.

The Louisiana legislature, after conducting an extensive investigation on this issue and an analysis of the numerous available studies, concluded: "The overwhelming majority of studies conducted in this country illustrate that the poor patronize the lottery in numbers proportionately less than their numerical presence in any community."⁹

Similar conclusions have even been admitted by lottery critics. The Berean League of Minnesota, a self-described coalition of concerned Christians, admitted in an extensive paper submitted to the Minnesota legislature, in opposition to pending lottery legislation, that "Poor people do not play the lottery out of proportion to their percentage of the population (the evidence shows that they play less than their percentage of the population)...[N]othing has surfaced to question the accuracy of the studies that the poor play the lottery... less than other segments of the population."¹⁰

The Illinois, Michigan, New Jersey, New York, & Pennsylvania study took an additional step in the analysis of data collected from its over 6.5 million winners of large prizes. Relative level of sales were studied to determine if there were any correlations between heavy lottery players and household incomes. New York was chosen for this study because its household income profile for lottery game players was most representative of the average of the five states involved. Data for this analysis was collected from seventeen \$1 instant games in New York. Areas were designated as having "below-average" sales if the sales index for that zip code averaged 25% or more below the statewide level. An area was designated as having "above-average" sales if the sales index averaged 25% or more above the statewide level. The remaining areas were considered "average." This approach placed about 24 percent of the New York population into above-average sales areas, about 43 percent into average sales areas, and about 33 percent into below-average sales areas.

Having thus divided the state into three distinct categories based on the actual occurrence of recorded lottery winners (and hence players), the household income distribution for the three categories was examined. See Table 1-III for a presentation of this data in the form of indexed numbers.

⁸ Washington State Lottery 1983 Annual Report.

⁹ Final Joint Lottery Subcommittee Report, Louisiana Legislature, April 5, 1983, p. 27.

¹⁰ "The Proposed Minnesota Lottery," Report by the Berean League of Minnesota, 1984, pp. 22, 23.

Table 1-III

INDEXED HOUSEHOLD INCOME DISTRIBUTION
 (Above-Average, Average & Below-Average Sales Areas of
 17 \$1 Instant Lottery Games, New York State)

ANNUAL HOUSEHOLD INCOME
 (In 1980 Dollars)

	Over \$56,000	\$34,000- \$56,000	\$23,000- \$33,999	\$18,000- \$22,999	\$11,000- \$17,999	\$6,700- \$10,999	Under \$6,700
+ Ave.	105	128	120	99	83	75	75
Average	158	139	109	90	83	75	79
- Ave.	140	94	81	89	111	116	113

The income profile for the areas of the state having above-average sales have a relatively higher representation of high-income households. The same is true for of the areas of the state having average sales. For example; households with an income above the \$56,000 (1980 dollars) range have an index value of 158 in the "average sales" level areas. This means that this level income household occurs at a rate 58% higher than in the state as an average.

However, for the areas of the state having below-average sales, the income distribution is bi-modal. It contains the "poor" and it also contains a significant representation of very high income people. The main point, however, is that the lower-income categories are relatively underrepresented in both the average and the above-average sales areas and that the lower-income households are overrepresented only in the below average sales areas.

Thus, using this slightly different perspective, the conclusion is again the same. Namely, that the poor participate in the lottery games at a disproportionate rate as compared to their percentage of the population.¹¹

Most analysis and comment from the studies conducted by states operating lotteries include educational levels as well as household income issues. These studies indicate similar conclusions with regard to education levels of those playing lotteries; the less educated play lotteries proportionately less than they are represented in the total population.

¹¹ "Myths", Public Gaming Magazine, Dec. 1983, pp. 28-33; and "Roses and Thorns of State Lotteries", by Bill Curry, State Legislatures Magazine, March 1984, p. 31-36.

The Washington State Lottery found that residents with 1 - 3 years of college were overrepresented in lottery play to a degree significantly exceeding that of any other educational group. Based on an index of 100, those in this category reached index levels as high as 141. Conversely, those with eight years of education or less were severely underrepresented, with indices ranging from 68 down to 43.

Final figures for FY 83 in Washington showed residents with 13 - 15 years of education totaling out at an index of 120, with those with eight years of education¹² or less playing at an index rate of 56, the lowest of any category.

A study of six western counties of Washington state by KIRO Broadcasting, Inc. found that 78 percent of the lottery players had 12 or more years of education.

The Arizona Lottery also tested for educational level of its players. In every case, the median educational level of players exceeded that of Arizona residents overall.¹³

Pennsylvania contracted with Opinion Research Corporation to use the "low, average and heavy play" analysis procedure described above for New York. They found that in the "heavy play" group - the group showing the most interest in the lottery - only 9.8 percent had less than a high school diploma.¹⁴

Again, these are only a sampling of survey results all stating the same conclusion - the less educated segments of the population in lottery states play lottery games less than they are represented in the total population of their state.

These conclusions are no surprise to those who view lotteries as a business operated for profit. The tremendous growth in both lottery participation and profit to those states operating them could never be generated by a dependency on the poor and under-educated. This segment of our population simply does not constitute a large enough percentage base to target marketing efforts. The majority of the population in most states lives in middle income households and has a higher than median education level. This is the natural market.

¹² Washington State Lottery, 1983 Annual Report

¹³ "Using Demographics to Increase Lottery Sales", G.E. Shippee, D.J. Schwartzman, K. Renolds, Public Gaming Magazine, Feb. 1983.

¹⁴ Pennsylvania Study for the Bureau of State Lotteries, Opinion Research Corporation, Princeton, NJ, 1981.

Question number 3:
How do lotteries affect the incidence of compulsive gambling?

Studies done thus far have shown the compulsive gambler to be someone who by nature seeks avenues other than state lotteries to satisfy his or her need for gambling; state lotteries do not provide what a compulsive gambler needs for gratification.

Dr. Robert Custer, acting director of mental health for the Veterans Administration in Washington D.C. and medical advisor to the National Council on Compulsive Gambling, has done extensive research into the incidence and treatment of compulsive gambling, and is widely recognized as an expert on the subject. Custer contends that state lotteries do not provide a sufficient outlet for a compulsive gambler to either alleviate withdrawal symptoms or to experience any sustained euphoria generated by most other types of gambling. Custer said that of the compulsive gamblers he has treated at the V.A., 20% have fallen into each of four different categories: addiction to horse race betting, casino games(not casinos in particular, but games associated with them such as craps and card games), illegal sports betting, and stock options and commodities. The remaining 20% is divided among all other forms of gambling, lotteries only amounting to perhaps 2%. Of compulsive gamblers, Custer said lotteries are "not their style," because play is too slow. "The shorter the interval between the time you place your bet and when you collect, the more addictive," adding that, "any game involving a waiting period for the outcome and/or collection of winnings, such as lotteries, does not sustain a compulsive gambler, ..." Two key elements that compulsive gamblers need for satisfaction are some feeling that s/he has an "edge" or privileged information regarding the bet, and that some element of skill plays a part in the outcome. Neither of these exist with state lotteries.

"I think winning is a lot more stimulating than we realize," said Custer. "Particularly winning amounts ranging from a fourth to a half of one's income. That's one of the things about the lottery that I've never been very concerned about, because people don't win big that often. There are a lot of \$1 and \$2 winners, but very few million dollar winners."

Custer states that no data exists supporting the contention that lotteries increase compulsive gambling.¹⁵

A study for the New Jersey Lottery, supervised by Dr. Peter Carlton of the New Jersey College of Medicine and Dentistry, reached basically the same conclusions as did Custer's research; no cause-and-effect relationship was established showing lotteries to cause compulsive gambling, the same physiological changes were noted in gamblers as with the V.A. research. These results show that lotteries simply don't offer enough "action" to satisfy the needs of a compulsive gambler. A totally different environment of lottery-playing, as

¹⁵ "Do Lotteries Increase Compulsive Gambling?", The Lottery Journal, Vol. 1, No. 2, p. 22 & 58.

opposed to other types of gaming, exists for state lottery participation. Lottery playing does not require a contained environment with a high degree of social interaction, as is found with other gaming activities. The decision to participate in a lottery game usually is an afterthought from some other activity.

John D. Quinn, Director of the New York State Lottery, and past president of the National Association of State Lotteries says that during his tenure as director of the N.Y. Lottery over 2 billion tickets have been sold and he has not received one phone call or letter saying a wife or husband "had spent the bread or milk money on the lottery."¹⁶

¹⁶ "Myths", op.cit., fn. 11, pp 39-41.

Question number 4:

Does winning disrupt the lives of winners of large cash prizes?

The results of a survey by the Ontario Lottery Corporation, updated through November of 1983, indicate that the lifestyles of the overwhelming majority of the lottery's jackpot winners changed little after their windfalls.

This survey of 870 people who won between \$7,000 and \$1 million in the lottery indicated that the overwhelming majority of the big-money winners kept their jobs and stayed in the same house. Few were bothered by adverse publicity or bothersome requests for donations.

Of the winners responding to the survey, 91.4% of those employed kept their job. Eight of the 25 winners of \$500,000 or more continued to work. Most of the winners bank their money, and few indulge in spending sprees. Only 2.2% spent the bulk of their winnings on luxuries. Twenty-five percent bought a new car, and only 22.6% took vacations. More than two-fifths of those winning large prizes, 40.8%, shared their good fortunes with family, friends and charities.

Ninety percent of the winners were not subjected to calls and letters begging for money, and 70% of those who were contacted did not consider the solicitations a problem.

Most of the big winners have not been bothered by media attention. Of those responding to the survey 90.1%¹⁷ said media treatment of their good luck had been fair and courteous.

Surley examples exist which illustrate that lives have been changed by the winning of large amounts of money, some of these changes would be considered positive and some negative. However, the statistics available, when considering broad cross-sections of winners, indicate that the majority of winners are not negatively affected. Ms. Mary Faulk, Director of the Washington State Lottery, puts it very well in her statement, "The lottery by design is open to maximum scrutiny by the public at all times. Our credibility is the first product we sell to the public. Identification of winners is an important responsibility to all our players. We feel that the media has shown responsible constraint in their handling of winners. Our winners have accepted this exposure with grace, because they recognize the public's right to know."

The administration of most lotteries use a prize award structure that makes payments to large winners over an extended time period; i.e., \$1,000 per month for life. This is financially advantageous to the state and to the winner, and helps prevent the possible disruption of a winners life with a \$1 million dollar check.

¹⁷ "Lottery Winner Research Indicates Life As Usual", Wendy Horne, Ontario Lottery Corporation.

Question No. 5:

Do lotteries cause an economic drain on rural communities?

