

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7867

HOUSE JUDICIARY

132

# WHO NEEDS AIR PERMITS

## 1. FACILITIES THAT EMIT 100 TONS PER YEAR

*Of Any Criteria Air Contaminant*

*( CO, SO<sub>2</sub>, NO<sub>2</sub>, Pb, PM, O<sub>3</sub> )*

## 2. FACILITIES THAT EMIT 10 TONS PER YEAR

*Of Any Hazardous Air Contaminant*

*OR*

*25 TPY Aggregate of Multiple Contaminants*

## 3. FACILITIES SUBJECT TO FEDERAL EMISSION LIMITS

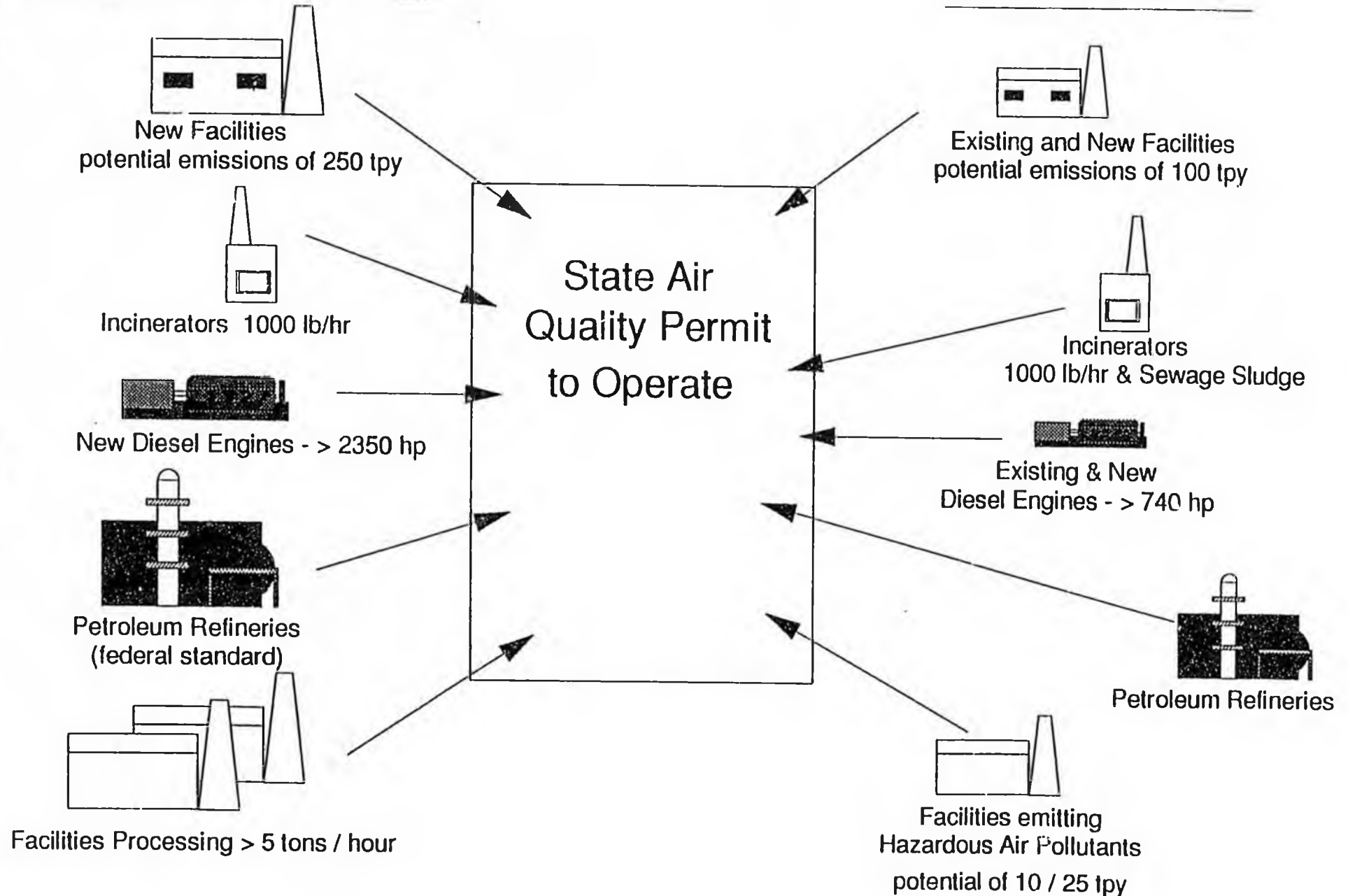
*New Source Performance Standards*

*Implementing Technology for Hazardous Emissions*

# WHO NEEDS AN AIR PERMIT ?

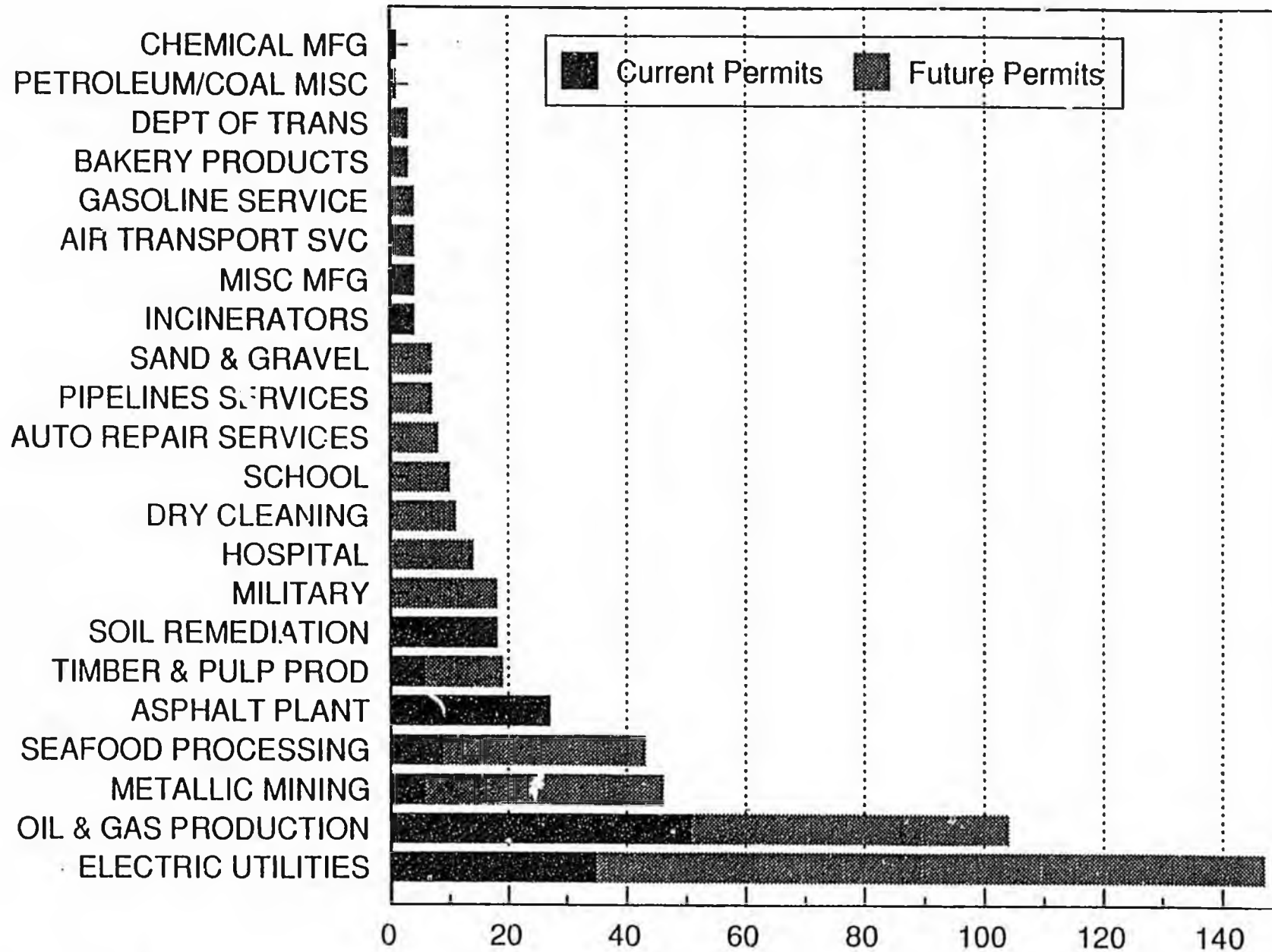
## EXISTING PERMIT PROGRAM

## 1990 CLEAN AIR ACT



# ALASKA

## Facilities Required to Have Air Permits by Facility Type



# FOCUS OF PERMIT RESTRUCTURING

## - RETAIN STATE JURISDICTION -

*Responsive to Public & Industry Needs*

*Prevent Federal Intervention*

## - FULL SERVICE ON AIR PERMITS -

*Single Permit \ All Requirements*

## - DESIGNED W/ CHECKS & BALANCES -

*Public Health Protection w/ Accountability for Good Science*

*Fee Structure that Stimulates Efficiency*

*Public Participation that's Timely & Time Certain*

*General Permits for Streamlined Issuance*

## - KNOWLEDGE AND UNDERSTANDING OF REQUIREMENTS -

*Explicit and Detailed Laws*

# AIR QUALITY PERMIT BILL

## ALASKA AIR STATUTES REQUIRED & ESSENTIAL FEATURES

## BILL SECTION TITLE

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Exclusive Fund for Air Permit Program	Clean Air Protection Fund Special Account
Create Small Business Assistance Program Create Advisory Panel Provide Assistance to Larger Group	Small Business Assistance Program Power to Limit Program Compliance Advisory Panel
Modify Criminal Provisions and Fines	Criminal Penalties for Air Pollution
Construction Permits v. Operating Permits Agency/Operator Emission Limits to Avoid Need for Permit	Classification of Facilities or Sources; Reporting Permits for Construction, Modifications or Operations Responsibilities of Owner and Operator Facilities Requiring Permits Administrative Actions Regarding Permits Emissions Control Permit Program Regulations Air Pollution from Outer Continental Shelf Activities Authority of the Department in Cases of Emergency
General Permits	General Operating Permits
Flexibility for Permit Fee Structure	Permit Administration Fees Emission Fees
Ability to Implement New Federal Rules in Permits Reopening of Permits	Incorporated into other sections
Emission Limits Based on Health Risks or Available Technology	Incorporated into other sections
Local Governments to be Implementing Partners	Local Air Quality Control Program Inadequacy of Local Program State and Federal Aid
Administrative Penalties for Violations Deter EPA Intervention	Not in Bill
Public Involvement in Permits Public Review of Permits Appeal through Adjudication Judicial Review EPA Review Public to Petition EPA	Review of Permit Action  Objection by Federal Administration
Retain & Update Existing Statutes	

# CAA Deadlines & Sanctions

## DEADLINES

- 11/15/92 Submit Small Business Assistance Plan  
Submit SIP Revisions for Non-Attainment Areas
- 11/15/93 Submit State Operating Permit Program

## SANCTIONS

After 11/15/93 EPA may impose any of the following:

See CAAA 90 - Section 502(d)(2)(A)

- Prohibition on Federal Highway Funds statewide
- Require 2 to 1 offset of emissions for new sources in non-Attainment areas
- Withhold any Federal Air Grant Funds
- Prohibit expansion of airports in Non-Attainment areas

5/15/95 EPA must impose all of the following:

See CAAA 90 - Section 502(d)(2)(B)

- Prohibition on Federal Highway Funds statewide
- Require 2 to 1 offset of emissions for new sources in non-attainment areas
- Withhold any Federal Air Grant Funds
- Prohibit expansion of airports in Non-Attainment areas

11/15/95 EPA must implement Federal Permit Program

See CAAA 90 - Section 502(d)(3)

EPA Operating permits -

- Little consideration for Alaska-specific Concerns
- Federal program offers less operational flexibility
- Federal program has more facility reporting requirements
- No General Permits
- Will take longer to issue than State permit

EPA collects permit fees -

- Collected fees go to Federal government, not Alaska
- Federal Permit Fees likely to be higher than State Permit Fees
- Federal Permit Fees will not reduce program support from State General Funds