This question is asking if it appears likely that a state run lottery will result in the residents of small remote communities spending an amount of their available cash to a degree exceeding the benefits these same communities would receive from the expenditures of lottery profits. Three additional questions must be examined to provide an answer to this concern of economic impact on rural communities:

1. How many communities and what population base is of concern?
2. What spending level for lottery products is likely to occur?
3. What level of benefits will these communities likely receive from the operation of a state lottery?

A conservative analysis, considering "worst case" possibilities for lottery expenditures by rural community residents and reasonable assumptions regarding benefits received from probable state lottery profits, indicates that a state operated lottery would not cause an economic drain on rural communities. In fact, the opposite is true.

For purposes of this discussion the term "rural community" is defined as a community of 2000 or less people. Alaska has a total of 262 communities of this size with a total population of 70,286, or 13.44% of the state's total population (see Table 2-III).

Individual spending on lottery products will be directly proportional to the degree to which residents of these communities would have access to lottery products. This access would only exist through state licensed lottery product retailers. Only qualified "viable businesses" would be issued lottery sales licenses upon application. A "viable business" is defined as one which would likely meet the qualifications established by a state lottery as necessary to be licensed as a lottery product retailer.

The Alaska WIC Program (Special Supplemental Food Program for Women, Infants, and Children) has been selected as a means to identify the number of probable "viable businesses" in rural communities. The WIC program is a state subsidized health and nutrition program for pregnant women, breastfeeding mothers, infants, and young children. The state provides subsidies for foods and other health needs purchases by its participants to the retailers participating in the program. This program has been selected for analysis on the assumption that its retail participants are considered by the state as "viable businesses" meeting WIC's vendor qualifications.

A review of the total number and locations of WIC vendors (see Table 3-III), provides the following items of information. It appears that a community population of more than 100 is necessary to support the operation of a retail store, the most common form of rural business (only 4.55% of communities of less than 100 have WIC qualified vendors). Eighty eight rural communities, comprising .98% of the state's total population or 5100, do not have the population base to support retail enterprises. At least some of the businesses in communities over 100 will not desire to be qualified as lottery

Table 2-III

1984 ALASKA POPULATION ESTIMATES BY COMMUNITY SIZE

A COMMUNITY SIZE		B #	C TOT. POP.	D % of AK	E # WIC	F % SVD.
0 - 50	37	1,266	0.24	0		
51 - 100	51	3,834	0.73	4	7.8	
101 - 150	23	2,881	0.55	3	12.5	
151 - 200	24	4,087	0.78	7	29.2	
201 - 250	23	5,194	0.99	10	43.5	
251 - 300	19	5,252	1.00	4	19.1	
301 - 400	23	7,883	1.51	10	43.5	
401 - 500	23	10,370	1.98	21	91.3	
501 - 600	18	9,821	1.88	10	55.6	
601 - 700	8	5,242	1.00	7	37.5	
701 - 800	2	1,509	0.30	2	100.0	
801 - 900	4	3,448	0.66	5	100.0	
1,001 - 1,500	4	4,690	0.90	4	100.0	
1,501 - 2,000	3	4,809	0.92	1	33.3	
2,001 - 2,500	4	9,424	1.80	6	100.0	
2,501 - 3,000	2	5,892	1.13	4	100.0	
3,001 - 3,500	4	13,066	2.50	6	100.0	
3,501 - 4,000	2	7,462	1.43	4	100.0	
4,001 - 5,000	1	4,850	0.93	3	100.0	
5,001 - 8,000	1	7,611	1.46	3	100.0	
9,001 - 15,000	2	21,446	4.10	8	100.0	
15,001 - 25,000	2	47,100	9.01	11	100.0	
25,001 - 50,000	1	25,791	4.93	4	100.0	
50,001 - 75,000	1	62,175	11.89	9	100.0	
75,000 - 250,000	1	243,829	46.62	36	100.0	
BCSA's (Table 3-III)		4,116	0.78	0		
Total	283	523,048	100.00	180		

Source: Alaska Department of Labor, Research and Analysis; (Draft)
Alaska Population Overview, 1985; Table IV.2.

Alaska Department of Health & Social Services; Special
Supplementary Food Program for Women, Infants and Children,
Vendor List, Sept. 1985.

Column Explanations

- A. Self explanatory.
- B. Number of communities within the size indicated in column A.
- C. Total population of all the communities within that size group.
- D. Percent of the total population of Alaska within that size group.
- E. Number of WIC vendors serving communities within that size group.
- F. Percent of population within that size group served by WIC vendors.

Table 3-III

1984 ALASKA POPULATION ESTIMATES FOR COMMUNITIES OVER 2000

PLACE/S	POPULATION	% of AK.
Anchorage Borough	243,829	
Subtotal	243,829	46.62
Fairbanks Area (Frbnks., Eielson, College, No. Pole, & Fox)	62,175*	
Subtotal	306,004	58.50
Palmer-Wasilla	25,791*	
Juneau Bourough	23,729*	
Kenai-Soldotna	23,371*	
Subtotal	378,895	72.45
Kodiak Area (Kodiak & Kodiak C.G.B.)	11,024*	
Ketchikan Area (Ketch., No. Tongas Hwy. & Saxman)	10,422*	
Subtotal	400,341	76.54
Sitka Borough	7,611	
Subtotal	407,952	78.00
Delta Jct. Area (Delta Jct., Big Delta & Ft. Greely)	4,850*	
Subtotal	412,802	78.92
Bethel	3,743*	
Valdez	3,719*	
Homer	3,373	
Petersburg	3,340*	
Nome	3,184*	
Adak	3,169	
Subtotal	433,330	82.85
Barrow	2,969	
Seward	2,923*	
Subtotal	439,222	83.97
Wrangell	2,499*	
Kotzebue	2,485*	
Cordova	2,356*	
Dillingham	2,084*	
Subtotal	448,646	85.78
Remainder (262 places of less than 2000)	70,286	
Balance of Census Subareas (BCSA's)**	4,116	523,048 100.00

Source: Alaska Department of Labor, Research and Analysis, (Draft)
Alaska Population Overview, 1985; Table IV.1.

* Population in BCSA included.

** Balance of Census Subareas (BCSA) contain those people living outside of defined communities designated as census areas; i.e., those living in the Kodiak area but outside of the Kodiak city limits.

retailers or would not qualify upon application. Therefore, it is safe to conclude that less than 100% of the people living in communities of 2000 and fewer will have access to lottery products on a day-to-day basis. However, a total of 84 WIC vendors ("viable businesses") in 83 rural communities with populations of 101 to 2000 would provide a probable minimum level of access to lottery products for 64.8% of the rural residents.

A maximum level of access to lottery products would exist if each rural community of 100 or more persons contained at least one lottery retailer. This is a possibility that cannot be discounted because the WIC program has not been able to consider service to all rural communities, therefore its vendor list may not contain all "viable businesses" in these areas.

The access to lottery products in rural communities, and thus the probable level of spending on these products, can then be anticipated as likely to be within parameters established by this maximum and minimum. The maximum case represents a situation in which 100% of the population in communities 101 to 2000 residents, or 65,186 people in 174 communities, would have access to a lottery retailer. The minimum case represents a situation in which 64.8% of the rural population, or 42,261 people, those living in 83 communities over 100 and served by the WIC program, would have access to a lottery retailer.

A probable low (maximum access) and high (minimum access) economic impact on rural communities can now be projected from lottery sales using an '83-'85 national per capita profit in lottery states of \$26.07 and an assumed state total net revenue of \$19,035,011 (from Pt. II, page 28). This impact will be a result of lottery expenditures by residents of these communities compared to the benefits received through expenditures by the state from lottery net profits. For this analysis it will be assumed that state expenditures are made on an equal per capita basis in all communities of the state. That is, a community with 5% of the population receives the benefits of 5% of state government spending.

Conclusion:

Both the "maximum access" and the "minimum access" case would result in a positive economic impact in all of the rural communities in Alaska. This positive impact would range from a low of 5.38% to a high of 62.54% in the 174 communities with populations of from 101 to 2000. That is, for every \$1 spent on lottery products which leaves a rural community, between \$1.05 and \$1.63 would return in the form of state government services and grants from lottery profits. This return does not include the 50% of lottery expenditures remaining in communities from retail sales commissions and prizes. Eighty eight rural communities with populations of less than 100, comprising a total population of 5,100 (0.98% of the state's population), would experience even higher economic benefits, a total of \$186,543 or \$36.58 per capita, because they would receive the same benefits as others from lottery profits but would not be likely to make expenditures in a customary form of lottery.

The following computations corroborate these conclusions.

	AK Total	Max. Case	Min. Case
Population	730,150	65,186	42,221
Nat. '83-'84 Ave.	<u>x 26.07</u>	<u>x 26.07</u>	<u>x 26.07</u>
Per Capita Profit			
Net Profit (35% of Gross)	\$19,035,011	\$1,699,399	\$1,101,744
Gross Profit (100%)	\$54,385,745	\$4,855,425	\$3,147,841
Less Prize Payments (45%)	<u>- 24,473,585</u>	<u>- 2,184,941</u>	<u>- 1,416,528</u>
	\$29,912,160	\$2,670,484	\$1,573,920
Less Commissions (5%)	<u>\$29,912,160</u>	<u>\$2,670,484</u>	<u>\$1,573,920</u>
\$ Leaving Communities	<u>- 2,719,287</u>	<u>- 242,771</u>	<u>- 157,392</u>
	\$27,192,873	\$2,427,713	\$1,573,930
Less Admin. Costs (15%)	<u>\$27,192,873</u>	<u>\$2,427,713</u>	<u>\$1,573,930</u>
Net Profit to Gen. Fund	<u>- 8,157,862</u>	<u>- 728,314</u>	<u>- 472,176</u>
	\$19,035,011	\$1,699,399	\$1,101,744

Rural communities would realize benefits from a return of lottery profits equal to their percentage of the state population times the state net profit, or;

$$13.44\% \times \$19,035,011 = \$2,558,305$$

The probable maximum and minimum amount of dollars leaving rural communities is \$2,427,713 and \$1,573,920, respectively. The differences between the negative and positive cashflow are:

$$\$2,558,305 - \$2,427,713 \text{ (max.)} = \$130,592 \text{ (low); or a 5.38\% gain;}$$

$$\$2,558,305 - \$1,573,920 \text{ (min.)} = \$984,385 \text{ (high); or a 62.54\% gain.}$$

Two assumptions which have been made that led to the above conclusions merit additional comment. First is, the assumption that rural and urban residents would purchase lottery products on an equal per capita ratio. As has been illustrated above, a higher ratio of urban versus rural lottery purchases results in a high return to rural communities in terms of benefits received compared to expenditures made. Marketing strategies based on economy of scale will, in all likelihood, focus on the urban areas of the state, not rural communities. This will result in lottery products and consumer incentives designed to appeal to urban residents and tourists. This will increase the ratio of lottery purchases outside of rural areas compared to purchases in rural communities to a higher degree than the above illustration assumes. The second assumption is that rural communities and urban communities receive benefits from state government spending on an equal bases. This assumption, again, results in very conservative projections with regard to the probable benefits received by rural communities.

PART IV: IMPLEMENTING AND OPERATING A STATE LOTTERY

Enabling Legislation

The experience of the past twenty years of lottery operation in the U.S., and the experiences of other governments' lottery operations, should be reviewed when considering legislation for an Alaska lottery. Most state lottery laws were drafted when the idea of a state lottery was a novel concept and little or no practical experience was available. The resulting legislation contained burdensome language addressing anxiety which stemmed from illusions based on fear rather than actual causes for concern. While this approach may have been justified ten or more years ago, it should have long since been abandoned and enabling statutes should now be drafted in light of the available record of lottery experience.

The operation of a lottery should be insulated, as far as is possible, from the operation of the political process. The following points have been recommended by Edward J. Powers, past executive director of the New Hampshire Sweepstakes Commission, which started the first lottery in the U.S. in 1964, and a founder and past president of the National Association of State Lotteries.

1. A state lottery should be established in the form of an independent authority (public corporation) rather than as a regular state agency. The authority should have its own identity and be responsible for its decisions. This is best from a public relations as well as from an efficiency viewpoint. It should have the authority to issue and present prize checks. It should be able to employ personnel and to enter into contracts, within established state procedures, and issue its own bid specifications. State purchasing statutes were not written with lotteries in mind, and so are not suited to the peculiar requirements of lottery management.

If an authority form of entity is not achievable, then, a separate commission consisting of members from both the public and private sector overseeing a separate department is preferable to a division within an existing department.

However, it should be noted that a number of state lotteries are currently functioning within another state agency.

2. The lottery agency should be treated like a business as much as possible. This is the only way to maximize revenues. It must have the flexibility to launch new programs and change marketing strategy. It should not be in a budget straightjacket that prevents it from making personnel or policy changes.

3. Full public accountability must be required. Periodic reports of revenue and expenses must be presented to the governor and the legislature. An annual report should be published for the public and the press to review. Some lotteries require that an outside accounting agency conduct periodic audits.

4. Security is paramount in every aspect of the lottery. The draft legislation should provide the framework for the internal controls

that are necessary to deter and prevent subversion both from within and without. Computer technology permits controls today that were unavailable in the past. Most security problems have arisen from employees and this emphasizes the need for close pre-employment screening. There must be cross-checks and frequent unannounced inspections to eliminate temptation.

5. It must be remembered that a state lottery will return close to 40 percent of total gross revenues to the state, after paying all the prizes and expenses. The lottery agency is completely self-supporting. Its initial start-up costs will be paid back to the state within a matter of months. Details as to lottery operation should not be specified in statutes. Legislation should not specify a percentage of prizes to be paid, the amount to be spent on advertising, the percentage allowed for expenses or the minimum amount to be returned in net revenue. State lotteries have proven they are capable of raising substantial net revenue. There is no need to set minimum acceptable levels of net revenue. Similarly, it is counterproductive to mandate the types of lottery games to be operated. These restrictions can seriously impede decision-making. It is best to charge the administrators of the lottery with the responsibility of raising maximum revenue from the program.

Experiences of operating lotteries have identified some areas that should be addressed in enabling legislation that were not, or if addressed were not adequately detailed. For instance, disputed claims should be clearly appealable only through state administrative procedures and should not be treated as civil disputes where contract law applies. Authority to own, operate and maintain separate data processing systems should be given lest a lottery be required to share time thereby compromising the lottery's security. Criminal offender record information should be available for use in licensing decisions. Failure of sales agents to promptly pay proceeds of lottery sales after reasonable demand should be a criminal offense.

In summary, legislation should be drafted using the store of lottery experience developed in the past and not simply be modeled on existing lottery laws adopted when this store of experience was not available. Maximum flexibility should be obtained in the original enactment as once carved in stone laws are hard, if not impossible, to change. The particular areas where governmental restraints are counterproductive should be identified and specifically modified or waived as to lottery operations.¹

¹ "Editorial Viewpoint", Public Gaming Magazine, Jan. 1982 and Jan. 1983.

Interim Funding of a Lottery Agency

Any agency formed to implement a state lottery, no matter what the organizational structure is, must be afforded interim funding. An accepted "rule of thumb" in gauging the amount to be appropriated is \$1 for each state resident. A minimum recommendation needed in any state, regardless of its population is \$1,500,000. The following paragraphs describe the time frames involved in the establishment of the lottery's first game and where the money will be needed.

If a lottery bill became effective on July 1 in any year, as an example, the appointments to the board or commission and the hiring of a full time director might take place within the next 30 to 45 days. If a bid was prepared within the next 30 to 45 days to purchase tickets for the state's first lottery game and then an award was made to a vendor to provide those tickets by mid-October those tickets could be delivered in the state by early or mid-December. While all of the aforementioned is going on, the board or commission will have time to promulgate lottery rules and regulations and the director will be forming the lottery administration ... who in turn will help license the ticket sales agents throughout the state. By the end of December, or six months after the effective date of the legislation, lottery ticket sales should commence. This is a conservative timeline as has been illustrated by Oregon taking only 135 days to become operative after its law was signed.

Based on the scenario described in the previous paragraph, lottery ticket sales will commence around the first of the year with the tickets for the first game "sold out" by the end of February ... or eight months after the effective date of the legislation. At this point in time a "cash flow" (money and profit coming into the agency from the sale of tickets) will have started and the agency will be in a position to return all of the "borrowed money" back to the state. Also, from that point on the agency will be self-sufficient, requiring no additional funding.

The interim funds provided the agency initially will be used to pay rent and utility bills for office and warehouse space ... for payroll costs for the the lottery employees for at least eight months ... to purchase a small computer or lease time on an existing system for the lottery agency's "accountability" programs ... to purchase vehicles for the agency's field staff ... to advertise and promote the first game ... to print all the necessary forms and pamphlets ... and to purchase millions of instant lottery tickets for the first game. Most of the above items must be paid for before the "cash flow" begins.

If a state with a population of 1,000,000 provided its new lottery agency with \$1,500,000 in interim funding, for example, chances are that the state will order at least 10,000,000 instant lottery tickets for its first game and based on prior experiences will sell those tickets out in six to eight weeks. Washington State Lottery sold out its first games 50,000,000 tickets in five weeks to a population of 4.1 million. Therefore by the end of February (assuming tickets were placed on sale at the beginning of January) the state will have sold

\$10,000,000 worth of tickets and will have realized a profit of \$4,000,000. At this point, the \$1,500,000 can be returned to the state along with another \$1,000,000 to \$2,000,000 in profits, with the agency holding on to the balance to carry out its activities with continuing games.

There are two points to remember. First, the longer it takes the state to implement the lottery and its first game, the more dollars would be needed in interim funding. Secondly, if it is the state's desire to have the money "borrowed" by the lottery agency repaid within the same fiscal year, the above scenario sees³ that occurrence happening with great ease and a good deal of leadway.

³ Paul Silvergleid, Consultant and Past Chairman of the Connecticut Gaming Commission, Feb. 1983

Operation of a State Lottery

Most state lotteries are operated in a generally similar way. The majority of the state lotteries are overseen by a Commission (Delaware, Michigan and New York are exceptions). The Commission is responsible for broad policy making decisions, promulgation of appropriate rules and regulations to govern the lottery, and review of proposed contracts between the lottery and outside vendors. The actual day-to-day administration of the lottery is the responsibility of the lottery Director, who is a full time employee and generally has experience in the operation of state lotteries. In turn, the Director will have department heads in such areas as security, administration, marketing, and data processing. There will be a lottery staff of full time employees in each of these areas. Depending on the size of the state, the total number of staff will vary but one can expect between 50 and 150.

Although the lottery is operated by the Director and his staff, lottery tickets are actually sold by licensed agents. These licensed agents are generally retailers such as convenience stores, newsstands, package stores, supermarkets, etc. The Director will accept applications from all those eligible to be licensed agents and, after a background check, the retailers will be licensed and will sell lottery tickets subject to rules and regulations of the Commission. The agents will be compensated for sales of lottery tickets by receiving a commission on such sales. The most common retailers' commission in lottery states is 5%.

After setting up its staff and licensing its agents, the lottery must determine what type of game it will run. There are variety of lottery games available, but the two most common are what are called "instant games" and "on-line games." An instant game is played by the use of tickets which have hidden symbols concealed by a removable covering. The player purchases the ticket, removes the covering, and determines instantly whether he has won a prize and, if so, the amount of the prize. He then redeems his winning ticket in a manner established by the lottery. For small prizes, many states establish a system for the payment of the winning ticket by the licensed agents themselves. Larger prizes are redeemed through claim centers staffed by employees of the lottery. The instant tickets are constructed in such a way so that winning tickets can be validated to prevent any tampering, counterfeiting or fraud.

The on-line numbers games take a variety of forms. A typical game is a 3-digit daily numbers game. In order to run this game, the lottery distributes small computer terminals to its licensed agents which are comparable in size to cash registers. The terminals are connected "on-line" to a large central computer at lottery headquarters. A player selects a 3-digit number ranging from 000 to 999. He then tells the sales agent his selection along with the amount of money he wants to play on that number. The agent enters the number on his terminal (which simultaneously transmits the entry to the central computer) and the terminal issues the player a ticket. That ticket, as with an instant ticket, has various security and validation fea-

tures which protect against any tampering, counterfeiting or fraud. At the end of the day, the lottery randomly draws a three-digit number and the player who has a ticket with that number wins.

Although all aspects of the operation of a lottery are in-state, the lottery will have to purchase its instant tickets or on-line system from one to the established and experienced vendors in the United States. At this time, there are 3 primary instant ticket vendors and three primary "on-line" vendors. The lottery will generally pay such vendors approximately 2 - 3% of the total lottery gross revenues for the purchase of lottery products. That money is the only money which will be spent outside of the state.

Of course, there will be a "lag time" between the date the lottery law becomes effective and the date lottery tickets are first sold. It is during this period that lottery personnel are hired, the lottery administration is established, and the lottery vendor is chosen. Usually, there will be interim funding of the lottery during this "lag time" and that money is invariably⁴ repaid within 6 - 8 months of the effective date of the lottery law.