# PERMIT FEE DESIGN

## - " PERMIT ADMINISTRATION FEE " - \$ / hour

*Pay for Direct Services Provided*

*Low Demand - Low Costs / High Demand - High Costs*

*Agency Accountability w/ Evident Billings*

*Fee Rate Projected to be \$ 78 / hour*

## - " EMISSION FEES " - \$ / emission

*Pay for Intangible Benefits of Program*

*- reconcile fed laws to Alaska situations*

*- management control for consistency*

*- rent, utilities, accounting etc.*

*Policy Directive to Achieve " Equitable Apportionment "*

*between facility types & sizes*

*Interim Rate w/ Mandate for Further Research*

*Fee Rate Projected to be \$ 5 / Ton of Emission*

**AIR QUALITY LEGISLATIVE WORKING COMMITTEE**

**COMMITTEE MEMBERS**

1/28/93

NAME	AFFILIATION	REPRESENTING	CONTACT NO.
Lee Browning	Municipality of Anchorage	Alaska Municipal League	Phone 343-4928 Fax 343-6740
Steven Taylor	British Petroleum Exploration Inc.	Alaska Oil & Gas Assoc.	Phone 564-4037 Fax 564-5020
Harry Noah Gene Andrews (alternate)	Consultant	Council of Alaska Producers (mining trade assoc.)	Phone 265-3100 or 452-4653 Fax 265-3180 or 451-4305
John Iani Rick Lauber (alternate)	Pacific Seafood Processors Assoc.	Pacific Seafood Processors	Phone (206) 281-1667 or 586-6366 Fax (206) 283-2387 (Both) 463-5298
Linda Dianne Rabb	Rural Alaska Power Assoc.	Rural Electric Utilities	Phone 345-5771 Fax 345-5878
Carl Harmon	Chugach Electric Association	Large Electric Utilities for Alaska Rural Electric Cooperative Assoc. (ARECA)	Phone 762-4739 Fax 562-0027
Larry Opperman	U.S. Air Force	U.S. Air Force	Phone 552-7753 Fax 552-1533
Aimee Boulanger	Alaska Center for the Environment	Environmental Advocacy Groups for the Alaska Environmental Lobby	Phone 274-3621 Fax 274-4145
Eric Myers	Self	General Public	Phone 272-3034 Fax 272-7122
Tom Chapple	Alaska Dept. of Environmental Conservation (ADEC)	ADEC	Phone 465-5100 Fax 465-6129

# **SUMMARY**

of the

## **1990 CLEAN AIR ACT**

Prepared  
September 16, 1992  
by  
Alaska Department of Environmental Conservation

On November 15, 1990, President Bush signed into law amendments to the federal Clean Air Act (Act). The revised law initiated sweeping changes in air quality management throughout the nation. The summary below will provide you with some basic information on this complex law.

### **TITLE I - AIR POLLUTION PREVENTION AND CONTROL**

*Section 109 of the Act provides for the establishment of National Ambient Air Quality Standards. Primary standards are designed to "...protect public health with an adequate margin of safety." Secondary standards "...protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutants in the ambient air." To date, National Ambient Air Quality Standards exist for ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, particulate matter, and lead.*

*Section 110 of the Act requires states to submit a plan to EPA "...which provides for implementation, maintenance, and enforcement..." of the ambient air quality standards. This plan is often referred to as the State Implementation Plan (SIP). In Alaska, this information is contained in the State Air Quality Control Plan and the Alaska Air Quality Control Regulations.*

*Section 111 of the Act provides for the establishment of Standards of Performance for New Stationary Sources (NSPS). These standards establish emission limitations for specific air pollution sources, or categories of sources, based upon the use of feasible technology. Each source category standard is updated every few years to reflect technological advances.*

*Section 112 of the Act (Title III of the 1990 Amendments) provides for the establishment of National Emissions Standards for Hazardous Air Pollutants (NESHAPS). Prior to 1990, this provision of law regulated specific industrial processes which emitted any of eight hazardous air pollutants. As part of the 1990 Act, 189 hazardous air pollutants were established by Congress. EPA is required to develop a list of categories of stationary sources that emit the listed pollutants. In developing this list, EPA must consider the*

quantity of pollution typically emitted and the potential danger to public health. The Act then requires EPA to establish maximum achievable control technology (MACT) emission or work practice standards for these selected source categories over a period of twelve years. EPA is also establishing "area source" categories which will be required to apply generally available control technology (GACT) to reduce emissions. The list of hazardous air pollutants may be revised by EPA. In addition, any person may petition EPA to modify the list of hazardous air pollutants.

Section 113 of the Act gives EPA federal enforcement authority when the provisions of a permit or applicable implementation plan are violated and states fail to adequately initiate enforcement. EPA's authority varies depending upon the violations, but generally includes: issuing orders, assessing administrative penalties, and bringing civil or criminal action.

Part C of Title I maintains the previously established program for the Prevention of Significant Deterioration (PSD). This program is intended to prevent long term degradation of air quality in regions where the air quality is currently good. This will be achieved through a permit program that requires new industry sources to install Best Available Control Technology (BACT) to reduce out of stack emissions and sets a "cap" on ground level pollution increases. A permit can not be issued to a project if it causes a violation of either the National Ambient Air Quality Standards or the air quality increment caps.

Part D of Title I contains the requirements for implementation plans for regions not in attainment with the National Ambient Air Quality Standards. It sets the groundwork to help nonattainment regions reach attainment with the air quality standards. Part D also contains a requirement for the review of new or modified major stationary sources such as power plants and oil refineries. Both pre-construction permits and operating permits are required for major sources located within nonattainment areas. In Alaska, Anchorage and Fairbanks are nonattainment for carbon monoxide, with Eagle River and the Mendenhall Valley of Juneau being nonattainment for airborne particulate matter.

## **TITLE II - NATIONAL EMISSION STANDARDS ACT**

### **Part A - Motor Vehicle Emission Standards**

Section 202 of the Act provides for the establishment of emission standards for automobiles and light duty trucks. The standards become progressively more stringent with the newer model vehicles. In the future, Alaska will be affected by cold weather carbon monoxide standards for new vehicles. Tailpipe standards can only be set by the federal government (California excepted) and can potentially address other mobile sources, including airplanes and ships.

Section 207 of the Act provides for the establishment of an Inspection and Maintenance (I & M) program in carbon monoxide nonattainment areas to assure proper maintenance

of vehicular pollution control equipment. Automobiles, trucks, and vehicles up to 12,000 pounds laden weight in Anchorage and Fairbanks are subject to section 202 and are required to pass an emission inspection every year.

Section 211 of the Act provides for the regulation of fuels. Reformulated fuel programs, such as oxygenated gasoline (Oxy-Fuels) and low sulfur diesel fuel, are intended to reduce tailpipe emissions through more complete combustion of the fuel (oxy-fuel) or by reducing the contaminant pollutant in the fuel (sulfur). The Oxy-Fuels program currently being implemented in Anchorage and Fairbanks should bring these areas into attainment with the national and state ambient air quality standard for carbon monoxide.

Part B provides for the establishment of aircraft emission standards and enforcement. Section 231 provides for: the analysis of the effect of aircraft emissions on air quality, "...the technological feasibility of controlling such emissions"; and it provides for the development of aircraft emission standards.

Part C establishes clean fuel vehicle programs which encourages alternative fuels, such as propane or compressed natural gas, and flexible-fuel and dual-fuel vehicles.

### **TITLE III - GENERAL**

Title III provides for the general administration of the Act, including Emergency Powers (section 303), Citizen Suits (section 304), Judicial Review (section 307), and Economic Impact Analysis and Assessment (sections 312 & 317, respectively).

### **TITLE IV - ACID DEPOSITION CONTROL**

Title IV establishes a program to reduce acid rain deposition. Emission of sulfur dioxide and oxides of nitrogen, mostly from large fossil fuel fired electric utilities, will be controlled during the implementation of a two phase emission reduction program. Title IV does not apply to Alaska, Hawaii, Guam, or Samoa because of the physical distance of these states from the problem areas of New England, Eastern Canada and selected western mountain regions.

### **TITLE V - PERMITS**

Sections 502, 503, & 504 of the Act provide for the establishment of uniform, nationwide air pollution permitting programs directed by the states. All major sources of air pollution will be required to obtain air permits under the new program.

A major source is either: a facility which has the potential to emit 100 tons per year or more of a criteria air pollutant (sulfur dioxide, carbon monoxide, nitrogen oxides, lead, particulate matter or ozone via hydrocarbon emissions); a facility which has the potential

*to emit 10 tons per year or more of any hazardous air pollutant, or 25 tons per year or more of any combination of hazardous air pollutants; or a facility for which federal emissions standards exist under the New Source Performance Standard's provision of the Act.*

*States must develop an air pollution permitting program complying with the provisions of Title V, or risk losing jurisdiction of their air quality resources. Alaska is currently in the process of developing an air quality statutory bill. New statutory authority is necessary before compliance with Title V can be achieved.*

*Section 507 provides for the establishment of a Small Business Stationary Source Technical and Environmental Compliance Assistance Program. The small business assistance program (SBAP) is envisioned to take a pro-active role in helping small businesses understand and comply with the complex provisions of the Act.*

## **TITLE VI - STRATOSPHERIC OZONE PROTECTION**

*Title VI provides the framework for reducing emissions of ozone depleting chemicals, such as refrigerants, consistent with the Montreal Protocol.*

*Section 602 of the Act lists Class I and Class II substances. Class I substances include many of the chlorofluorocarbons (CFC's), halons, carbon tetrachloride, and methyl chloroform. Class II substances include many of the hydrochlorofluorocarbons (HCFC's).*

*Section 604 details the scheduled phase-out of production and consumption of Class I substances, while section 605 details the scheduled phase-out of production and consumption of Class II substances. Section 608 prohibits any person from knowingly venting refrigerants to the atmosphere. It also mandates the regulation of servicing and disposal of refrigeration and air conditioning units. Section 609 provides for regulating the service of automotive air conditioners. Other portions of Title VI require regulation of nonessential uses of products containing Class I substances, and provide for the identification of alternatives to the use of ozone depleting substances.*

# FISCAL NOTE

For Information Purposes Only (Note 1)

**STATE OF ALASKA  
1993 LEGISLATIVE SESSION**

BILL NO. HB-167

Revision Date: 5-Mar-93  
 Title: Alaska Air Permit Statutes  
 Sponsor: Representative Mark Hanley  
 Requestor: House Judiciary Committee

Department Affected: Environmental Conservation  
 BRU: Environmental Quality  
 Component: Air Quality Management

COMPONENT SERIAL NO. 1428

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 94(Note 1)	FY 95(Note 2)	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	3,125.2	3,125.2	3,125.2	3,083.1	3,083.1
TRAVEL	0.0	284.6	287.9	291.2	334.2	334.2
CONTRACTUAL	0.0	106.8	495.1	726.5	259.6	259.6
SUPPLIES	0.0	73.7	75.4	77.2	65.8	65.8
EQUIPMENT	0.0	156.8	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>3747.1</b>	<b>3983.6</b>	<b>4220.1</b>	<b>3742.7</b>	<b>3742.7</b>

CAPITAL						
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REVENUE						
FUND SOURCE: 1005	0.0	3747.1	3983.6	4220.1	3742.6	3742.6

**FUNDING:**

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF						
1005 GF/PROGRAM RECPT	0.0	3747.1	3983.6	4220.1	3742.7	3742.7
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>3747.1</b>	<b>3983.6</b>	<b>4220.1</b>	<b>3742.7</b>	<b>3742.7</b>

**POSITIONS:**

FULL-TIME	(Note 3)	0.0	22.4	22.4	22.4	21.7	21.7
PART-TIME							
TEMPORARY							

Estimate of current year (FY93) impact: \$ 0

**ANALYSIS:** (See attachment)

Note 1: FY 94 permit program to have no funding changes relative to FY 93, as permits will not begin to be issued until 1995.

Note 2: For FY 95 and beyond, federal law requires the permit program be 100% funded by program receipts.

Note 3: Indicates net increase in positions relative to FY 93.