⁴ Robert L. Mote, Esq., Scientific Games, Inc., May, 1983.

Part V: ALASKA LOTTERY SURVEY

The following pages contain excerpts from results of a state-wide survey concerning an Alaskan lottery completed by the Dittman Research Corporation of Alaska. This survey clearly indicates that Alaskans would favor the operation of a state lottery by a two to one margin.

Survey Methodology

During the period of November 1 through November 12, 1985, 502 residents of 51 Alaskan communities were personally contacted by telephone by professional interviewing employees of the Dittman Research Corporation. The views and opinions of the Alaskan residents were recorded on a strictly confidential basis.

Research Design: A random sample was featured which provided that all residents of the communities included had essentially the same chance of being interviewed.

Sample Selection: The Anchorage sample was selected through a computer-generated random digit dialing program. This is particularly important in Anchorage due to a 40% rate of unpublished and unlisted numbers.

The sample in other communities state-wide was randomly selected from current telephone subscribers listed in the most recent directory for each community. In these communities, the percentage of non-listed numbers does not exceed 10%.

Findings

Overall, Alaskans on a state-wide basis support the idea of a lottery by well over a 2:1 margin...

"Some people have suggested it would be a good idea for Alaska to have a state lottery, while others have said it would be a bad idea. What are your views -- do you basically favor or oppose Alaska having a state-wide lottery?"

Favor.....65%
Oppose.....29%
Unsure..... 6%

...and the support is basically consistent throughout all geographic regions...

Region	Favor	Oppose
Rural.....	57%.....	37%
Central.....	65%.....	28%
Southcentral.....	65%.....	29%
Anchorage.....	69%.....	24%
Southeast.....	62%.....	36%

...demographically, upper income residents are slightly more supportive...

Income	Favor	Oppose
Up to \$20,000.....	64%.....	32%
\$20,000 - \$40,000.....	64%.....	30%
\$40,000 - \$60,000.....	65%.....	30%
\$60,000 plus.....	73%.....	22%

...and young people are more supportive than older people...

Age	Favor	Oppose
18 - 24 years.....	84%.....	13%
25 - 40 years.....	67%.....	28%
41 - 55 years.....	62%.....	31%
56 years and older.....	44%.....	46%

...there is little difference based on gender...

Sex	Favor	Oppose
Male.....	66%.....	30%
Female.....	65%.....	27%

...and significantly important, the idea of a state-wide lottery has broad appeal across all political boundaries...

Party	Favor	Oppose
Democrat.....	67%.....	24%
Republican.....	61%.....	31%
Non-partisan.....	67%.....	30%

Summary:

The support for a state-wide lottery is strong and broad throughout Alaska. Only among residents 56 and over does opposition exceed support, while among other age groups, support exceeds opposition by margins of up to 6:1.

Overall, in terms of political and geographic constituencies, support exceeds opposition by approximately 2:1 in each geographic area, and Democrats, Republicans and Non-partisan voters all support the idea of a state-wide lottery by 30% margins or more.⁵

⁵ "State-wide Survey Concerning Lottery"; Report to Rep. D. Thompson; Dittman Research Corp., Anchorage, AK; Nov. 1985.

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STATE OF ALASKA
THE LEGISLATURE

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May, 1988

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

Mary Van Nimwegen

House Judiciary:

5/5/87

10/23/87 - Ketchikan City Council Chambers

1/21/88

1/26/88

2/10/88

2/19/88

Original sponsors: Ulmer, Hudson,
Grussendorf, et al.

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 237 (HESS)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FIFTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to murder, assault, and the physical
8 and sexual abuse of children; amending Rule 404 of
9 the Alaska Rules of Evidence; and providing for an
10 effective date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 11.41.110(a) is amended to read:
13 (a) A person commits the crime of murder in the second degree if
14 (1) with intent to cause serious physical injury to another
15 person or knowing that the conduct is substantially certain to cause
16 death or serious physical injury to another person, the person causes
17 the death of any person;
18 (2) the person knowingly engages in conduct [INTENTIONALLY
19 PERFORMS AN ACT] that results in the death of another person under
20 circumstances manifesting an extreme indifference to the value of
21 human life; [OR]
22 (3) acting either alone or with one or more persons, the
23 person commits or attempts to commit arson in the first degree, kid-
24 napping, sexual assault in the first degree under AS 11.41.410(a)(1)
25 or (2), sexual assault in the second degree, burglary in the first
26 degree, escape in the first or second degree, or robbery in any degree
27 and, in the course of or in furtherance of that crime, or in immediate
28 flight from that crime, any person causes the death of a person other
29 than one of the participants; or
30 (4) under circumstances manifesting an extreme indifference

Covington.

Health and physical

1 to the welfare of a child under the age of 16, the person engages in a
2 pattern or practice of abuse or gross neglect of the child that re-
3 sults in the death of the child. *directly causes*

4 * Sec. 2. AS 11.41.110 is amended by adding a new subsection to read:

5 (c) In this section, "abuse or gross neglect" includes inten-
6 tional bodily impact, restraint, confinement, administration of lethal
7 chemicals or drugs that create a substantial and unjustifiable risk
8 that the child will suffer serious physical injury, or knowingly
9 exposing the child to conditions which create a substantial risk that
10 the child will suffer serious physical injury due to burns, hypother-
11 mia, or suffocation.

12 * Sec. 3. AS 11.41.200(a) is amended to read:

13 (a) A person commits the crime of assault in the first degree if
14 (1) that person recklessly causes serious physical injury
15 to another by means of a dangerous instrument;
16 (2) with intent to cause serious physical injury to another,
17 the person causes serious physical injury to any person; [OR]
18 (3) the person knowingly engages in conduct [INTENTIONALLY
19 *de* PERFORMS AN ACT] that results in serious physical injury to another
20 under circumstances manifesting extreme indifference to the value of
21 human life; or

22 (4) the person engages in a pattern or practice of abuse or
23 gross neglect of a child under the age of 16 that results in serious
24 physical injury to the child.

25 * Sec. 4. AS 11.41.200 is amended by adding a new subsection to read:

26 (c) In this section, "abuse or gross neglect" includes inten-
27 tional bodily impact, restraint, confinement, administration of lethal
28 chemicals or drugs that create a substantial and unjustifiable risk
29 that the child will suffer serious physical injury, or knowingly

File

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1 exposing the child to conditions which create a substantial risk that
2 the child will suffer serious physical injury due to burns, hypo-
3 thermia, or suffocation.

4 * Sec. 5. AS 11.41 is amended by adding new sections to read:

5 Sec. 11.41.441. REPEATED SEXUAL ABUSE OF A MINOR IN THE FIRST
6 DEGREE. (a) A person commits the crime of repeated sexual abuse of a
7 minor in the first degree if, being 16 years of age or older and
8 having authority over a child under the age of 13, the person engages
9 in a pattern or practice of sexual penetration with a child who is
10 under 13 years of age or aids, induces, causes, or encourages a person
11 who is under 13 years of age to engage in a pattern or practice of
12 sexual penetration with another person.

13 (b) Repeated sexual abuse of a minor in the first degree is an
14 unclassified felony and is punishable as provided in AS 12.55.

15 Sec. 11.41.442. REPEATED SEXUAL ABUSE OF A MINOR IN THE SECOND
16 DEGREE. (a) A person commits the crime of repeated sexual abuse of a
17 minor in the second degree if, being 16 years of age or older and
18 having authority over a child under the age of 16, the offender

19 (1) engages in a pattern or practice of sexual penetration
20 with a child who is 13, 14, or 15 years of age and at least three
21 years younger than the person, or aids, induces, causes, or encourages
22 a child who is 13, 14, or 15 years of age and at least three years
23 younger than the person to engage in a pattern or practice of sexual
24 penetration with another person; or

25 (2) engages in a pattern or practice of sexual contact with
26 a child who is under 13 years of age or aids, induces, causes, or
27 encourages a child under 13 years of age to engage in a pattern or
28 practice of sexual contact with another person.

29 (b) Repeated sexual abuse of a minor in the second degree is a

1 class A felony.

2 * Sec. 6. AS 11.41 is amended by adding a new section to read:

3 Sec. 11.41.444. REPEATED SEXUAL ABUSE OF A MINOR IN THE THIRD
4 DEGREE. (a) A person commits the crime of repeated sexual abuse of a
5 minor in the third degree if

6 (1) being 16 years of age or older and having authority
7 over a child under the age of 16, the person engages in a pattern or
8 practice of sexual contact with a child who is 13, 14, or 15 years of
9 age and at least three years younger than the person, or aids, in-
10 duces, causes, or encourages a child who is 13, 14, or 15 years of age
11 and at least three years younger than the person to engage in a pat-
12 tern or practice of sexual contact with another person; or

13 (2) being under 16 years of age and having authority over a
14 child under the age of 13, the person engages in a pattern or practice
15 of sexual penetration or sexual contact with a child who is under 13
16 years of age and at least three years younger than the person.

17 (b) Repeated sexual abuse of a minor in the third degree is a
18 class B felony.

19 * Sec. 7. AS 11.41.445 is amended to read:

20 Sec. 11.41.445. AFFIRMATIVE DEFENSES [GENERAL PROVISIONS]. (a)
21 In a prosecution under AS 11.41.434 - 11.41.444 [AS 11.41.434 - 11.-
22 41.440] it is an affirmative defense that, at the time of the alleged
23 offense, the victim was the legal spouse of the defendant unless the
24 offense was committed without the consent of the victim.

25 (b) In a prosecution under AS 11.41.410 - 11.41.444 [AS 11.-
26 41.410 - 11.41.440], whenever a provision of law defining an offense
27 depends upon a victim's being under a certain age, it is an affirma-
28 tive defense that, at the time of the alleged offense, the defendant
29 reasonably believed the victim to be that age or older, unless the

1 victim was under 13 years of age at the time of the alleged offense.

2 * Sec. 8. AS 11.41 is amended by adding new sections to read:

3 ARTICLE 6. GENERAL PROVISIONS.

4 Sec. 11.41.600. PATTERN OR PRACTICE. In a prosecution under
5 this chapter for an offense that includes as one of its elements that
6 a person engaged in a "pattern or practice" of conduct toward a child

7 (1) it is not necessary that the person be separately
8 charged with specific incidents of prohibited conduct; however, prose-
9 cution for separate incidents is not precluded;

10 (2) to support a conviction, each juror in a jury trial
11 must be convinced beyond a reasonable doubt that at least three inci-
12 dents of prohibited conduct occurred, but the jury need not be unani-
13 mous as to particular incidents;

14 (3) if a person who is separately charged with a specific
15 incident of prohibited conduct is found not guilty of an incident,
16 that incident may not be relied upon to establish the pattern or
17 practice; and

18 (4) incidents occurring before the effective date of the
19 law establishing the offense may be used to establish the pattern or
20 practice as long as there was at least one incident that occurred
21 after the effective date of the law.