Prepared by: Leonard D. Verrelli, Chief *Leonard D. Verrelli* Phone: 465-5100  
 Division: Environmental Quality, Air Quality Management Date: 3/5/93

Approved by Commissioner: Janice Adair, Assistant Commissioner *Janice Adair*  
 Agency: Department of Environmental Conservation Date: 3/8/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

**1993 AIR PERMIT BILL FISCAL NOTE  
SUPPLEMENTARY EXPLANATION**

Title V of the 1990 Clean Air Act (the Act) requires each state to develop and implement a permit program under the approval and direction of the U.S. Environmental Protection Agency. **Though Alaska currently maintains an air quality permit program, the mandates imposed by the Act are expected to result in a substantially increased workload for ADEC.** The Act also mandated that each state collect fees from permittees necessary to fund the total direct and indirect costs of the permit program.

ADEC performed a comprehensive analysis during the fall of 1992 for the purpose of estimating the staff and budget increases over FY 93 due to implementing an approvable Title V permit program. The findings of this analysis are presented in a document entitled "Proposed Permit Program - Estimated Budget and Staffing," a copy of which is available from the Air Quality Management Section at ADEC. This analysis also provides estimates of fees which will be charged to permittees for the purpose of funding an approvable program. The enclosed spreadsheets on page 4 and 5 reflect the findings of this analysis and document the assumptions used to calculate the entries in the Air Permit Bill's Fiscal Note.

**ADEC expects that the number of permitted facilities will increase from the current of 175 to 450.** The Act requires that each state permit all facilities within three years of starting a permit program. ADEC plans to distribute the permitting workload equally over the first three years, so that a stable number of permitting engineers are required. In the fourth year of the permit program, the permitting workload will decrease since all existing facilities should be permitted. The inspection workload will increase as more facilities are permitted, and is expected to stabilize in year four when all facilities are permitted. ADEC plans to reassign staff, who no longer will be needed in permitting, to inspection duties. In addition, ADEC plans to contract some inspection work to private consultants. These measures are intended to avoid hiring personnel on a temporary basis; therefore stabilizing the number of personnel employed in the permit program.

The line item entries in the Operating block of the Fiscal Note reflect the total costs of the Title V air permit program for FY 95 and beyond. The budget line item allocations for ADEC's FY 93 permit program are listed at the top of page 4. **ADEC's current permit program employs 21.5 FTE (full-time equivalents) at a total cost of \$1.922 million in FY 93.** The existing program is funded by federal grant, state matching monies and program receipts. **New federal law requires that the permit program be 100 % funded by program receipts managed in a dedicated fund.** Following federal approval of the new program, current federal grant and state matching monies will not be used to support the permit program portion of the entire budget for the air quality management section.

Since the permit program established pursuant to this bill is not expected to be implemented until FY 95, no new costs are to be incurred in FY 94. In FY 95, an additional 22.4 FTE over the FY 93 will be required for implementation of the permit program. The majority of the staff will be involved with permit issuance tasks. This is the only year ADEC expects to hire employees for this permit program.

The following comments apply to the operating line items for FY 95 to FY 99.

- a. Travel costs are estimated from historical records and projections based upon the number of permittees who will be subject to the permit program. Travel cost increase from FY 95 to 98, since both the number of permittees and the number of required inspections increase as ADEC issues permits to facilities which are not currently permitted. Travel costs stabilize in FY 98 when the program enters the continuation phase.
- b. Contractual costs increase from FY 95 to FY 97 because ADEC plans to secure contracts with consultants to perform some of the required facility inspections. Contracting this excess inspection workload will avoid the need to hire state employees on a temporary basis. Inspection contracting may cease in FY 98 when the number of employees involved in permitting will decline and these employees will be shifted to the inspection group.
- c. Supply costs increase from FY 95 to FY 97 due to the increase in costs associated with permitting such as public hearings and advertisement, and supplies needed for the increased number of facilities to be inspected. The costs stabilize in FY 98 as the program enters the continuation phase.
- d. Equipment costs are incurred in FY 95 when ADEC employs the additional staff needed to implement the permit program. Costs are necessary to purchase employee workstations and are figured at \$7000 per employee. No employees are expected to be hired in other fiscal years.

1993 AIR BILL FISCAL NOTE BACK-UP

FY 93 TOTAL PERMIT PROGRAM COSTS

Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
1390.4	130.9	294.3	49.5	57.2	21.5

FY 93 TOTAL 1922.3

FY 95 TOTAL PERMIT PROGRAM COSTS

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	31.0	21.3	N/A	12.7
Permits	1558.5	50.0	54.2	29.0	N/A	22.3
Compliance	536.1	124.8	18.2	9.8	N/A	7.5
Monitoring	113.5	20.1	3.4	13.6	N/A	1.4
Totals	3125.2	284.6	106.8	73.7	156.8	43.9

FY 95 TOTAL 3747.1

FY 96 TOTAL PERMIT PROGRAM COSTS

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	1558.5	50.0	133.9	29.0	0.0	22.3
Compliance	536.1	124.8	276.4	9.8	0.0	7.5
Monitoring	113.5	23.4	8.4	15.3	0.0	1.4
Totals	3125.2	287.9	495.1	75.4	0.0	43.9

FY 96 TOTAL 3983.6

1993 AIR BILL FISCAL NOTE BACK-UP

FY 97 TOTAL PERMIT PROGRAM COSTS

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	1558.5	50.0	133.9	29.0	0.0	22.3
Compliance	536.1	124.8	507.8	9.8	0.0	7.5
Monitoring	113.5	26.7	8.4	17.1	0.0	1.4
Totals	3125.2	291.2	726.5	77.2	0.0	43.9

FY 97 TOTAL 4220.1

FY 98 TOTAL PERMIT PROGRAM COSTS

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	931.1	35.0	78.6	13.2	0.0	13.1
Compliance	1121.5	179.5	96.1	12.5	0.0	16.0
Monitoring	113.5	30.0	8.4	18.8	0.0	1.4
Totals	3083.1	334.2	259.6	65.8	0.0	43.2

FY 98 TOTAL 3742.6

FY 99 TOTAL PERMIT PROGRAM COSTS

Group	Pers. Services	Travel	Contractual	Supplies	Equipment	FTE
Per Ton Services	917.0	89.7	76.5	21.3	0.0	12.7
Permits	931.1	35.0	78.6	13.2	0.0	13.1
Compliance	1121.5	179.5	96.1	12.5	0.0	16.0
Monitoring	113.5	30.0	8.4	18.8	0.0	1.4
Totals	3083.1	334.2	259.6	65.8	0.0	43.2

FY 99 TOTAL 3742.6

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: April 1, 1993

Place: Capitol Room 120

Subject of Meeting:

HB 167 Air Quality Control Program

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Tom Chapple	ADEC	410 W. Longley				Y N	
JEFF OTTEN	DOTPF	3132 CHANNEL			10954	(Y) N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

Rep. Brian Porter, Chairman

HB 188 Forfeiture of Property

# House Judiciary Committee

**Date:** April 6, 1993  
**Place:** Capitol Room 120

**Subject of Meeting:** HB 167 Air Quality Control  
HB 93 VPSO Program; HB 119 Use of Day Fines

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Larry LaBolle	Rep. Foster	State Capitol, Juneau	99801	<del>335</del>	3789	(Y) N	HB 93
✓ Russell Heath	AK ENVIRONMENTAL LOBBY	PO Box 22151 Juneau AK	99802		463-3366	(Y) N	HB 167
Margot Kauth	Law - Crim	110300 - 99811			5-3428	(Y) N	HB 167
Shelley K. Owens	AK CIVIL LIBERTIES UNION	1755 FRANKLIN ST SUITE 312 JUNEAU	99801		463-4166	(Y) N	HB 188
✓ Resa Terrel	NFIB	9159 Skywood Lane	99801		789-4278	(Y) N	HB 167
* Tom Chapple	ADEC	410 W. Houghton	99811			Reference Only Y N	HB 167
Margaret Pugh	Rep. Fran Ulmer					Y N	119
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

04/06/93  
13:28:21

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
PARTICIPANT LIST (ALL PARTICIPANTS)  
SCHEDULED FOR: 04/06/93 13:00 TO 15:00  
HOUSE JUDICIARY

LTN1150  
BY:ANC  
FOR:ANC

LOCATION: ANCHORAGE

HB 93  
HB 93 ✓  
HB 188  
HB 167 ✓  
HB 167 ✓  
HB 167 ✓

CAPT

SHAROLYN  
THOMAS  
PAUL  
AIMEE  
CLAUDIA  
CHERYL

KRAUSE  
STEARNS  
HARRIS  
BOULANGER  
ECHAVAMA  
RICHARDSON

DEPT P.S.  
TROOPERS  
AK CNTR ENVIRON

OBSERVE  
TESTIFY  
TESTIFY  
TESTIFY  
TESTIFY

H B

1 6 8

(7)

Date Referred: March 10, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-24-93

The JUDICIARY Committee considered:

HB 168

HOUSE BILL NO. 168

MULTIPLE PERMITEE GAMING; PRIZE AMOUNTS

"An Act relating to multiple-beneficiary charitable gaming permits and door prizes for charitable gaming; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 168 (JUD)  the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) DCED 3/10/93

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Janette James</i>	<input checked="" type="checkbox"/>	<i>Gail Phillips</i>		<input checked="" type="checkbox"/>	
<i>Brian Porter</i>	<input checked="" type="checkbox"/>	<i>Tom Gonzalez</i>		<input checked="" type="checkbox"/>	
		<i>Ken Bell</i>		<input checked="" type="checkbox"/>	

*Brian Porter*  
CHAIRMAN'S SIGNATURE



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

State Capitol  
Juneau, AK 99801-1182

Representative Carl E. Moses  
Chairman, House Rules Committee  
465-4451

### MEMORANDUM

DATE: March 11, 1993

TO: Representative Brian Porter  
Chairman, Judiciary Committee

FROM: Representative Carl E. Moses *CEM*  
Chairman, House Rules Committee

RE: Request for Hearing

I would like to request a committee hearing for HB 168 at your earliest convenience.

The bill alters the restrictions on holders of multiple-beneficiary permits. Basically, the bill allows permit holders to conduct the number of sessions and games a month equal to the number allowed by individual permit holders multiplied by the number of holders of multiple-beneficiary permits.

The bill also establishes that the maximum amount awarded in door prizes each year be \$1million times the number of holders of the permit for activities. House Bill 168 has an immediate effective date.

Senate Bill 95, the companion bill, was heard on Tuesday, March 9th, 1993 before the Senate Community and Regional Affairs Committee was passed out of committee.

REQUEST FOR SCHEDULING

**SPONSOR STATEMENT**  
**Representative Carl E. Moses**

House Bill 168, regarding charitable gaming, attempts to clarify what is inherently permissible in statute and would create a new charitable gaming permit called a "Multiple-Beneficiary" permit.

Under this permit, two to six qualified organizations would be allowed to apply jointly for the multiple-beneficiary permit. With this permit, the holders could conduct as many games and sessions as allowed under law for individual permittees multiplied by the number of holders of the multiple-beneficiary permit.

Currently, Lucky Strike Bingo of Anchorage operates under this configuration. Lucky Strike consists of four qualified organizations who join together to conduct gaming activity without the use of an operator. Other organizations such as church groups, soccer clubs, native corporations and other non-profits that choose to join together in this fashion without the use of an operator will also benefit from this legislation.

The motivation behind this bill surfaced a few years ago when the Department of Commerce proposed, but did not adopt, regulations that would prohibit activities such as those conducted by Lucky Strike. In response to that situation, Senate Bill 6 was introduced in 1991 that would establish a multiple-beneficiary permit. SB6 was not passed due to a shortage of time in the session on the Senate Floor.

HB168 is a reintroduction of SB6. It is a non-controversial gaming measure and I would appreciate the committee's affirmative action.

**DIVISION OF LEGAL SERVICES**

**LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA**

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

MEMORANDUM

March 3, 1993

**SUBJECT:** Sectional Summary of HB 168 (Work Order No. 8-LS0674\A)

**TO:** Representative Carl Moses

**FROM:** Jerry Luckhaupt *JL*  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Preliminarily, the "meat" of this bill is Sections 2 and 6. I will start with them.

Section 2 of the bill amends AS 05.15.100 by adding a new subsection that authorizes the commissioner of commerce and economic development to issue a multiple-beneficiary permit to two to six municipalities and qualified organizations<sup>1/</sup> that jointly apply for the permit. The permit would allow the holders of the permit to jointly conduct charitable gaming activities permitted by AS 05.15.

Section 6 of the bill adds a new section, AS 05.15.145, to AS 05.15 that provides: that from two to six municipalities and qualified organizations may jointly apply for a multiple-beneficiary permit; that the commissioner may not issue a multiple-beneficiary permit except upon proof satisfactory to the commissioner that each individual applicant is a municipality or a qualified organization; that the provisions of AS 05.15.140(b)-(d), relating to reports and exclusions from participation as an operator of the activity of persons with certain criminal convictions; that a municipality or qualified organization that is part of a multiple-beneficiary permit may not hold another charitable gaming permit; procedures for withdrawal by a municipality or qualified organization from a multiple-beneficiary permit; that reports shall be jointly filed as required for operators under AS 05.15.083.

The other sections of the bill make changes that implement these two sections.

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<sup>1/</sup> "Qualified organization" is defined at AS 05.15.210(29).

SECTIONAL ANALYSIS

Representative Carl Moses

March 3, 1993

Page 2

Section 1 of the bill amends AS 05.15.060(8) to provide that the holders of a multiple-beneficiary permit may hold or conduct the number of sessions or games per month that is equal to the number allowed an individual permittee multiplied by the number of municipalities and qualified organizations participating in the permit.

Section 3 of the bill amends AS 05.15.112(a) to require the holders of a multiple-beneficiary permit to jointly designate one member in charge under the permit.

Section 4 of the bill amends AS 05.15.112(b) to require the member in charge to be a member of one of the qualified organizations or a member of the board of directors of one of the qualified organizations or an employee of one of the municipalities.

Section 5 of the bill amends AS 05.15.112(d) to require the holders of a multiple-beneficiary permit to designate alternate members in charge.

Section 7 of the bill amends AS 05.15.180(d) to include multiple-beneficiary permits under the door prize limits of this section.

Section 8 of the bill amends AS 05.15.180(e) to clarify that the door prize limits.

Section 9 of the bill amends AS 05.15.180(g) to provide that the holders of a multiple-beneficiary permit may award a maximum in prizes each year of \$1,000,000 multiplied by the number of municipalities and qualified organizations jointly holding the permit.

Section 10 of the bill amends AS 05.15.187(f) by clarifying that all permittees must make the described reports and that a permittee under that section includes municipalities and qualified organizations that jointly hold a multiple-beneficiary permit.

Section 11 of the bill provides an immediate effective date.

GPL:gc  
93-191.glc

(7)

Date Referred: February 19, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3/09/93

The LABOR AND COMMERCE Committee considered:

HB 168

HOUSE BILL NO. 168

MULTIPLE PERMITEE GAMING; PRIZE AMOUNTS

"An Act relating to multiple-beneficiary charitable gaming permits and door prizes for charitable gaming; and providing for an effective date."

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact GED

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	A.
<i>Hittory</i>	<input checked="" type="checkbox"/>	<i>Edward Porter</i>		<input checked="" type="checkbox"/>	
<i>Bill Hudson</i>	<input checked="" type="checkbox"/>	<i>W.F. Williams</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	

*Bill Hudson*  
CHAIRMAN'S SIGNATURE

STATEMENT  
OF  
ALEUTIAN/PRIBILOF ISLANDS ASSOCIATION, INC.

on

H.B. 168, A BILL RELATING TO MULTIPLE-BENEFICIARY  
CHARITABLE GAMING PERMITS AND DOOR PRIZES FOR CHARITABLE  
GAMING; AND PROVIDING FOR AN EFFECTIVE DATE

PRESENTED BY

DIMITRI PHILEMONOF  
EXECUTIVE DIRECTOR

BEFORE THE

HOUSE, LABOR, AND COMMERCE COMMITTEE

March 9, 1993

Mr. Chairman and members of the Committee, my name is Dimitri Philemonof. I am the Executive Director of the Aleutian/Pribilof Islands Association, Inc. (A/PIA). A/PIA is a non profit corporation whose purpose is to "handle federal, State, and private funds in order to advance the overall economic, social, and cultural development of the Aleutian Region." Because of its non-profit and social welfare nature, A/PIA has been able to qualify as a "qualified organization" within the meaning of the gaming statutes, and has held a gaming permit for many years.

Like many other permittees, A/PIA has tried to use its gaming permit in a way to maximize the revenue that it produces for the economic, social, and cultural development of the Aleut region. Because it wanted to maximize its return from gaming, A/PIA decided that it would operate its gaming permit by itself, which would eliminate all middlemen, and would minimize overhead.

The problem that A/PIA faced was that, by itself, it did not have the resources to obtain or operate the kind of facility that could generate significant revenues from gaming.

Fortunately current regulations allow up to four permittees to join together to conduct gaming activities at a single location. Because A/PIA was able to join forces with three other "qualified organizations"-- the Alaska Native Health Board, the Aleutian Housing Authority, and the Kodiak Area Native Association -- it was

able to marshall the resources to establish and operate a bingo hall in Anchorage known as "Lucky Strike Bingo."

Since its inception in 1986, "Lucky Strike Bingo" has been an unqualified success story. It has paid out significant amounts of revenue to the four permittees who run it. Since 1987, the four permittees have never received a return of less than 19% of adjusted gross revenues, and in most years, the rate of return has been much higher, sometimes going as high as 29% of adjusted gross revenue. I am not aware of any similar gaming activity in Alaska that consistently produces as high a rate of return for its permittees. The attached chart shows in graphic form the consistently high rates of return that the Lucky Strike Bingo permittees have been able to enjoy over the last four years. A/PIA itself has received \$548,000 in gaming revenues from Lucky Strike Bingo as of December 31, 1992.

The money from Lucky Strike Bingo has been particularly valuable to A/PIA because it can be used where it will produce the best results. Most of A/PIA's other funding is restricted by various grant conditions, and there is little flexibility in using these funds to deal with unexpected problems or opportunities. Since our gaming money is not so restricted, it can be spent wherever it will do the most good. To give you some examples of the kinds of things which we have been able to accomplish with our

gaming money, I would like to list some projects that have been funded through gaming.

1. Medivac Transportation. Gaming monies have been spent in assisting medivac transportation for people in the Aleut Region who must travel to Anchorage because of medical emergency. These funds are also used to help with funeral costs in case of death.

2. Food for the Needy. Gaming funds have been spent on food baskets that are distributed to the needy and underprivileged in the Aleut Region, and on turkeys and children's gifts that we distribute to the needy at Christmas time.

3. Youth Programs. Gaming funds are used to bring students to Anchorage for events like the AFN Youth Convention. They are also used to sponsor special school activities within the Region.

4. Aleut Relocation. You may recall that a bill was introduced in Congress to compensate the Japanese-Americans who were relocated during World War II. During the initial phases of this legislation, the similar predicament of the Aleut people was forgotten. It took a considerable effort to educate the members of Congress about the facts of the Aleut relocation. Without our gaming money, we would not have been able to pay for the travel, legal, and other expenses that were necessarily incurred in attempting to make Congress aware of the Aleut relocation. We

believe that our educational efforts were very important in ensuring that the final legislation included \$27,000,000.00 in various individual and group benefits for the Aleut Region. Accordingly, it is no exaggeration to say that our gaming monies were instrumental in producing \$27,000,000.00 of benefits for the Aleut Region.

4. Educational Tape. Because there was widespread ignorance of the Aleut relocation during World War II, we decided to produce an educational film on this aspect of Alaska history. We received a grant from the State which partially funded this project, but it could not have been completed without our gaming monies. Since completion, this film has been shown nationwide on T.V., and it is also being used in many classrooms throughout the country. We are very proud of this film, and have I brought several copies for the Committee's viewing.

To sum up, Lucky Strike Bingo is a success story that demonstrates the good things that can come from a well-regulated gaming program. Moreover, t(T)he Lucky Strike Bingo experience shows that operation of gaming permits by the permittees is the best way of ensuring that the gaming revenues go where they are intended to go: to the permittees, where they can be used as A/PIA has used them, to provide food for the poor, or for educational purposes, or to further other worthwhile social or economic goals.

Our experience at Lucky Strike Bingo has convinced me, however, that there are a few ways in which the State's regulation of gaming could be improved, so that gaming operations would be more efficient, and so that even greater returns can be achieved by the permittees. House Bill 168 incorporates these improvements, and it will ensure that gaming operations that are conducted by more than one permittee, such as Lucky Strike Bingo's, are even more efficient. It will make it possible for permittees such as A/PIA to achieve even better returns on their gaming permits. Here is why:

1. Since H.B.168 allows the costs of a gaming operation to be split among as many as six qualified organizations, it will greatly reduce the overhead costs for each qualified organization. To use Lucky Strike Bingo as an example, the costs of operating its bingo hall are currently split among the four permittees, which is the maximum that the law allows. Under H.B. 168, the Lucky Strike operation could include as many as six qualified organizations. The overhead would therefore be split six ways, instead of four, which would result in a substantial savings for each of the qualified organizations. While some additional personnel would be needed to handle the increased volume of operation produced by six qualified organizations, the total overhead burden for each qualified organization would be greatly reduced.

2. Since the new legislation calls for a multiple beneficiary permit, the accounting for the operation would be centralized into one permit, instead of divided over four permits, as is currently the case. To use Lucky Strike Bingo as an example once again, centralized accounting would produce the following estimated savings:

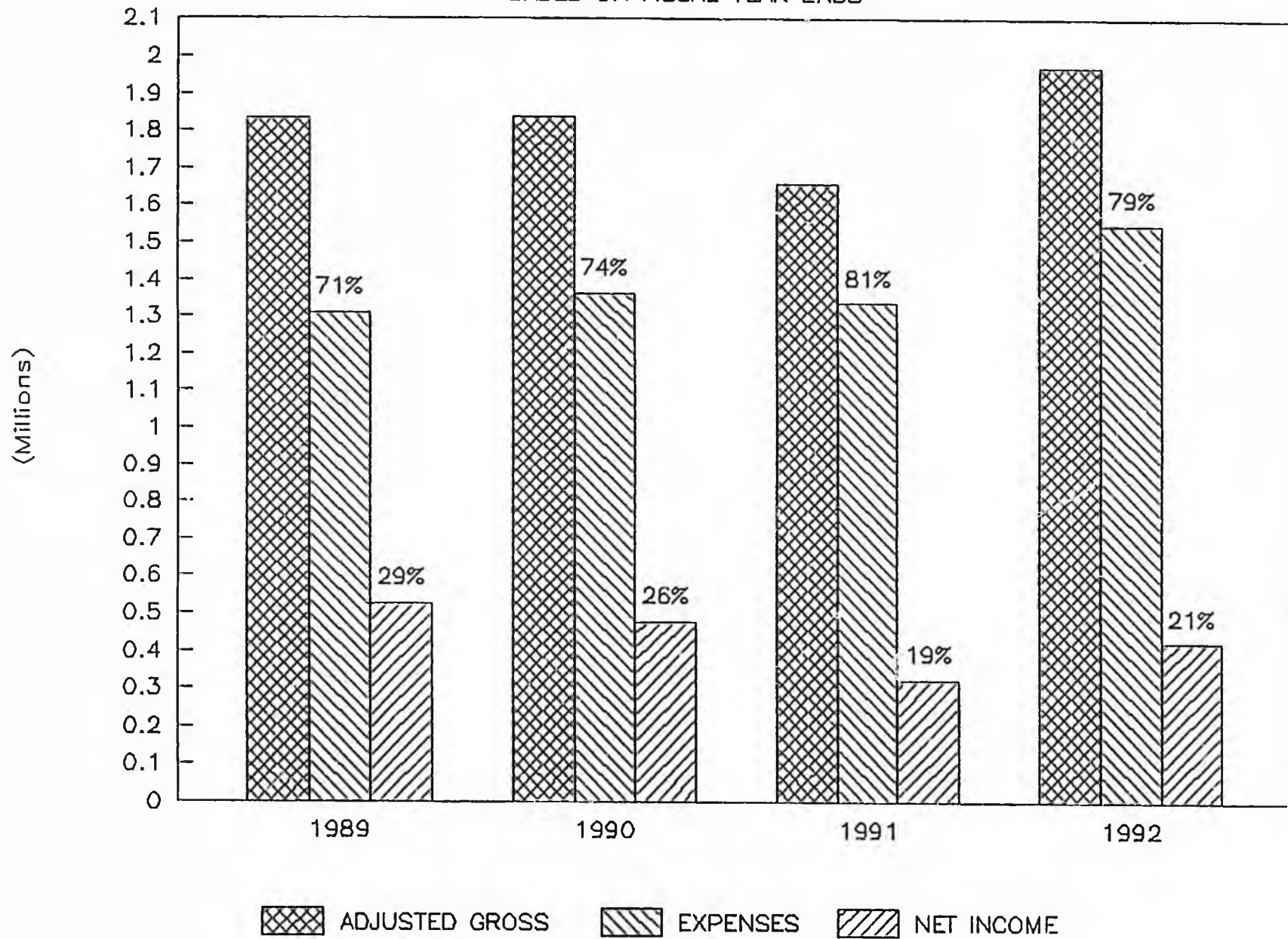
- a. Bookkeeping overhead would be cut by 50% to 75%.
- b. Inventory on hand cost would be cut by approximately \$45,000.00 per year.
- c. Because our accounting and inventorying procedures would be greatly simplified, we could expect to perform these functions more quickly and with fewer mistakes. This would produce additional savings which are difficult to quantify numerically.