22 Sec. 11.41.610. DEFINITIONS. In this chapter

23 (1) "having authority over a child" means

24 (A) the child is entrusted to the person's care by
25 authority of law;

26 (B) the child is the person's son or daughter, includ-
27 ing an illegitimate or adopted child, or a stepchild;

28 (C) the person resides as a member of a social unit in
29 the same household as the child; or

1 (D) the child has been temporarily entrusted to the
2 person's care;

3 (2) "pattern or practice" means three or more incidents of
4 the prohibited conduct.

5 * Sec. 9. AS 11.81.250(a) is amended to read:

6 (a) For purposes of sentencing under AS 12.55, all offenses
7 defined in this title, except murder in the first and second degree,
8 sexual assault in the first degree, sexual abuse of a minor in the
9 first degree, repeated sexual abuse of a minor in the first degree,
10 misconduct involving a controlled substance in the first degree, and
11 kidnapping, are classified on the basis of their seriousness, accord-
12 ing to the type of injury characteristically caused or risked by
13 commission of the offense and the culpability of the offender. Except
14 for murder in the first and second degree, sexual assault in the first
15 degree, sexual abuse of a minor in the first degree, repeated sexual
16 abuse of a minor in the first degree, misconduct involving a con-
17 trolled substance in the first degree, and kidnapping, the offenses in
18 this title are classified into the following categories:

19 (1) class A felonies, which characteristically involve
20 conduct resulting in serious physical injury or a substantial risk of
21 serious physical injury to a person;

22 (2) class B felonies, which characteristically involve
23 conduct resulting in less severe violence against a person than class
24 A felonies, aggravated offenses against property interests, or ag-
25 gravated offenses against public administration or order;

26 (3) class C felonies, which characteristically involve
27 conduct serious enough to deserve felony classification but not seri-
28 ous enough to be classified as A or B felonies;

29 (4) class A misdemeanors, which characteristically involve

1 less severe violence against a person, less serious offenses against
2 property interests, less serious offenses against public adminis-
3 tration or order, or less serious offenses against public health and
4 decency than felonies;

5 (5) class B misdemeanors, which characteristically involve
6 a minor risk or physical injury to a person, minor offenses against
7 property interests, minor offenses against public administration or
8 order, or minor offenses against public health and decency;

9 (6) violations, which characteristically involve conduct
10 inappropriate to an orderly society but which do not denote criminal-
11 ity in their commission.

12 * Sec. 10. AS 11.81.250(b) is amended to read:

13 (b) The classification of each felony defined in this title,
14 except murder in the first and second degree, sexual assault in the
15 first degree, sexual abuse of a minor in the first degree, repeated
16 sexual abuse of a minor in the first degree, misconduct involving a
17 controlled substance in the first degree, and kidnapping, is designat-
18 ed in the section defining it. A felony under Alaska law defined
19 outside this title for which no penalty is specifically provided is a
20 class C felony.

21 * Sec. 11. AS 12.55.035(b) is amended to read:

22 (b) Upon conviction of an offense, a defendant who is not an
23 organization may be sentenced to pay, unless otherwise specified in
24 the provision of law defining the offense, a fine of no more than

25 (1) \$75,000 for murder in the first or second degree,
26 sexual assault in the first degree, sexual abuse of a minor in the
27 first degree, repeated sexual abuse of a minor in the first degree,
28 kidnapping, or misconduct involving a controlled substance in the
29 first degree;

- 1 (2) \$50,000 for a class A, B, or C felony;
2 (3) \$5,000 for a class A misdemeanor;
3 (4) \$1,000 for a class B misdemeanor;
4 (5) \$300 for a violation.

5 * Sec. 12. AS 12.55.125(i) is amended to read:

6 (i) A defendant convicted of sexual assault in the first degree,
7 repeated sexual abuse of a minor in the first degree, or sexual abuse
8 of a minor in the first degree may be sentenced to a definite term of
9 imprisonment of not more than 30 years, and shall be sentenced to the
10 following presumptive terms, subject to adjustment as provided in
11 AS 12.55.155 - 12.55.175:

12 (1) if the offense is a first felony conviction and does
13 not involve circumstances described in (2) of this subsection, eight
14 years;

15 (2) if the offense is a first felony conviction, and the
16 defendant possessed a firearm, used a dangerous instrument, or caused
17 serious physical injury during the commission of the offense, 10
18 years;

19 (3) if the offense is a second felony conviction, 15 years;

20 (4) if the offense is a third felony conviction, 25 years.

21 * Sec. 13. Rule 404, Alaska Rules of Evidence, is amended by adding a
22 new subsection to read:

23 (c) Notwithstanding (b) of this rule, in a prosecution for
24 physical assault upon or sexual misconduct with a child under the age
25 of 16, evidence of prior acts of the defendant involving the same or
26 another victim is admissible to show the defendant's disposition to
27 commit the offense.

28 * Sec. 14. Section 13 of this Act is retroactive and applies

29 (1) to evidence of acts committed before the effective date of

1 this Act; and

2 (2) in trials involving offenses committed before the effective
3 date of this Act.

4 * Sec. 15. This Act takes effect immediately under AS 01.10.070(c).

PUBLIC DEFENDER AGENCY

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October 20, 1987

Representative Fran Ulmer
1700 Angus Way
Juneau, Alaska 99801

Re: House Bill 237

Dear Representative Ulmer,

Thank you for giving me the opportunity to meet with you last Wednesday on House Bill 237. Following is the specific information which I offered to provide to assist you in your work on the bill. I have also noted some of the suggested drafting changes in the first few sections of the bill. I will provide a copy of these to the House Judiciary Committee so that they are aware of modifications in my position on these provisions.

A. Second Degree Murder -- Extreme indifference to the welfare of a child under 16.

As we discussed, my concerns over this section would be alleviated by some drafting changes. I understand the desire for a statute which involves a "pattern or practice of abuse," particularly since it solves perceived evidentiary problems regarding past abuse of that child victim. First, I suggest changing the circumstances to those manifesting an "extreme indifference to the health and physical welfare" of a child under 16, in order to narrow the focus to physical rather than psychological or mental abuse.

Second, actions exhibiting this extreme indifference must directly cause the death to avoid covering accidental deaths. The phrase "results in" should be deleted and replaced by "directly causes."

Finally, my concerns regarding the broad application of this section would be quelled by a much more narrow and specific definition of abuse in Sections 2 and 4. Abuse is currently defined in the proposed legislation as "bodily impact, restraint or confinement." This broad definition could include many normal disciplinary actions taken by parents, including spanking and

"time-out" in the child's bedroom. I suggest the following definition for abuse:

- (c) In this section, "abuse is defined as:
- (1) striking a child with a body part or instrument in a manner likely to cause serious physical injury to the child; or
 - (2) confining a child in a small enclosed area or container for a prolonged period of time without food or water in a manner likely to cause serious physical injury to the child; or
 - (3) restraining a child by use of physical restraints in a manner which significantly limits the child's freedom of movement in a manner likely to cause serious physical injury to the child.

These changes to Sections 1 and 2 should eliminate the overbroad application of a second degree murder statute to those persons using reasonable disciplinary techniques which result in the accidental death of a child.

B. Assault in the First Degree -- Extreme indifference to the welfare of a child.

The sections regarding Assault in the First Degree closely track the second degree murder sections, discussed above. Similar changes should be made in these sections. Thus, Section (a)(4) of AS 11.41.200 should provide "the person engages in a pattern or practice of abuse of a child under the age 16 that directly causes serious physical injury to the child." Section 4 should define abuse in a manner identical to my suggested revisions in Section 2.

C. Repeated Sexual Abuse of a Minor (RSAM)

I understand your purpose for suggesting a repeated sexual abuse of a minor statute, particularly in that evidentiary issues regarding prior bad acts of a perpetrator against the victim would automatically come in to prove "pattern and practice." If such a statute is adopted for these evidentiary reasons, I have

three major areas of concern:

1. Exhanced Presumptive Sentence (Removed by HESS)

First, the presumptive term for this offense should not exceed the already severe presumptive for those convicted under the current child sexual assault statutes. Virtually all family sexual abuse cases involve repeated abuse and prosecutors would have unbridled power to determine a higher sentence simply by selecting this charge. As we discussed the other day, although there may be some offenders who deserve lengthy periods of incarceration, others who willingly admit their conduct, seek treatment and exhibit remorse and a wish to avoid putting the victim through legal proceedings, may not require a lengthy presumptive term, particularly on a first offense. The HESS committee's removal of an increased presumptive term allays my concern in this area.

2. Unanimous Jury Verdict

My second concern with this portion of the bill relates to unanimous jury verdicts. Your bill would remove the requirement for a unanimous jury verdicts in that the jury need not be unanimous as to any particular incident of sexual abuse. Unanimous jury verdicts are constitutionally required. In State v. James, 698 P.2d 1161, 1165 (Alaska 1985), the Alaska Supreme Court interpreted the unanimity requirement to require unanimity as to the single criminal incident involved. James was applied in Bell v. State, 716 P.2d 1004 (Alaska App. 1986). Evidence at trial showed Bell had assaulted his wife on May 2nd and May 6th. The state was allowed to argue that believing the evidence as to either incident would support the verdict. The jurors were not told that they had to agree unanimously on which assault Bell committed. The Court of Appeals reversed, finding a violation of the unanimous jury requirement.

The fact that a pattern and practice of abuse forms the basis of the crime does not allow circumvention of the constitutional requirement of unanimity. In the federal RICO (racketeering) cases which involve "pattern and practice" language, there is an implicit assumption that all the jurors must agree on the individual acts establishing the criminal pattern. For example, United States v. Brown, 583 F.2d 659, 669 (3rd Cir. 1978); United States v. Peacock, 654 F.2d 339, 348 (5th Cir. 1981); and United States v. Boffa, 688 F.2d 919, 933-34 (3rd Cir. 1982), all refer to "the jury" collectively having found the defendant guilty of the particular acts which established the alleged criminal pattern. Further, in Boffa, the trial court apparently had the jurors specifically indicate which particular acts they agreed upon. 688 F.2d at 924.