In conclusion, I believe that House Bill 168 will make some highly desirable improvements in the gaming statutes. It will make it easier for permittees to run their own operations by joining together with other permittees, it will make joint operations more efficient, and most importantly, it will ensure that more of the gaming revenues go to the place where they are supposed to go: to the permittees, where they can be used for worthwhile social, charitable, and educational purposes.

Thank you, Mr. Chairman and members of the committee.

# LUCKY STRIKE BINGO

BASED ON FISCAL YEAR ENDS





Mr. John Hansen  
Department of Commerce and Economic Development  
Division of Occupational Licensing

Dear John,

Pending the outcome of the current lawsuit, the proceeds that comprise the difference between the 15% return to the charity and the 40% return to the charity and according to the agreement between us, the amounts placed in an escrow account are as follows:

Building Industry Assoc. of Anchorage	\$ 8,400.67
Alaska Light Opera Theatre	3,261.56
Alaska Chiropractic Society	23,049.97
Congregation Beth Shalom	11,384.71
Mat-Su Valley Humane Society	3,920.77
Wasilla Area Seniors	16,441.68
Mid Valley Seniors	14,101.39
Valdez Democratic Precinct	8,866.10
Total amount in escrow	89,426.65

OPERATORS FEE/NET PROCEEDS

2ND QUARTER 1992

AS REPORTED BY JAMES HARMAN

<u>Permittee</u>		<u>Operator Fee Paid</u>	<u>Net Proceeds in Escrow</u>
Building Assoc.	#92-0041	\$ 1816.84	\$ 8400.67
Alaska Light Opera	#92-0065	\$ 1768.12	\$ 3261.56
Alaska Chiropractic	#92-0894	\$ 4225.50	\$23049.97
Congregation Beth Shalom	#92-0382	\$ 77.51	\$11384.71
Mat-Su Valley Humane	#92-0017	\$ 1935.21	\$ 3920.77
Wasilla Area Seniors	#92-0713	\$ 4956.01	\$16441.68
Mid-Valley Seniors	#92-1000	\$15087.41	\$14101.39
Valdez Democrats	#92-0978	<u>\$16774.92</u>	<u>\$ 8866.10</u>
	TOTALS:	<u>\$46,641.52</u>	<u>\$89426.85</u>

✓  
\$136068.37

# LUCKY STRIKE BINGO

A JOINT VENTURE

ALASKA NATIVE HEALTH BOARD  
1345 Rudakof Circle, Suite 206  
Anchorage, Alaska 99508  
(907) 337-0028

ALEUTIAN HOUSING AUTHORITY  
1689 "C" Street, Suite 203  
Anchorage, Alaska 99501  
(907) 276-2700

ALEUTIAN PRIBILOF ISLANDS ASSOC.  
1689 "C" Street, Suite 205  
Anchorage, Alaska 99501  
(907) 276-2700

KODIAK AREA NATIVE ASSOC.  
402 Center Avenue  
Kodiak, Alaska 99615  
(907) 486-5725

March 2, 1993

Carl E. Moses, Representative  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Re: Proposed Gaming Legislation  
H.B. 168

Dear Representative Moses:

I am writing this letter to explain the reasons why House Bill No. 168, concerning multiple beneficiary permits, would be of great benefit to the Aleutian/Pribilof Islands Association and other similarly situated charitable organizations.

Perhaps the easiest way to explain the benefits of this proposed legislation would be to describe the makeup and activities of Lucky Strike Bingo ("LSB"). The Aleutian/Pribilof Islands Association, of which I am the Executive Director, is one of the four permittees who jointly conduct gaming activities as LSB. The other permittees are the Aleutian Housing Authority, Kodiak Area Native Association, and the Alaska Native Health Board. The four permittees who make up LSB are currently conducting gaming activities under the provisions of 13 AAC 34.200(c), which allows up to four permittees to conduct gaming activities jointly. LSB has a pleasant and spacious hall in Anchorage where both bingo and pull tab activities are conducted.

The four permittees are all firmly of the belief that their current arrangement is far superior to any other that they could make for the utilization of their gaming permits. If they operated separately, none of the permittees could afford the type of successful facility which they now have.

Moreover, since the LSB facility is operated by its permittees, the permittees are ensured of receiving the maximum return from the gaming activities. Since 1987, the permittees in LSB have never received a return of less than 19% of adjusted gross

Representative Moses  
March 2, 1993  
Page 2

revenues, and in most years, the rate of return has been much higher, sometimes going as high as 28% of adjusted gross revenue. We are not aware of any similar gaming activity in Alaska that consistently produces as high a rate of return for its permittees.

In short, the LSB permittees believe that the joint operation of a facility by the permittees is the best way to ensure that gaming operations deliver their revenues to the place that they are supposed to go: to the permittees.

While we believe that LSB's operation is a great success story, we also believe that H.B. 168 will improve the returns that jointly operating permittees can receive. The proposed legislation will have the following beneficial results:

1. Since the costs of operation will be split among as many as six permittees, instead of four as is allowed under current law, the amount of overhead to be borne by each permittee will be lessened. For example, the bingo hall currently operated as LSB in Anchorage could easily service six permittees instead of four, with very little increased cost. The resulting savings will flow to the permittees.

In the past, concern has been voiced by the administration that allowing too many permittees to band together will reduce the control that the permittees have over the gaming operation. Our experience at LSB convinces us that six permittees are not too many to keep control of the gaming activities, and we understand that the administration now agrees with us on this point.

2. Since the new legislation calls for a multiple beneficiary permit, the accounting for the operation would be centralized into one permit, instead of divided over four permits, as is currently the case. Centralized accounting would cut our bookkeeping overhead by 50% to 75%, would cut our inventory on hand cost by approximately \$45,000.00, and would allow us to operate more efficiently and with less mistakes.

Finally, we would urge that H.B. 168 be amended by adding an additional subsection to the proposed AS 05.15.128, which would read as follows:

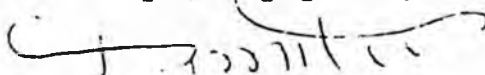
(f) Multiple beneficiary permits shall be subject to the expense limitations set forth in AS 05.15.160, but shall be exempt from any regulation which attempts to limit or quantify allowable expenses beyond the requirements of AS 05.15.160.

Representative Moses  
March 2, 1993  
Page 3

Our reason for requesting this amendment is that expense limitations which go beyond the requirements of AS 05.15.160 are not needed for multiple beneficiary permits. Since the permittees themselves are running the gaming, they already have every incentive to pay the maximum amount of return to themselves. We feel that LSB's record in making payments to the permittees strongly supports this conclusion.

In addition, because of conflicts between the regulations of the Department of Commerce and the Department of Revenue, further expense limitations, such as 12 AAC 34.700(b) (which was recently struck down by the courts), could make it impossible for a permittee to conduct both bingo and pull-tab activities as LSB currently does.

Very truly yours,



Dimitri Philemonof  
Chairman of the Board

Kodiak Liquor Licence Association  
P.O. Box 947  
Kodiak, Alaska 99615  
March 5, 1993

Representative Carl Moses  
House Of Representatives  
State Of Alaska

Re: HB 168

Dear Representative Moses:

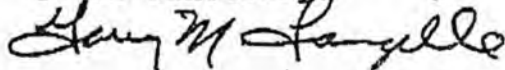
I want to lend support for your efforts on HB 168 that will allow the State to issue multiple-beneficiary permits for joint gaming activities. This will allow more non-profits to participate in those locations that are more active and give them a chance to share in those revenues. Also it will allow those locations that are active to continue beyond the current limits.

For those of us who believe that the Gambling Industry can be a productive vehicle which can provide badly needed Revenue and Employment for Alaskans as well as providing non-profits help in their worthy endeavors, this Bill helps.

Our interest is not only the non-profits that operate in our locations but also the larger Liquor Licence Industry that is in dire straits of additional activities and revenue needs ( 16% decrease in consumption in Alaska last 7 years ) to ensure that it remains a stable and productive industry in our State.

Keep up the good work.

Yours sincerely,



Garry M. Langille  
President

THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

FEB 25 1993

February 24, 1993

Mr. Carl E. Moses, Representative  
Alaska State Legislature

Re: House Bill No. 168

Dear Representative Moses,

I am writing to you to express my support of this bill. I am in the process right now of trying to do this very thing under current legislation, and it is very difficult and cumbersome.

The advantage of this legislation is that it would allow multiple permittees to use the efficiencies of economic scale in the raising of funds. It would also allow them to be in control of the fund raising activity.

I do not see this legislation as a threat to the operators, as there are plenty of permit holders who have neither the time, energy or ability to run a business.

One suggestion that I would make, is on page 3, line 12 (e) have it read:

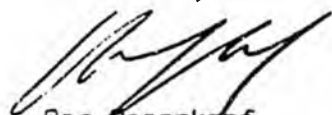
The holders of a multiple-beneficiary permit shall jointly file reports with the department that comply with the reporting requirements imposed on municipalities and qualified organizations under AS 05.15.080.

The gaming department could then require a combined report the same as an operator must file.

The advantage of this change, is that it removes the multiple-beneficiary permit from the operator category, and should operators get ensnared in future legislation, the multiple-beneficiary would not be included.

If I can answer any questions, I would be happy to do so.

Thank You,



Ron Pagenkopf  
Operator  
Treasurer Juneau Soccer Club.

Phone wk 586-2027  
hm 789-1989

People Count Inc.  
Business & Technical School

P.O. Box 1310  
Kenai, Alaska 99811-1310  
Business: (907) 283-4088  
FAX (907) 283-8488

March 5, 1993

Representative Carl E. Moses  
Capitol Building, Room 204  
Juneau AK 99801-1182

Dear Representative Moses,

I have reviewed HB 168, which amends AS 05.15.

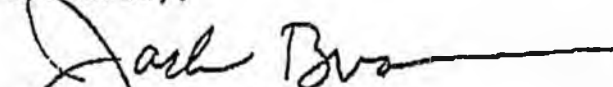
Section 2 amends AS 05.100 by adding a new subsection that authorizes the commissioner of commerce and economic development to issue a multiple-beneficiary permit to two to six municipalities and qualified organizations that apply for the permit, allowing the holders of the permit to jointly conduct charitable gaming activities.

Section 4 adds a new section, AS 05.15.145, that provides: from two to six municipalities and qualified organizations may jointly apply for a multiple-beneficiary permit; the commissioner may not issue a multiple-beneficiary permit except upon satisfactory proof that each individual applicant is a municipality or a qualified organization; relates to reports and exclusions from participation as an operator of the activity of persons with certain criminal convictions; no one who is part of a multiple-beneficiary permit may hold another charitable gaming permit; procedures for withdrawal by a municipality or qualified organization from a multiple-beneficiary permit; reports shall be jointly filed as required for operators under AS 05.15.089.

It appears to help clarify issues and address concerns that Non-Profits have.

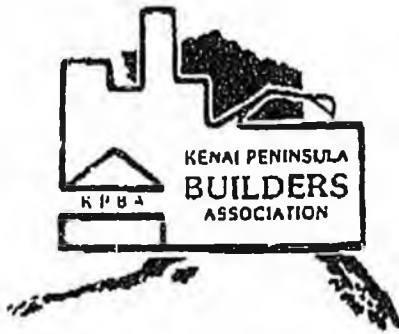
As the Executive Director of People Count, Inc., I feel I can support this bill, without reservations.

Sincerely,



Jack Brown  
Executive Director

JB/mdh



MEMORANDUM

TO: Representative Carl E. Moses/Senator Randy Phillips/Representative Bill Hudson  
FROM: Pat Vincent, Executive Officer, Kenai Peninsula Builders Association  
DATE: March 8, 1993  
RE: HB168

The Kenai Peninsula Builders Association would oppose HB 168 as it relates to multiple-beneficiary permits. It is our opinion that the system for self-directed gaming joint ventures is already in place, and that the rules and regulations we are currently working under are most satisfactory. We are concerned with added reporting requirements and a possible loss of accountability that will result from this bill. It is our opinion that Section 3 and 4 of the bill would allow a person who is named member-in-charge to act as an unlicensed operator for the multiple-beneficiary permittees so long as he is an employee or a member of one of the organizations.

We would not be opposed to regulations that allow more than four permittees to be engaged in a self-directed gaming joint venture, so long as it is not set up as an operator-run operation, minus a licensed operator. We do not feel that a multiple-beneficiary permit or joint reporting need be a requirement to allow more permittees to participate in a self-directed gaming joint venture.

The Kenai Peninsula Builders Association is a non-profit organization engaged since 1990, in a self-directed gaming joint venture with the Women's Resource & Crisis Center in Kenai, Alaska. Ours has been basically a "Shared Premises/Shared Employees" arrangement and is satisfactory to both organizations and to the State of Alaska who has authorized our joint venture. Our arrangement allows one organization to utilize its permit every other month. We order and maintain separate pull-tab inventories, keep separate books, and are solely responsible for the oversight of the permits and for our state and federal reporting.

HB 168 would not allow us to continue to conduct our self-directed gaming joint-venture as it is presently operated. The Kenai Peninsula Builders Association would not wish to become less involved in the day-to-day operations of this joint-venture. We feel that a non-profit organization should be solely responsible for maintaining the integrity of their permit - that a member of another organization or an employee of both should not be given that responsibility.

# BILL'S of alaska

MAR 04 1993

March 4, 1993

Representative Carl E. Moses  
Alaska House of Representatives  
State Capital Rm 204  
Juneau, Ak 99801-1182

Dear Representative Moses                      VIA Fax 465-3445, Original Mailed

I have read the Sectional Summary of your HB 168 which provides for changes in Alaska Charitable Gaming Statutes.

Your bill would increase from 4 to 6 the number of charities or non-profit groups who could join together to operate a gaming facility (such as a bingo hall) and increase the allowable prize pay-out (\$1 million per participant).

The increase from 4 to 6 permits is a sound idea and I therefore support HB 168.

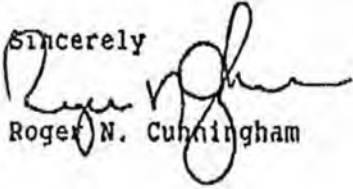
Along with that support, you should know that I am a licensed pull-tab and bingo supply distributor with no affiliation, association or vendor relationship with any group that might benefit from this bill.

There are several gaming operations in Alaska that are stifled by the (current) 4 permit limitation. Your bill would allow more organizations to profit from participation in a well-run, well-managed facility. There are far more organizations wishing to use their gaming permit than there are facilities to accomodate them.

Permitees that join together in this way operate under a common management and SELF-DIRECT their gaming activity. Figures reported by the state show that a far greater share of the profit is retained by the organizations involved in Self-Directed gaming than when a commercial operator is engaged. I believe this was the original intent of Alaska's Charitable Gaming Statutes.

I trust as well, that you will support Sen. Pearce's bill barring persons with criminal records from participating in gaming and Sen. Zahroff's bill creating an Alaska Gaming Commission.

Sincerely

  
Roger N. Cunningham

P.O. BOX 874731 WASHILLA, AK 99887 (907)379-1500 or 1-800-478-4265  
"Your Best Source for Pull-Tab and Bingo Supplies"

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO.** \_\_\_\_\_ **HB 168**

Revision Date: \_\_\_\_\_ Dept. Affected: Commerce & Economic Development  
 Title: An Act relating to multiple-beneficiary BRU: Occupational Licensing  
charitable gaming permits..... Component: Operations  
 Sponsor: House Rules Committee  
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. \_\_\_\_\_ 1844

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	40.1	40.1	40.1	40.1	40.1	40.1
TRAVEL						
CONTRACTUAL						
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	10.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>51.1</b>	<b>41.1</b>	<b>41.1</b>	<b>41.1</b>	<b>41.1</b>	<b>41.1</b>
<b>CAPITAL</b>						
<b>REVENUE FUND SOURCE:</b>	<b>.0</b>	<b>.0</b>	<b>.0</b>	<b>.0</b>	<b>.0</b>	<b>.0</b>

**FUNDING:**

(Thousands of Dollars)

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	51.1	41.1	41.1	41.1	41.1	41.1
1008 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>51.1</b>	<b>41.1</b>	<b>41.1</b>	<b>41.1</b>	<b>41.1</b>	<b>41.1</b>

**POSITIONS:**

	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY 93) Impact: \$ None

**ANALYSIS:** (Attach a separate page if necessary)  
 HB 168 provides for a new class of permittee (MBP). Two to six permittees could apply to the department to conduct activities at a single facility. Currently regulations provide for 4 permittees to conduct activity at a single facility. (Continued on attached)

Prepared by: John Hansen, Jr., Gaming Manager  
 Division: Occupational Licensing  
 Approved by Commissioner: Paul Fuhs  
 Agency: Commerce & Economic Development

Phone: 465-2581  
 Date: 3/2/93  
 Date: \_\_\_\_\_

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Fiscal Note

Position Title <b>TAX EXAMINER II</b>		No. of Positions <b>1</b>	Range/Step <b>12A</b>	Barg. Unit <b>GGU</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>AWA</b>		Election District
<b>TYPE OF EXPENDITURE</b>		<b>AMOUNT</b>		<b>Justification:</b> HB 168 authorizes a new class of permittees to conduct charitable gaming. Currently the department has one examiner position issuing permits to qualified organizations.  It presently takes 3-4 weeks to process applications due to the backlog of processing time it takes for each applicant. There are approximately 1,000 current permittees. This position would help to process these new permit applications, and help reduce the 3-4 weeks renewal time. Many organizations are forced to delay or cancel planned activities because of the delay in issuing permits timely. This position seeks to enhance services by relieving the delay.
Salary		<b>27.9</b>		
Benefits		<b>12.2</b>		
Premium Pay				
Other				
<b>Total Personal Services</b>		<b>40.1</b>		
Travel				
Contractual				
Commodities		<b>1.0</b>		
Equipment		<b>10.0</b>		
Other				
<b>Total Cost</b>		<b>51.1</b>		
<b>FUNDING SOURCE FOR TOTAL COST</b>				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004			
I-A Receipts	1007			
CIP Receipts	1061			
Other: GF/PR	1005	<b>51.1</b>		

**Request For  
New Position**

AGENCY Commerce and Economic Development  
 BRU Occupational Licensing  
 COMPONENT Operations - #1844

page 2 of 2  
 Revised Date:

**FY94**

8-LS0674E  
Luckhaupt  
3/24/93

**CS FOR HOUSE BILL NO. 168(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA.**

**EIGHTEENTH LEGISLATURE - FIRST SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

Offered:  
Referred:

Sponsor(s): **HOUSE RULES COMMITTEE BY REQUEST**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to multiple-beneficiary charitable gaming permits and door prizes  
2 for charitable gaming; requiring Department of Commerce and Economic  
3 Development approval of contracts between charitable gaming permittees and  
4 operators before gaming may occur; limiting the amount of authorized expenses  
5 to a percentage of adjusted gross income for a charitable gaming activity; and  
6 providing for an effective date."

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

8 \* Section 1. AS 05.15.060(8) is amended to read:

9 (8) the number of activities that may be held, operated, or conducted  
10 under a permit during a specified period; however, the department may not allow more  
11 than 14 bingo sessions a month and 35 bingo games a session to be conducted under  
12 a permit; the holders of a multiple-beneficiary permit under AS 05.15.100(d) may  
13 hold, operate, or conduct the number of sessions and games a month equal to the

1        number allowed an individual permittee multiplied by the number of holders of  
2        the multiple-beneficiary permit;

3        \* Sec. 2. AS 05.15.100 is amended by adding a new subsection to read:

4                (d) The commissioner may issue a multiple-beneficiary permit to two to six  
5        municipalities or qualified organizations or to a combination of two to six  
6        municipalities and qualified organizations that apply jointly for the permit. The permit  
7        gives the permit holders the privilege of jointly conducting the activities specified in  
8        (a) and (b) of this section, subject to the restrictions set out in (b) of this section.

9        \* Sec. 3. AS 05.15.112(a) is amended to read:

10               (a) Each municipality or qualified organization that receives a permit under  
11        this chapter shall designate a member in charge. Municipalities and qualified  
12        organizations that hold a multiple-beneficiary permit shall jointly designate one  
13        member in charge.

14        \* Sec. 4. AS 05.15.112(b) is amended to read:

15               (b) The member in charge is responsible for preparation, maintenance, and  
16        transmittal of all records and reports required of the permittee. The member in charge  
17        shall be a member of the qualified organization or the board of directors of the  
18        qualified organization or an employee of the municipality. In the case of a multiple-  
19        beneficiary permit, the member in charge shall be a member of one of the  
20        qualified organizations or the board of directors of one of the qualified  
21        organizations or an employee of one of the municipalities.

22        \* Sec. 5. AS 05.15.112(d) is amended to read:

23               (d) The municipality or qualified organization, or the holders of a multiple-  
24        beneficiary permit, shall designate alternate members in charge who are responsible  
25        for the duties of the member in charge in the absence of the member in charge.

26        \* Sec. 6. AS 05.15.115(d) is amended to read:

27               (d) A permittee shall submit by certified mail to the department for approval  
28        a copy of each contract with an operator with whom the permittee contracts to conduct  
29        activities subject to this chapter. The contract must meet the requirements of this  
30        section. The department shall approve or disapprove the contract. If the  
31        contract is disapproved, reasons for the disapproval shall be provided in writing

1 to the permittee. Activities may not be conducted under the contract before the  
2 contract is approved. Subsequent amendments to an approved contract do not  
3 take effect until the amendments are approved by the department [THE  
4 PERMITTEE SHALL SUBMIT TO THE DEPARTMENT A COPY OF THE  
5 CONTRACT OR SUBSEQUENT AMENDMENT OF THE CONTRACT BY  
6 CERTIFIED MAIL AT LEAST 15 DAYS BEFORE ACTIVITIES ARE  
7 CONDUCTED UNDER THE CONTRACT OR AMENDED CONTRACT].

8 \* Sec. 7. AS 05.15.128(a) is amended to read:

9 (a) The department shall revoke the license of an operator who does not


10 (1) report an adjusted gross income of at least 15 percent of gross  
11 income for two consecutive quarters based on the total operation of the operator; or

12 (2) pay to each authorizing permittee for two consecutive quarters at  
13 least 40 percent of the adjusted gross income, as determined under (1) of this  
14 subsection, from a pull-tab activity or at least 15 percent of the adjusted gross  
15 income, as determined under (1) of this subsection, from a gaming activity other  
16 than pull-tabs, received from activities conducted on behalf of the authorizing  
17 permittee.

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

19 Sec. 05.15.145. MULTIPLE-BENEFICIARY PERMITS. (c) Two to six  
20 municipalities or qualified organizations, or a combination of two to six municipalities  
21 and qualified organizations, may jointly apply for a multiple-beneficiary permit under  
22 AS 05.15.100(d). The commissioner may not issue or renew a permit except upon  
23 satisfactory proof that each joint applicant is a municipality or qualified organization,  
24 the activity may be permitted under this chapter, and the issuance of a permit is not  
25 detrimental to the best interests of the public. Upon request of the commissioner, the  
26 joint applicants shall prove conclusively each of these requirements before a permit  
27 may be issued or renewed.