United States v. Morse, 785 F.2d 771 (9th Cir. 1986), which you mentioned in your letter last spring, although not directly on point for the present dispute, supports a requirement of unanimity. Morse holds explicitly that jury unanimity is required, citing United States v. Echeverry, another 9th Circuit decision, which interprets unanimity as referring to agreement on the "particular set of facts."

Finally, as we discussed in our meeting last week, nothing in Covington requires a child to name a specific date of a sexual assault. A victim can testify that step-dad assaulted her many times, including in particular one time in the living room, one time in the bedroom and one time in the bathroom. Often children will state that one assault happened before Christmas while the other occurred at Easter time. I am not aware of a single acquittal based upon the victim's inability to describe separate specific incidents. Furthermore, despite the literally dozens of sex abuse cases which have been appealed since Covington, only one has been reversed due to a problem with jury unanimity. This was not a case where a victim could not specify separate incidents of assault. Instead at trial, there was testimony describing several separate assaults, but the jurors received no instruction requiring them to agree unanimously that at least one of the specific alleged acts was proved. Strehl v. State, 722 P.2d 226, 229 (Alaska App. 1986).

3. Definition of "Authority Over Child"

The last troublesome portion of the Repeated Sexual Abuse of a Minor provision involves the definition of "having authority over a child." This language is broad and potentially problematic, particularly with respect to a romantic relationship between a young teenager and an exchange student or step-sibling who is three years older and living in the family unit.

As I mentioned, I worked a bit with Maureen Weeks of Senator Halford's office in an attempt to resolve a similar problem in SB 231. The resolution was to require the child to be under the authority of the member of the social unit. AS 11.41.434(a):

[(C) at the time of the offense, is
residing as a member of a social unit
in the same household with the offender
and is under the authority of the offender.]

D. Prior Inconsistent Statements (Deleted by HESS)

This section, which was drafted to combat perceived problems caused by Brower v. State, was deleted by the HESS committee.

Brower held that if the only evidence at trial is a victim's prior inconsistent statement, some corroboration of that out-of-court statement is necessary. As I mentioned the other day, the Court of Appeals recently clarified the type of corroborating evidence it had in mind. In Bodine v. State, ___ P.2d ___, Op. No. 708 (Alaska App., May 29, 1987), the court stated that the specificity with which a young child was able to describe the perpetrator's acts in and of itself provided "intrinsic assurance of the reliability of her statement..." Slip Op. at 8-9. Other types of corroborating evidence were permitted to substantiate a prior inconsistent statement which formulated the only direct evidence of the charge. They involved the mother's lack of cooperation with the authorities when told that her husband would have to go to jail and psychological opinions that the victim was an abused child despite lack of any details as to the type of abuse or by whom she had been abused. There need not be other witnesses to or physical evidence of the abuse to satisfy the corroboration requirement. Thus, the Court of Appeals' adoption of a flexible standard of corroboration to support a prior inconsistent statement should remove many concerns regarding the impact of the Brower decision.

E. Rule 404 Alaska Rules of Evidence

As we discussed the other day, the Alaska Supreme Court and Court of Appeals have in many instances allowed evidence of a defendant's prior abusive conduct to come in at trial, including abuse of the named victim, abuse of other victims in the family and abuse of victims outside of the family who are similarly situated to the named victim. Following are brief summaries of the cases in this area of the law.

1. Evidence of Other Abuse on Named Victim is Ordinarily Admissible.

In Burke v. State, 624 P.2d 1240 (Alaska 1980), the Alaska Supreme Court established the rule that evidence of earlier assaults on the same victim is admissible. The Supreme Court held that it was proper for a victim to testify to the whole history of assault by her step-father, the defendant.

A recent Court of Appeals decision, Patterson v. State, 732 P.2d 1102, 1103 (Alaska App. 1987), explained the justification for the well-established Burke rule: "First, to establish an ongoing relationship between the victim and the accused; and, second, to place an offense in context and to show the background of the offense." In Patterson, the court approved admitting evidence of a prior sexual assault on the named victim even though that assault occurred nearly two years earlier.

The "same victim" rule is also followed in cases charging physical assaults on children. The Court of Appeals in Garner v. State, 711 P.2d 1191, 1193 (Alaska App. 1986), held that it was proper to admit evidence indicating prior physical abuse by the defendant covering a four month period before the child's death.

2. Evidence of Abuse of Other Victims in the Same Family is Ordinarily Admissible.

In Soper v. State, 731 P.2d 587 (Alaska App. 1987), the Court of Appeals expanded Burke to cover testimony of abuse on other family members. The court in Soper said:

The limited exception for lewd disposition recognized in Burke should be extended to cover the testimony of the complaining witnesses' sisters who were allegedly seduced under similar circumstances at roughly the same age as the complaining witness.

3. Evidence of Abuse Outside the Family Can Be Admissible

Evidence of abuse of other victims not in the same family but in the same class is admissible if the defendant's plan or pattern of sexual misconduct is relevant. Soper appears to authorize admission of evidence concerning sexual assaults of non-family victims so long as the victims are members of a "limited class [having] highly relevant common characteristics." 731 P.2d at 590. For example, in recent trials where the defendant was charged with sexual abuse of a child in a daycare situation, the state successfully argued that Soper authorized admission of evidence concerning sexual abuse on other children in the daycare.

Other cases upholding admission of evidence concerning abuse on non-family victims include Oswald v. State, 715 P.2d 276 (Alaska App. 1986); Moor v. State, 709 P.2d 498 (Alaska App. 1985).

4. Bolden v. State -- Similar in concept to the Rape Shield Law

The only time a prior bad act is not admissible in this context is when there is no nexus or connection between the prior act and the charged conduct.

Bolden v. State, 720 P.2d 957 (Alaska App. 1986), illustrates the rule that evidence of sexual abuse of uncharged victims not part of the same class as the victim is ordinarily inadmissible. Bolden was charged with sexually abusing two of his daughters. At trial the state presented testimony by other girls that they

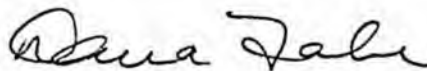
had been sexually molested by the defendant. The Court of Appeals found that the evidence was inadmissible because neither identity nor intent was an issue at the trial and the acts did not establish a common scheme or plan.

The Bolden rule, which disallows evidence of other sexual assaults where the only purpose for such testimony is to show the defendant's propensity to commit such acts, is comparable to the rape shield law protection for victims. That is, the fact that a victim may have engaged in a certain type of sexual practice on one occasion with one partner is not admissible to prove the victim consented to such practice on another occasion with the defendant.

In summary, in all situations in which prior bad acts by the defendant are relevant and probative of the issues at hand, the Court of Appeals and Supreme Court have upheld their admissibility. This body of case law, when combined with the new evidentiary freedom in your proposals of pattern and practice offenses for murder in the second degree, assault in the first degree, and repeated sexual abuse of a minor, will hopefully alleviate your concerns that the jury is not hearing all evidence which is relevant to the charge.

Again, I appreciate your willingness to discuss various provisions of this bill with me, and I hope that this letter provides you with additional information which may be helpful to you. I will provide a copy to House Judiciary so that they are aware of my modified position on the first sections of your bill. I look forward to working with you in the future.

Very truly yours,



Dana Fabe
Public Defender

DF:cs

cc: ✓ Representative John Sund
Chairman, House Judiciary Committee
2504 2nd Street
Ketchikan, Alaska 99901

1 IN THE HOUSE

BY HUDSON, ULMER, LARSON,
MENARD, HOFFMAN AND GOLL

2

HOUSE BILL NO. 229

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSJON

5

A BILL

6 For an Act entitled: "An Act relating to homicide by abuse."

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

8 * Section 1. AS 11.41 is amended by adding a new section to read:

9 Sec. 11.41.105. HOMICIDE BY ABUSE. (a) A person commits the
10 crime of homicide by abuse if, under circumstances manifesting an
11 extreme indifference to the life of a child under 16 years of age, the
12 person engages in a pattern or practice of assault or torture of the
13 child that ^{directly causes} results in the death of the child.

14 (b) Homicide by abuse is an unclassified felony and is punish-
15 able as provided in AS 12.55.

16 * Sec. 2. AS 12.55.125(a) is amended to read:

17 (a) A defendant convicted of murder in the first degree or
18 homicide by abuse shall be sentenced to a definite term of imprison-
19 ment of at least 20 years but not more than 99 years.

House Judiciary Committee Hearing 23 Oct. 87
Ketchikan, AK

DOMESTIC VIOLENCE*

Statement of Position

1. The League of Women Voters of Alaska believes all individuals have the right to be safe from physical abuse and neglect in their own homes and the right to live in a fear-free environment. A special degree of protection is needed for vulnerable, dependent people regardless of age or geographic location.
2. Intervention by public agencies should take place when there is evidence of physical abuse of one family member by another. Domestic violence requires a coordinated response by law enforcement officials, prosecutors, judges, and social service agencies. All people, especially crisis intervention professionals, who work with domestic violence incidents should receive special training. When necessary to separate family members, it is preferable to remove the perpetrator rather than the victim from the home, particularly if the victim is a child. Physical assault should be prosecuted whether or not the victim presses charges.
3. Federal, state, and local governments should share community responsibility for the health and safety of family members. Costs should be shared by all levels of government and by contributions from private sources.

Amplification

Special attention should be paid to groups who have been inadequately served in the past, such as adolescents, the elderly, and rural residents.

We should explore the option of a special fund into which perpetrators would be obliged to pay.

Public services available in the state should include:

- Educated police intervention and protection
- Rehabilitation and treatment for incarcerated offenders
- Alternatives to incarceration
- Shelter for victims and their dependents
- * Preventive education, especially in the schools, on the issues of psychological, physical, and sexual abuse
- Counseling of victims, perpetrators, and other affected family members
- Medical care and legal aid for victims
- Alcohol and drug abuse treatment
- Coordinated social services delivery
- Anger control training
- Alternative housing for perpetrators

*Definition: Domestic Violence is physical harm or the threat of physical harm between household or family members. Physical harm includes abuse, neglect, and sexual assault.

Established 1986
League of Women Voters of Alaska

Child Case Position on reverse →

STATEMENT OF POSITION: The League of Women Voters of Alaska supports the availability of child care for everyone who needs or wants it with priority to those children whose need is greatest. The members of the League believe users should be primarily responsible for child care financing. Supplemental financial and regulatory responsibilities should be shared by all levels of government to insure that child care is of high quality and available to those who need it.

AMPLIFICATION: Child care objectives include providing enriching and varied experiences for children of parents who must or choose to work, or parents who are physically handicapped or who need emotional relief from childrearing. Child care might also provide social, emotional and developmental experiences which may be lacking in the home or provide protective service, emergency care or drop-in care.