28 (b) The provisions of AS 05.15.140(b) - (d) apply to multiple-beneficiary  
29 permits and applications for them.

30 (c) A municipality or qualified organization that is among the holders of a  
31  multiple-beneficiary permit may not hold another permit under this chapter.

1 (d) A municipality or qualified organization that is among the holders of a  
2 multiple-beneficiary permit may withdraw from the permit by giving written notice of  
3 intent to withdraw to the department and to the other holders of the permit. The  
4 effective date of the withdrawal is 30 days after the department receives written notice  
5 of intent. A municipality or qualified organization that withdraws from a multiple-  
6 beneficiary permit may apply for a permit under AS 05.15.100(a), but its share of the  
7 prizes awarded under the multiple-beneficiary permit and the prizes it awards under  
8 its own permit are subject to the maximums established in AS 05.15.180(g).

9 (e) The holders of a multiple-beneficiary permit shall jointly file reports with  
10 the department that comply with the reporting requirements imposed on operators  
11 under AS 05.15.083.

12 \* Sec. 9. AS 05.15.160 is amended by adding new subsections to read:

13 (c) The total amount of authorized expenses that may be incurred under (a) of  
14 this section in connection with a pull-tab activity may not exceed 60 percent of the  
15 adjusted gross income from that pull-tab activity.

16 (d) The total amount of authorized expenses that may be incurred under (a) of  
17 this section in connection with any gaming activity other than pull-tabs may not exceed  
18 85 percent of the adjusted gross income from that gaming activity.

19 \* Sec. 10. AS 05.15.180(d) is amended to read:

20 (d) The total value of door prizes offered or awarded under authority of a  
21 permit issued to a municipality or qualified organization under this chapter or under  
22 authority of a multiple-beneficiary permit may not exceed \$20,000 a month or  
23 \$240,000 a year.

24 \* Sec. 11. AS 05.15.180(e) is amended to read:

25 (e) The total value of all door prizes offered or awarded at a single facility or  
26 bingo hall or parlor by an operator on behalf of authorizing permittees [OR BY A  
27 PERMITTEE IN CONJUNCTION WITH OTHER PERMITTEES] may not exceed  
28 \$20,000 a month or \$240,000 a year.

29 \* Sec. 12. AS 05.15.180(g) is amended to read:

30 (g) A municipality or a qualified organization may award a maximum of  
31 \$1,000,000 in prizes each year in activities authorized under this chapter; however, if

1 a municipality or a qualified organization contracts with an operator to conduct on its  
2 behalf activities authorized under this chapter, the municipality or qualified  
3 organization may award a maximum of \$500,000 in prizes each year. The holders of  
4 a multiple-beneficiary permit under AS 05.15.100(d) may award a maximum in  
5 prizes each year of \$1,000,000 times the number of holders of the permit for  
6 activities authorized under this chapter. In this subsection "activities authorized  
7 under this chapter" means all activities subject to this chapter other than bingo.

8 \* Sec. 13. AS 05.15.187(f) is amended to read:

9 (f) Each permittee [MUNICIPALITY OR QUALIFIED ORGANIZATION]  
10 that had gross receipts exceeding \$100,000 during the preceding year from activities  
11 conducted under this chapter or that is required to report under AS 05.15.080(a), that  
12 conducts a pull-tab game shall maintain records for two years of each prize of \$50 or  
13 more, the first day and last day that each series was distributed, the serial number of  
14 each series, and the distributor from whom each series was purchased. In this section  
15 "permittee" includes municipalities and qualified organizations that jointly hold  
16 a multiple-beneficiary permit.

17 \* Sec. 14. Except for secs. 7 and 9 of this Act, this Act takes effect immediately under  
18 AS 01.10.070(c).

19 \* Sec. 15. Sections 7 and 9 of this Act take effect January 1, 1994.

HB

181

(7)

Date Referred: February 25, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-8-93

The JUDICIARY Committee considered:

HB 181

HOUSE BILL NO. 181

APPEALS IN CRIMINAL CASES

"An Act relating to the state's right to appeal in criminal cases; relating to sentence appeals; amending Rule 202 of the Alaska Rules of Appellate Procedure; and providing for an effective date."

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note Law, Public Defender, Public Advocacy

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian D. Fortes</i>	<input checked="" type="checkbox"/>	<i>copy made</i>		<input checked="" type="checkbox"/>	
<i>Jim Woodcock</i>	<input checked="" type="checkbox"/>				
<i>Frank Phillips</i>	<input checked="" type="checkbox"/>				
<i>Robert [unclear]</i>	<input checked="" type="checkbox"/>				
<i>Joseph [unclear]</i>	<input checked="" type="checkbox"/>				
<i>Hehnette James</i>	<input checked="" type="checkbox"/>				

*Brian D. Fortes*  
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

# House Judiciary Committee

Date: March 8, 1993

Place: Capitol Room 120

Subject of Meeting: HB 62 Employee's Use of Lawful Products; HB 147 Employer's Liability for Reference Info; HB 181 State's Right to Appeal/Criminal Cases

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Mike McMullen	Dept. of Admin	P.O. Box 110701 Juneau, AK	99811	364-3883	465-4431	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 62 HB 147
✓ Jamie Dawson	AK STATE CHAMBER	217 SECOND ST # 201	99801	789-9201	584-2323	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 147
Margot Knuth	Law - CDCO	7th Fl at Bldg Juneau 99811			465-4049	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 181
✓ Vera Jemel	NFIB	9159 Skywood	99801		789-4278	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 147
✓ Ben Goussard	District II					<input checked="" type="radio"/> Y <input type="radio"/> N	HB 62
Willie Anderson	NEA					<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	

# Alaska State Legislature



## House of Representatives House Judiciary Committee

State Capitol, Room 120  
Juneau, Alaska 99801-1182  
(907) 465-4990

### SPONSOR STATEMENT

#### HB 181, An Act relating to the State's Right to Appeal in a Criminal Case

HB 181 would expand the circumstances under which the State could appeal from an adverse decision in a criminal case. State law would be amended to allow state prosecutors the same rights to appeal that federal prosecutors now have.

Our criminal justice system is not perfect. Like all human beings, judges sometimes make mistakes. If an erroneous decision is made in favor of the state, the defendant may appeal and seek reversal of that decision. That is entirely appropriate; basic justice requires no less. But if a judge makes a mistake in favor of a defendant, under present law the state may not be able to obtain appellate review of the erroneous decision. The state could file a "petition for review" with the Court of Appeals under Appellate Rule 402, but certain conditions must be met, and the appellate court may deny discretionary review.

Under the Fifth Amendment to the United States Constitution and Article I, Section 9 of the Constitution of the State of Alaska, a defendant may not "be put in jeopardy twice for the same offense". Nothing in HB 181 affects that constitutional guarantee. But neither the state nor the federal constitution requires that erroneous legal decisions stand uncorrected. HB 181 changes present state law to allow the state to appeal in circumstances where an error has been made, so long as the appeal would not violate the constitutional prohibitions against double jeopardy.

A handwritten signature in cursive script that reads "Brian D. Porter".

---

Representative Brian Porter  
Chairman, House Judiciary Committee

FISCAL NOTE

BILL NO. HB 181

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Revision Date: March 5, 1993  
Title: "An Act relating to the state's right to appeal  
in criminal cases..."  
Sponsor: House Judiciary Committee  
Requestor: House Judiciary Committee

Department Affected: Department of Law  
BRU: Prosecution  
Component: All  
COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

*Richard I. Peques*

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

Phone: 465-3672  
Date: March 5, 1993

*Richard I. Peques / RRP*

Approved by Commissioner: Charles E. Cole, Attorney General  
Agency: Department of Law

Date: March 5, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. HB 181

ANALYSIS (Continued):

This bill amends AS 22.07, AS 22.10, AS 22.15, and repeals Rule 202(c), Alaska Rules of Appellate Procedure, to provide that the state's right appeal in criminal cases is limited by the prohibition against double jeopardy contained in the United States Constitution and the Alaska Constitution. Existing law limits this right except to test the sufficiency of the indictment or information or to appeal a sentence on the ground it is too lenient. The effect of granting broadened appeals rights to the state will be to permit it to test evidentiary rulings that are adverse to the state's case at the outset. Currently, the state's only opportunity to test evidentiary rulings is when a defendant appeals a ruling adverse to the defense and the state gets to respond.

Although there will be some incremental cost when the state elects to affirmatively bring an evidentiary appeal, it will certainly be more efficient than the current system where we must wait for a defense appeal before evidence issues are finally resolved.

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO. HB 181**

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the state's right to appeal in criminal cases . . ." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 Sponsor: House Judiciary Committee  
 Requestor: House Judiciary COMPONENT SERIAL NO. 43

**Expenditures/Revenues: (Thousands of Dollars)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
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**FUNDING:**

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

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

Estimate of current year (FY93) impact: \$ none

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura Date: 3/4/93  
 Agency: Department of Administration

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO HB 181

Revision Date: \_\_\_\_\_ Dept. Affected: Administration  
 Title: "An Act relating to the State's right to appeal in BRU: Public Defender Agency  
criminal cases . . . ." Component: Public Defender Agency  
 Sponsor: House Judiciary  
 Requestor: House Judiciary COMPONENT SERIAL NO. 1631

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS

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

Estimate of current year (FY93) impact: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: John Saiemi, Public Defender Phone: 279-7541  
 Division: Public Defender Agency Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usura *NBCU* Date: 3/4/93  
 Agency: Department of Administration *[Signature]*

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# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

### MEMORANDUM

March 3, 1993

**SUBJECT:** Sectional Summary of HB 181. (Work Order No 8-LS0714\A)

**TO:** Representative Brian Porter  
Attn: Gayle Horetski

**FROM:** Jerry Luckhaupt   
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill provides a finding.

Section 2 of the bill amends AS 22.07.020(b) to give the court of appeals the authority to hear appeals of sentences from the district court as well as the superior court. This amendment is merely a cleanup amendment as AS 22.07.020(c) gives the court of appeals the right to hear appeals of district court sentences and the amendment only tries to group the sentence appeal authority together.

Section 3 of the bill amends AS 22.07.020(c) to conform to the change made in section 2 of the bill.

Section 4 of the bill amends AS 22.07.020(d) to provide the state with the right to appeal to the court of appeals in criminal cases and as long as the appeal does not violate double jeopardy principles.

Section 5 of the bill amends AS 22.10.020(e) to provide the state with the right to appeal a criminal case from the district court to the superior court as long as the appeal does not offend double jeopardy principles.

Section 6 of the bill amends AS 22.10.020(f) to clarify the existing right of the state to appeal a sentence to the superior court that the state believes is too lenient.

Representative Brian Porter  
March 3, 1993  
Page 2

Section 7 of the bill amends AS 22.15.240(b) to give the state the right to appeal in a criminal case from the district court to the superior court as long as the appeal does not offend double jeopardy principles.

Section 8 of the bill repeals Alaska Rule of Appellate Procedure 202(c) which restricts the state's right to appeal in criminal cases.

Section 9 of the bill provides an immediate effective date.

GPL:pl  
93-149.plm

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

WALTER J. HICKEL, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX KC  
JUNEAU, ALASKA 99811-0310  
PHONE: (907) 485-3428

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

March 5, 1993

Representative Brian Porter  
Chairman, House Judiciary Committee  
House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Ref: House Bill No. 181

Dear Representative Porter:

This letter is in response to Gayle Horetski's request for information regarding how House Bill No. 181, which broadens the state's right to appeal, would affect the Criminal Division of the Department of Law. The bill would eliminate the need to file petitions for discretionary review of adverse dispositive rulings by trial courts, thereby reducing the workload of the appellate office of the Department of Law's Criminal Division.

The Office of Special Prosecutions and Appeals (OSPA) represents the State of Alaska in all felony merit appeals, in all criminal cases in the Alaska supreme court, and in all federal actions challenging state convictions. Under existing law, the state's right to appeal in most cases is limited by the court of appeals' discretion. OSPA must file petitions for review, seeking discretionary appellate review of adverse dispositive rulings by the trial court. For example, the state cannot currently appeal a trial court's dismissal of charges based upon an alleged violation of the defendant's right to a speedy trial; it must file a petition for review. Though in practice the court of appeals nearly always decides to grant the state's petitions in these cases, OSPA must nevertheless devote a significant amount of time to draft the petition.