Parents determination of whether to send their child or where to send them for child care should in all instances be voluntary. Parental involvement should be strongly encouraged in any child care situation. An important consideration is the availability of parent training and counseling. To provide a choice, different types of care should be available with an emphasis on center care and family home child care, but including in-home child care. Facilities are acceptable in any safe place, e.g., a storefront, public or private building, portable unit, or other location.

Nurturing care, that in which the caregiver is aware of and attempts to meet the individual needs of each child, is the minimum each child should receive on a full time or regular basis. Custodial care, meeting physical safety needs alone, is unacceptable for child care. Emphasis should be placed upon comprehensive care, i.e., care provided by a person educated, experienced, and/or trained in dealing with the special needs of young children and able to meet those needs on an individual basis. Child care for the handicapped or developmentally deprived child requires specially trained staff. Specific child care requirements should be related to the number of hours per day a child is in attendance and qualifications of teachers.

Regulations and standards appropriate to the locale and involving health, nutrition, safety, space per child, low staff-child ration, and staff training should be maintained by state and local governments. Coordination of local, state, and federal standards is essential. Regulations and standards should be regularly reviewed.

The League of Women Voters of Alaska believes there should be differentiation between child care and pre-school programs. All programs dealing with pre-school age children should meet standards of early childhood growth principles. Pre-school programs should be taught by qualified teachers.

Users should have primary responsibility for day care financing based upon the ability of the parent to pay. Available public funding should go to those children whose need is greatest: children of parents who must work or are physically or emotionally incapable of full-time child care. Governments may provide for partial subsidies of start-up and operational costs.

Members suggest that local schools could be involved in providing space and training for child care needs. This might be in the form of summertime or after school use of facilities, parent education, and educating older children in the care of younger children.

School-aged children who have no adult supervision available to them prior to or after school present other significant problems and would benefit from special programs designed to meet their needs.

Established 1976
Updated 1986
League of Women Voters of Alaska

Domestic Violence Position on reverse →

BECAUSE I'VE INVESTIGATED OVER 50 CASES OF CHILD ABUSE AND INTERVIEWED OVER 60 VICTIMS,
DURING THE LAST 3 YEARS, I FEEL THAT I CAN OFFER SOME INSIGHT INTO THE ISSUE OF CHILD ABUSE

I THINK THAT THERE ARE TWO QUESTIONS THAT NEED TO BE ADDRESSED:

WHY SHOULD THIS PARTICULAR CRIME GET SPECIAL RECOGNITION?

WHY DO WE NEED NEW LEGISLATION CONCERNING CHILD ABUSE?

THE NECESSITY FOR SPECIAL RECOGNITION IS EVIDENT BY THE INTERAGENCY PROTOCOL AGREEMENTS
WHICH HAVE BEEN IMPLEMENTED BY SEVERAL CITIES IN ALASKA. THE PROTOCOL FOR KETCHIKAN
WAS AGREED TO BY 11 STATE AND COMMUNITY AGENCIES OVER TWO YEARS AGO. IT IS A GUIDELINE
FOR ALL AGENCIES WHO DEAL WITH REPORTS OF CHILD ABUSE INCLUDING: THE SCHOOL DISTRICT,
HEALTH PROFESSIONALS, VICTIM'S ASSISTANCE PROGRAMS, LAW ENFORCEMENT, CHILD PROTECTIVE SERVICES
AND THE COURT SYSTEM. - I'VE BROUGHT COPIES OF THIS PROTOCOL FOR EACH COMMITTEE
MEMBER.

ALSO ADDRESSED IN THIS PROTOCOL IS THE NEED FOR SPECIFIC TRAINING IN RECOGNIZING AND
DEALING WITH CHILD ABUSE VICTIMS. THIS IS AN AREA WHERE SEVERAL AGENCIES HAVE FOLLOWED THROUGH
BY HAVING INTER AGENCY TRAINING SESSIONS AND SENDING PERSONNEL TO TRAINING SEMINARS.

THE HEADS OF EACH AGENCY OR THEIR REPRESENTATIVE MEET ONCE A MONTH TO DISCUSS ANY PROBLEMS
IN AN EFFORT TO COORDINATE EACH AGENCIES PART IN DEALING WITH CHILD ABUSE.

SPECIFICALLY FOR LAW ENFORCEMENT, THE POLICE OFFICER AND SOCIAL WORKER INVESTIGATE ABUSE
REPORTS AS A TEAM, THEREBY LIMITING THE NUMBER OF TIMES THE CHILD HAS TO BE INTERVIEWED.
THE INTERVIEWS DONE WITH CHILD ABUSE VICTIMS ARE TAPE RECORDED WHICH CAN LATER BE USED
AS EVIDENCE IN COURT, OR FOR LATER TREATMENT OF THE VICTIM OR OFFENDER.

WHEN POSSIBLE, INTERVIEWS ARE CONDUCTED AT THE CHILD INTERVIEW ROOM, AT THE POLICE DEPARTMENT
WHICH HAS A TELEVISION MONITOR AND A ONE WAY MIRROR SO THAT THE DISTRICT ATTORNEY OR PARENTS
CAN OBSERVE THE INTERVIEW FROM AN ADJOINING ROOM.

I'D LIKE TO INVITE ANY OF THE COMMITTEE MEMBERS TO VIEW THE INTERVIEW ROOM AT THE POLICE DEPARTMENT.
IF AND WHEN YOU GET TO KETCHIKAN

I BELIEVE THAT THIS CRIME SHOULD HAVE SPECIAL RECOGNITION BECAUSE THE VICTIMS OF THIS CRIME CANNOT PROTECT THEMSELVES. BY VIRTUE OF THEIR STATUS AS CHILDREN, THEY MUST OBEY ADULTS AND THOSE IN AUTHORITY OVER THEM, EVEN THOUGH THOSE PEOPLE MAY ABUSE, EXPLOIT AND MISUSE THEM. BECAUSE THEY ARE CHILDREN, THEIR STATEMENTS AND COMPETENCY ARE AUTOMATICALLY QUESTIONED. THIS IS A CRIME CONCERNING SOCIAL, MORAL, AND LEGAL ISSUES. IT AFFECTS FAMILY RELATIONSHIPS, PEOPLE'S REPUTATIONS, AND LIFE LONG CONSEQUENCES FOR THE VICTIM, AND THE PERSON ACCUSED.

I'D LIKE TO QUOTE SOME LOCAL STATISTICS FOR CHILD ABUSE CASES REPORTED TO THE POLICE DEPARTMENT
IN 1967, THERE WERE 7 REPORTS OF CHILD PHYSICAL AND SEXUAL ABUSE
IN 1977, THERE WERE 10 REPORTS OF CHILD PHYSICAL AND SEXUAL ABUSE
IN 1987, THERE HAVE BEEN TO DATE, OVER 50 REPORTS OF CHILD PHYSICAL AND SEXUAL ABUSE

¹⁹⁸⁴ IN THE THREE PERIOD FROM 1984 TO DATE, I'VE INVESTIGATED OVER 50 CASES OF CHILD SEXUAL AND PHYSICAL ABUSE, INTERVIEWING OVER 60 VICTIMS.

OVER 75% OF THOSE CASES WERE REPORTS OF SEXUAL ABUSE 25% WERE PHYSICAL ABUSE REPORTS
THERE WAS ONLY ONE CASE WHERE THE SUSPECT WAS NOT KNOWN BY THE VICTIM
APPROXIMATELY 2/3 OF THE SUSPECTS WERE RELATED TO THE VICTIM AND 1/3 WERE KNOWN BY THE VICTIM
10 PEOPLE HAVE BEEN CHARGED - 3 ADULTS PLEAD OUT AND ARE WAITING ON SENTENCING
CHARGES WERE DROPPED ON 2 ADULTS BECAUSE A VICTIM WOULD NOT TESTIFY AGAINST A PARENT OR
WAS NOT COMPETENT TO TESTIFY.

5 JUVENILES HAVE BEEN ADJUDICATED OR HANDLED INFORMALLY BY JUVENILE PROBATION
THE OTHER CASES WERE NOT REFERRED FOR LACK OF EVIDENCE, DECLINED BY THE DISTRICT ATTORNEY,
VICTIMS DECLINED TO TESTIFY OR RECANTED THEIR STATEMENTS, ARE PENDING CASES, OR PROSECUTION
WAS NOT WARRANTED.

IN TWO PARTICULAR CASES WHERE DEFENDANTS HAVE PLEAD OUT, DEFENDANTS WERE ONLY CHARGED WITH ONE COUNT EVEN THOUGH THERE WERE MULTIPLE OFFENSES OVER A PERIOD OF MONTHS AND YEARS, BECAUSE THE VICTIMS COULD NOT REMEMBER SPECIFIC DATES FOR EACH OFFENSE

IN ANOTHER CASE, A GRAND JURY CAME BACK WITH NO TRUE BILL EVEN THOUGH THEY BELIEVED THAT THE 15 YEAR OLD VICTIM HAD BEEN SEXUALLY ABUSED. THEY FELT SHE SHOULD HAVE STOPPED THE 35 YEAR OLD MAN FROM ASSAULTING HER. THEY ALSO ASSUMED THAT THIS WAS AN ISOLATED INCIDENT. THERE WERE IN FACT, SEVERAL OTHER INCIDENTS ON FILE CONCERNING OTHER VICTIMS, AND TWO RECENT CONVICTIONS FOR FURNISHING ALCOHOL TO MINORS, HOWEVER THIS INFORMATION COULD NOT BE PRESENTED.

I HAVE SEEN MUCH IMPROVEMENT WITH REGARD TO CHILD PROTECTION ISSUES IN THE STATE OF ALASKA, AND THROUGHOUT THE COUNTRY DURING THE LAST 5 YEARS. I GUESS WHAT I'M TRYING TO SAY IS THAT I FEEL THAT WE'VE RECOGNIZED THE IMPORTANCE OF CHILD PROTECTION IN KETCHIKN, THAT WE'RE WORKING ON IMPROVING HOW WE DEAL WITH VICTIMS, SUSPECTS, AND THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES.

TO ~~ANSWER~~ ANSWER THE QUESTION - WHY DO WE NEED NEW LEGISLATION? / WOULD SAY:

WE'VE RECOGNIZED THAT WE HAVE A PROBLEM, WE'VE REFINED METHODS FOR DEALING WITH THE PROBLEM, WE'VE DEFINED WHAT THE CRIME OF ABUSE IS BY PAST LEGISLATION IN 1980, 1982 AND 1983, AND NOW WE NEED TO RECOGNIZE THE DYNAMICS OF CHILD ABUSE WHICH OFTEN MANIFESTS ITSELF IN PATTERNS OF LIFE THREATENING, SERIOUS PHYSICAL AND PSYCHOLOGICAL DAMAGE. THIS NEW LEGISLATION DOES THAT AND UNDERSCORES THE MESSAGE THAT CHILD ABUSE IS NOT ACCEPTABLE.

PROTOCOL

I.

Preamble

This protocol has been designed by the participating, represented agencies to facilitate the investigation of reports of the sexual and physical abuse of children. Effective investigation of such reports will aid the successful criminal prosecution, where warranted, of perpetrators. Effective investigation of such reports will also aid the treatment both of victims of child sexual and physical abuse, and of perpetrators of such abuse. The agencies participating in the creation of this protocol recognize that effective protection of victims of child sexual and physical abuse requires inter-agency cooperation and coordination. The participating agencies also recognize that the protection of victims of child sexual abuse is the primary goal of this protocol.

II.

Goals

The goals of this protocol are:

- 1) to provide protection, treatment and continuing support for child sexual and physical abuse victims and their family members;
- 2) to ensure that child sexual and physical abuse cases are immediately and properly investigated and, if appropriate, effectively prosecuted;
- 3) to increase reporting of child sexual and physical abuse cases; and
- 4) to provide treatment, when appropriate, to perpetrators.

III.

Definition of Terms

For purposes of this agreement:

"child sexual abuse" means any sexual assault, sexual contact, or sexual exploitation of a person under the age of 18 which appears to be a violation of Alaska's criminal laws, whether the offense occurred within or outside of a family relationship;

"incest" means a special form of child sexual abuse in which the child and perpetrator are members of the same extended family; and

"report of sexual abuse" means an initial report of sexual abuse of a child which has been preliminarily verified in some way by the agency receiving the initial report. A report is always to be considered verified if it came directly or indirectly from the victim or the offender.

"child physical abuse" means any physical assault or physical maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is threatened thereby.

"report of physical abuse" means an initial report of physical abuse of a child which has been preliminarily verified in some way by the agency receiving the initial report. A report is always considered verified if it came directly or indirectly from the victim or the offender.

IV.

Underlying Premises

This agreement is based on the following premises:

1. Sexual and physical abuse of children is a serious and pervasive social and legal problem in Ketchikan;

2. Sexual and physical abuse may cause serious and long lasting physical, mental, and emotional harm to a child;

3. An alarmingly high proportion of both girls and boys will be sexually abused by the time they are 18 years old;

4. Most victims of child sexual and physical abuse are abused by family members or people known to them;

5. Recent studies have shown that sexual abuse of children is grossly under-reported to authorities; it is important to increase the reporting rate;

6. The child's immediate and continuing physical and emotional welfare is paramount;

7. Positive and effective intervention, treatment, and support procedures must be developed and implemented on a state and local level for the child and appropriate family members;

8. When dealing with child sexual and physical abuse, a properly functioning criminal justice system requires the integration and coordination of state and community agency services involving a variety of disciplines: police, legal, social services, corrections, medical, educational, private

and non-profit counselling, and peer support;

9. Child sexual victimization is a crime; it is always morally wrong;

10. Perpetrators are responsible for their actions and the consequences of those actions; and

11. Prosecution, where warranted, of perpetrators is a child protective function.

V.

Mutual Reporting Responsibilities

A. Intent and Purposes: The criminal justice system should be involved in every reported instance of child sexual or physical abuse, whether that abuse was committed by a stranger, acquaintance, or family member.

All parties to this agreement will immediately report cases of child sexual or physical abuse to the appropriate agencies. Each agency which receives reports will develop a practical and efficient system to monitor the reports, any action taken, and the disposition of cases.

B. Notification to Individual Agencies

1. Division of Family and Youth Services. Whenever any party to this agreement has cause to believe that a child has been sexually or physically abused by a family member, or as a result of conditions created by the child's parent, guardian or custodian, or as a result of the failure of a parent, guardian or custodian to adequately supervise the child, the appropriate Division of Family and Youth Services (DFYS) office is to be immediately notified. AS 47.17.020. and AS 47.17.070.

2. Police. Whenever any party to this agreement receives a report of child sexual or physical abuse, whether the abuse occurred within or outside of a family relationship, the appropriate police agency is to be immediately notified.

3. Department of Law. Whenever the Division of

Family and Youth Services receives a report of child sexual or physical abuse, whether the abuse occurred within or outside of a family relationship, it shall provide written notice of the report to the District Attorney's Office within 72 hours of receipt. Whenever a police agency receives a report of child sexual abuse, it shall immediately notify the District Attorney's Office of the report.

VI.

Actions of Agencies and Organizations

A. Intent and Purposes: Sexually abused children often suffer serious and long lasting trauma as a result of the sexual abuse. If cases are not handled wisely and with compassion, abused children may suffer further harm during the criminal justice process. Every effort should be made to prevent additional emotional hardship on a child and non-offending members of a child's family. Enlightened and humane consideration of a child's welfare requires interagency cooperation. Additional trauma to a victim of child sexual abuse can be substantially reduced by minimizing the number of times the victim is required to re-live the abuse. Therefore, the number of victim interviews should be held to a minimum. However, the goal of child protection may require more than one interview. Participating agencies will balance the trauma of additional victim interviews against the goals of child protection in determining whether to conduct additional victim interviews.

Timely and coordinated legal intervention may provide a therapeutic effect for the victim. Legal intervention also communicates to both the child and the offender that further abuse will be prevented. Coordinated intervention efforts will reduce unnecessary and wasteful duplication of effort, and may result in increased witness cooperation.

B. Development of Internal Policies and Procedures.

Every agency which is a party to this agreement shall develop and implement written internal policies and procedures to be used in response to the report of a child sexual or physical abuse case. At a minimum, each agency's policy guidelines should address reporting requirements, proper interviewing and intervention techniques, record-keeping, periodic and ongoing program evaluation, and communication and coordination with other appropriate state and local agencies and organizations. Policies should stress cooperation among agencies and integration of resources to the maximum extent possible within legal and privacy constraints. These policies and procedures are to be developed through consultation with other agencies affected by this agreement.

The policies and procedures are to be developed within 30 days after this protocol is signed, and implemented within 30 days thereafter. A copy of each agency's policy guidelines are to be attached to this agreement as appendices.

C. Training of Agency Members.

Every agency which is a party to this agreement will provide, within budget constraints, ongoing training to appropriate personnel aimed at effective intervention, investigation, prosecution, and/or support and treatment. Where possible, participating agencies will provide appropriate training to other participating agencies.

D. Intervention and Investigation.

All agencies should attempt to complete their investigation and take appropriate action in a case as quickly as possible. All reasonable efforts to minimize trauma to the victim and non-offending family members should be taken.

Pursuant to the Mutual Reporting Procedures outlined above, the appropriate police agency will be notified of all reports of child sexual abuse, and the police agency will immediately notify the District Attorney's Office of such notification. The District Attorney's Office will then coordinate the investigation into the report. The appropriate police agency has primary responsibility for conducting the criminal investigation. Representatives of the police agency and the District Attorney's Office will be present, when possible, at all formal interviews of victims of child sexual assault. Other agencies may be represented at the interview of the victim, either observing or conducting the interview. The interview will be conducted by the agency representative having the greatest rapport with the victim.

The number of interviews of child victims is to be minimized. The preferred method of interviewing the child victims shall be the formal, joint interview described herein. Children are to be interviewed in the least threatening atmosphere possible. Whenever available, the specially designed child interview room at the Ketchikan Police Department should be used. Parents should ordinarily not be

present during the interview. Parents should not be notified before the victim is interviewed unless it is certain that the parent supports reporting the crime. This is especially true if the parent does not appear to be supportive of the child. Interviews with children will be recorded. If possible, the interviews will be recorded by both audio and video means. Interviews with children will be transcribed, if possible.

Whenever a victim of child sexual or physical abuse initiates discussion of the abuse prior to the formal, joint interview referred to above, any agency personnel present shall permit the victim to discuss the abuse to the extent the victim desires. The agency personnel shall immediately reduce as much of the discussion as possible to writing. That written report shall be immediately provided to the appropriate police agency.

In all cases of child sexual abuse, the victim shall be examined by a physician as soon as feasible. The police agency arranging the physical examination shall obtain the required releases so that the results of the physical examination may be provided to the police agency. The physical examinations of victims of child sexual abuse will be conducted in a medically accepted manner and shall be performed so as to minimize any possible trauma to the victim.

The appropriate police agency has primary responsibility for interviewing the perpetrator. Whenever a police

officer is readily available to conduct an investigation, DFYS should not interview the perpetrator until the officer has completed the initial investigation and interviewed the perpetrator.

All interviews of perpetrators shall be recorded. When possible, the interview will be recorded by both video and audio means. Interviews with perpetrators shall be transcribed, if possible. The perpetrator shall be interviewed as soon as possible in the course of the criminal investigation, and if possible, before the CINA probable cause hearing.

Prosecution of child sexual abuse perpetrators should occur whenever sufficient evidence exists. Consistent with the child's safety, all reasonable efforts to secure and preserve evidence should be made.

Whenever a child has been sexually abused by a family member, or as a result of conditions created by the child's parent, guardian or custodian, or as a result of the failure of a parent, guardian or custodian to adequately supervise the child, the Division of Family and Youth Services shall assume primary protective responsibility for the child. The Department of Law will provide assistance to DFYS in carrying out its child protection functions. The DFYS should also protect siblings of child sexual abuse victims.

The preferred placement choice in incest cases is to allow the child to remain in the care of a supportive

non-offending party. Ordinarily, the offender should not be allowed contact with the child victim during the time a criminal prosecution is being considered or is pending. The no contact requirement may be imposed by agreement, through civil court order, or as a condition of bail in the criminal case. If the preferred placement is not possible, DFYS will assist the non-offending parent to arrange alternate housing for the child victim, or will seek to remove the child from the home. DFYS will take emergency custody of a sexually abused child when appropriate. If the DFYS worker believes it necessary, a law enforcement officer will assist in taking emergency custody.

Whenever a child in need of aid (CINA) proceeding and a criminal prosecution arise out of the same events, the Division of Family and Youth Services and the Department of Law shall coordinate efforts to provide a unified, consistent and systematic approach.

E. Sharing of Information.

Each agency which is a party to this agreement will develop written procedures providing for the flow of pertinent information to other agencies which need the information for official purposes. To the extent legally permissible, information is to be freely shared. Reports of harm and police and DFYS investigative reports are confidential, and may only be used for appropriate governmental purposes.