HB 181 - 2  
3/5/93

Under existing law, the state has thirty days from the certification of the record or the filing of the appellant's brief to file its brief, but only ten days from the adverse ruling to file a petition for review. This ten-day time frame for filing a petition for review puts a strain on OSPA. Because the appellate attorney is new to the case, he must review the trial court pleadings and listen to cassette tapes of all relevant hearings. The attorney must then research the law because the petition must contain a "[d]iscussion of the reasons why the decision below is alleged to be erroneous." Appellate Rule 403(b)(1)[d]. This is often as time consuming as filing a brief on direct appeal, and usually takes several days. If the petition is granted, the case proceeds as if an appeal had been filed: the parties designate a record, the clerk prepares the record, and the parties file briefs.

Under House Bill No. 181, the state would be permitted to appeal adverse decisions as a matter of right. A state attorney could initiate an appeal by filing a notice of appeal, a statement of points on appeal, and a designation of record. Preparation of these documents ordinarily would occupy at most a few hours. Once the record is certified, the state would have thirty days to file a brief.

At the current time, OSPA has seven appellate attorneys, two trial attorneys and a supervising attorney. Thirty-seven briefs and other responsive pleadings are due within the next thirty days. Two of the cases in the office (involving three defendants) have extremely long trials, requiring the assigned attorneys to read between 3000 and 5400 pages of transcripts and several hundred pages of pleadings filed in the trial court. In addition, there are five arguments scheduled before the state and federal courts in the next five weeks. It would be difficult today for an appellate attorney to drop everything and devote the necessary time to filing a petition for review. An appellate attorney can more easily juggle an appeal into his caseload than he can a petition for review.

HB 181 - 3  
3/5/93

I strongly urge you to support the passage of the bill for it will greatly assist OSPA in providing effective representation in all appellate proceedings.

Yours truly,

CHARLES E. COLE  
ATTORNEY GENERAL

By: *Cynthia M. Hora*  
Cynthia M. Hora  
Assistant Attorney General

HB

187

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 2, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-19-93

The JUDICIARY Committee considered:  
HOUSE BILL NO. 187

HB 187

INTERCEPTION OF PRIVATE COMMUNICATIONS

"An Act authorizing the interception of private communications related to the commission of certain criminal offenses; making related amendments to statutes relating to eavesdropping and wiretapping; relating to the penalty for violation of statutes relating to eavesdropping and unauthorized interception, publication, or use of private communications; and providing for an effective date."

RECOMMENDATIONS:

[ ] the same title

be replaced with \_\_\_\_\_

[ ] a new title

[ ] have attached amendments(s)

do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

2  (INDETERMINATE) fiscal note(s) ADMIN (3-1); DPS (4-2-93)

[ ] zero fiscal note \_\_\_\_\_

2  zero fiscal note(s) ADMIN; LAW (3-1-93)

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>	<input checked="" type="checkbox"/>				
<i>Paul Phillips</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				
<i>[Signature]</i>	<input checked="" type="checkbox"/>				

*Brian Porter*  
\_\_\_\_\_  
CHAIRMAN'S SIGNATURE

# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 1, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 4/01/93

The LABOR AND COMMERCE Committee considered:

HB 187

HOUSE BILL NO. 187

INTERCEPTION OF PRIVATE COMMUNICATIONS

"An Act authorizing the interception of private communications related to the commission of certain criminal offenses; making related amendments to statutes relating to eavesdropping and wiretapping; relating to the penalty for violation of statutes relating to eavesdropping and unauthorized interception, publication, or use of private communications; and providing for an effective date."

RECOMMENDATIONS: [ ] the same title

be replaced with \_\_\_\_\_ [ ] a new title

[ ] have attached amendments(s)

do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Public SAFETY

fiscal note(s) ~~Adm.~~

zero fiscal note Adm., Public Safety, Law

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Foster</i>	✓	<i>Joe Sutton</i>	✓		
<i>[Signature]</i>	✓	<i>[Signature]</i>		✓	
<i>Bill Hudson</i>	✓	<i>[Signature]</i>		✓	

*Bill Hudson*  
CHAIRMAN'S SIGNATURE

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 276-3550  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317

P.O. BOX K— STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) ~~465-5806~~

**465-6735**

April 2, 1993

Honorable Brian Porter  
Chairman, House Judiciary Committee  
Alaska House of Representatives  
Alaska State Capitol, Room 122  
Juneau, AK 99801

Re: HB 187 ("wiretapping bill")

Dear Representative Porter:

We understand that the "wiretapping bill" of the governor's crime package (HB 187) has been referred to your committee. The Department of Law urges an early hearing on this important legislation (HB 187).

Prosecutors and law enforcement personnel throughout the state have indicated to the Department of Law that Alaska statutes need this tailored amendment. The attorney general has indicated to me that he wishes to personally testify before the legislature to explain the importance of this bill.

We appreciate your consideration of this request. If you need more information, please let me know.

Sincerely,

CHARLES E. COLE  
ATTORNEY GENERAL

By:

*Deborah E. Behr*  
Deborah E. Behr  
Assistant Attorney General

DEB:cl

cc: Charles E. Cole, Attorney General

Dean Guaneli, Assistant Attorney General

Lori Nottingham, Deputy Legislative Liaison

**BILL NO:** HB 187

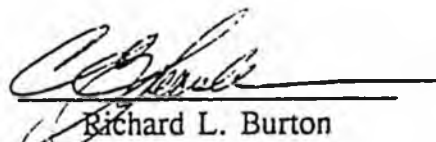
**DATE:** March 24, 1993

**TITLE:** "An Act authorizing the interception of private communications related to the commission of certain criminal offenses. . ."

**CONTACT:** C.E. Swackhammer  
Deputy Commissioner  
465-4322

HB 187 permits the interception of communications (wire tapping) for the purpose of investigating certain felony crimes. Crimes for which wire tapping may be used to investigate: 1) Murder in the First Degree; 2) Murder in the Second Degree; 3) Kidnapping; 4) Class A or unclassified drug offenses which are for Misconduct Involving a Controlled Substance (MICS) in the first degree, an unclassified felony; 5) and (MICS) in the second degree, a class A felony offense.

This legislation will provide Alaskan law enforcement agencies with a valuable tool presently utilized by the Federal government and many states, to intercept communications to aid in investigating individuals who have committed, are committing, or are planning to commit a very serious offense.

  
Richard L. Burton  
Commissioner

FISCAL NOTE

No. 1  
 Bill Version: HB 187  
 (H) Publish Date: 3/1/93

STATE OF ALASKA  
 1993 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: An Act authorizing the interception of private communications.  
 Sponsor: Governor  
 Requestor: Rules Committee

Department Affected: Administration  
 BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Brant McGee, Public Advocate  
 Division: Office of Public Advocacy

Phone: 274-1684  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usara  
 Agency: Administration

Date: 2/10/93

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FISCAL NOTE

No. 2  
 Bill Version: HB 187  
 (H) Publish Date: 3/1/93

STATE OF ALASKA  
 1993 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to wiretapping for criminal investigations  
or murder, kidnapping and serious drug offenses . . ."  
 Sponsor: Rules Committee  
 Requestor: Governor

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	.	.	.	.	.	.
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	.	.	.	.	.	.

CAPITAL	.	.	.	.	.	.
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REVENUE FUND SOURCE:	.	.	.	.	.	.
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF	.	.	.	.	.	.
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	.	.	.	.	.	.

POSITIONS:

FULL-TIME	.	.	.	.	.	.
PART-TIME						
TEMPORARY	.	.	.	.	.	.

Estimate of current year (FY93) impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)  
 See Attached.

Prepared by: John Salemi, Public Defender  
 Division: Public Defender Agency

Phone: 279-7541  
 Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera  
 Agency: Administration

Date: 2/10/93

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. 187

KIO. 2

PS 2 of 2

ANALYSIS: (continued)

This wiretapping bill is limited to certain types of offenses (murder, kidnapping and serious drug offenses). While it is unlikely that authorized wiretapping would be regularly used in kidnapping or murder cases, the pool of serious drug offenses presents a separate matter. As public counsel in criminal cases the Public Defender Agency would be required to review all applications for wiretapping authorization, would necessarily prepare challenges to said applications, and would ultimately defend the cases. In the context of defense preparation significant time might have to be spent reviewing the contents of the "wired" conversations. There is no question that the passage of this bill will increase the work of the Public Defender Agency. To what extent there is an increase would be highly speculative.

FISCAL NOTE

No. 4  
 Bill Version: HB 187  
 (H) Publish Date: 3/1/93

STATE OF ALASKA  
 1993 LEGISLATIVE SESSION

Revision Date: February 16, 1993  
 Title: "...authorizing the interception of private communications related...to criminal offenses..."  
 Sponsor: Rules Committee/Req. of the Governor  
 Requestor: Governor's Office/OMB

Department Affected: Department of Law  
 BRU: Prosecution  
 Component: All  
 COMPONENT SERIAL NO. 0085 through 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SIJPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE FUND SOURCE:						
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FUNDING:

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

*Richard I. Peques*

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

Phone: 465-3672  
 Date: February 16, 1993

Approved by Commissioner: Charles E. Cole, Attorney General  
 Agency: Department of Law

Date: February 16, 1993

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FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. 187

NO. 4

pg 2 of 2

ANALYSIS (Continued):

This bill would authorize the interception of private communications by state law enforcement officers to investigate the serious crimes of murder, kidnapping, and specified drug offenses. Federal law allows states to enact wiretapping laws only if, like this bill, they are at least as restrictive and protective of private communications as federal law.

These protections include allowing only the attorney general or a person designated in writing or by law to act for the attorney general to apply to the court for an order to authorize the wiretapping; limiting the authorization to investigations for only the very serious crimes of murder, kidnapping, or unclassified felony drug offenses; limiting the time period for which the wiretap is authorized; requiring a showing to the court that normal investigative procedures have failed to succeed or are too dangerous to employ; requiring that there be probable cause to believe that the wiretap will secure the evidence being sought; and requiring stringent records keeping and security procedures of law enforcement agencies in the conduct of a wiretapping operation.

Additionally, the bill requires that careful reports about each interception made during the year must be prepared by the attorney general and filed with the federal government. All tapes or other recordings must be transferred to the court, where they are to be kept under seal. Furthermore, notice of the interception must be given by the court in almost all circumstances following the interception. Any evidence derived from an unlawful interception will be suppressed. Finally, the bill increases the criminal penalty for eavesdropping or unauthorized interception, publication, or use of private communications to a class A misdemeanor. These substantial safeguards have been carefully tailored to insure that state constitutional protections, such as Alaska's right of privacy, have been met.

Under the bill, the Department of Law's involvement will include applying for court orders to permit the interception of private communications and the preparation and filing the annual report about interceptions. We do not anticipate that there will be a large number of interceptions, because of the limited circumstance under which they may or could be undertaken. Therefore, we do not believe that the bill will have a fiscal impact for the Department of Law.

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

NO. 3  
 Bill Version: HB 187  
 (H) Publish Date: 4/2/93

Revision \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An act authorizing the interception  
of private communications" BRU: Alaska State Troopers  
 Sponsor: House Rules Component: Criminal Investigations Bureau  
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 830

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	75.6	75.6	75.6	75.6	75.6	75.6
TRAVEL	4.2	4.2	4.2	4.2	4.2	4.2
CONTRACTUAL	12.0	12.0	12.0	12.0	12.0	12.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	20.2	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>112.0</b>	<b>91.8</b>	<b>91.8</b>	<b>91.8</b>	<b>91.8</b>	<b>91.8</b>

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE:						
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**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.0	91.8	91.8	91.8	91.8	91.8
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>112.0</b>	<b>91.8</b>	<b>91.8</b>	<b>91.8</b>	<b>91.8</b>	<b>91.8</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: \$ \_\_\_\_\_

**ANALYSIS: (Attach a separate page if necessary.)**  
 See attached analysis.

Prepared By: Francis C. Allan Phone: 269-5691  
 Division: Alaska State Troopers Date: 3/17/93  
 Approved by Commissioner: *[Signature]* Date: 3/25/93  
 Agency: Richard A. Burton, Dept. of Public Safety

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