

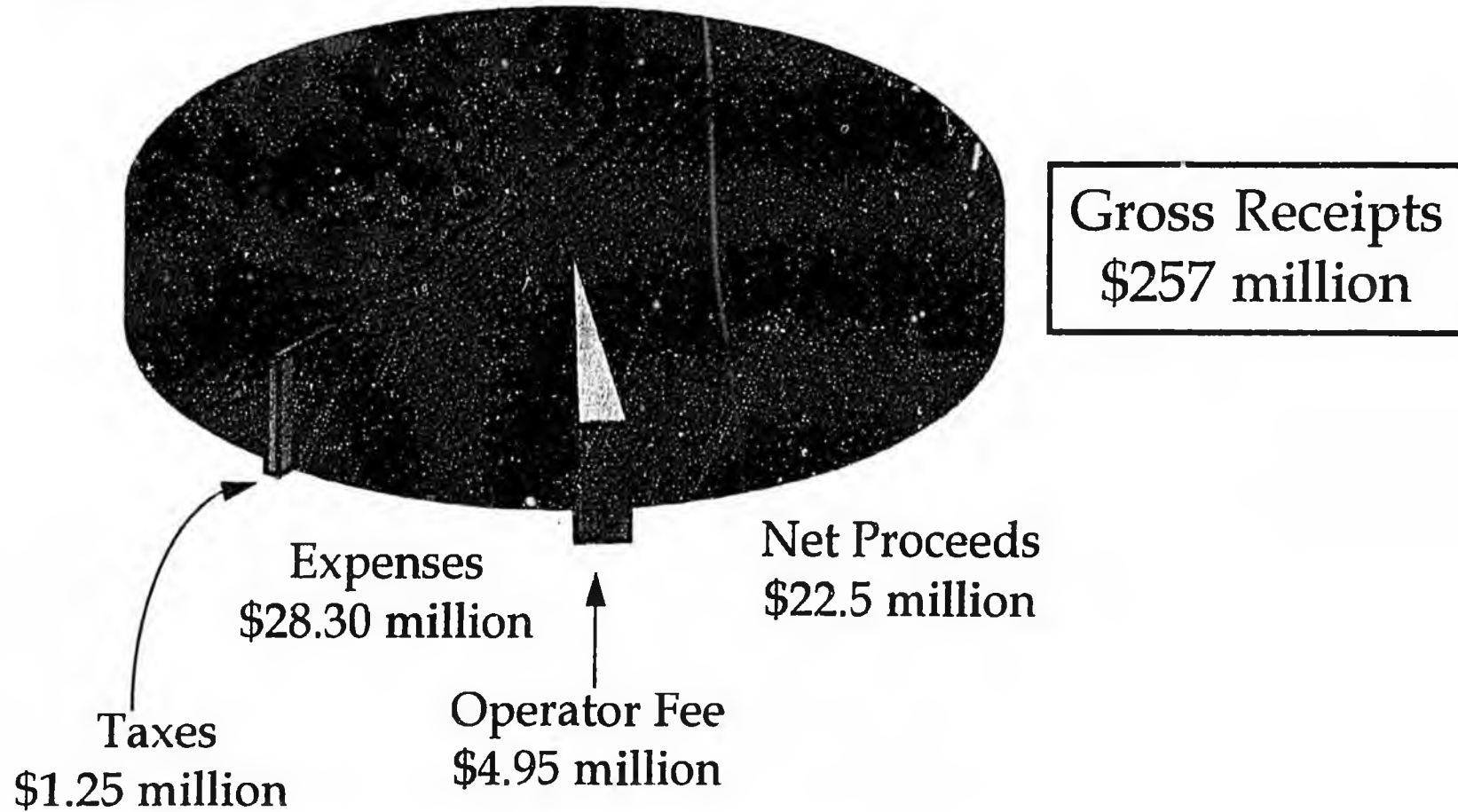
ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8632 HOUSE JUDICIARY



1994 Gross Receipts

Prizes \$200 million

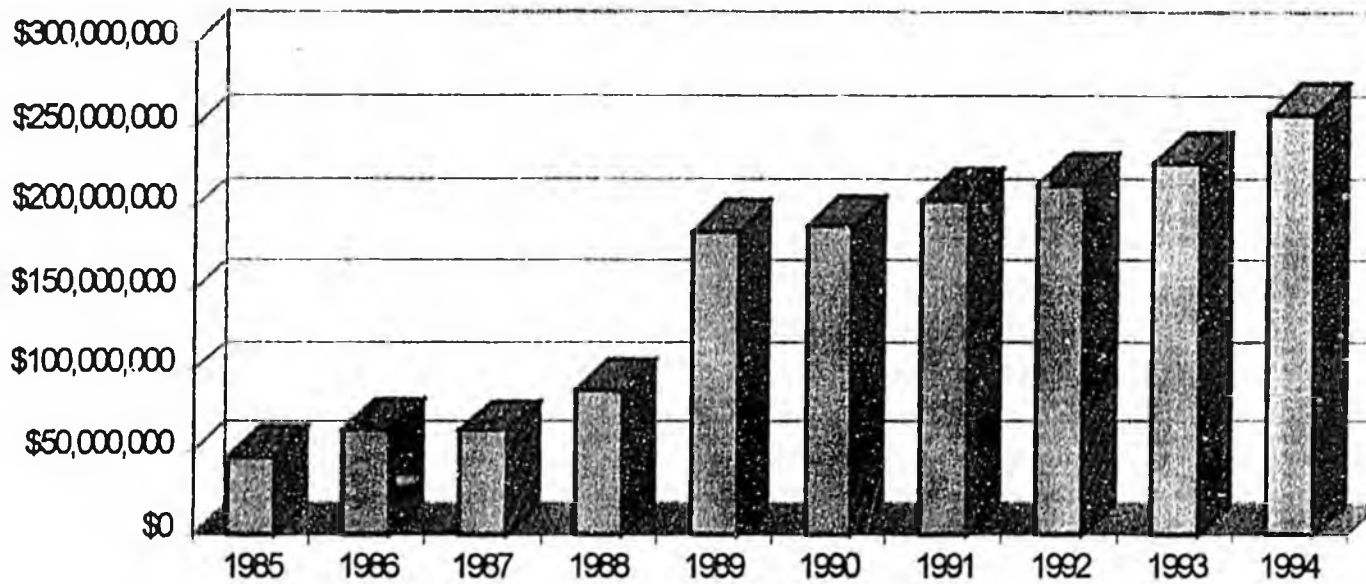


* All figures are as reported



Growth of Gaming in Alaska

1985-1994 Gross Receipts





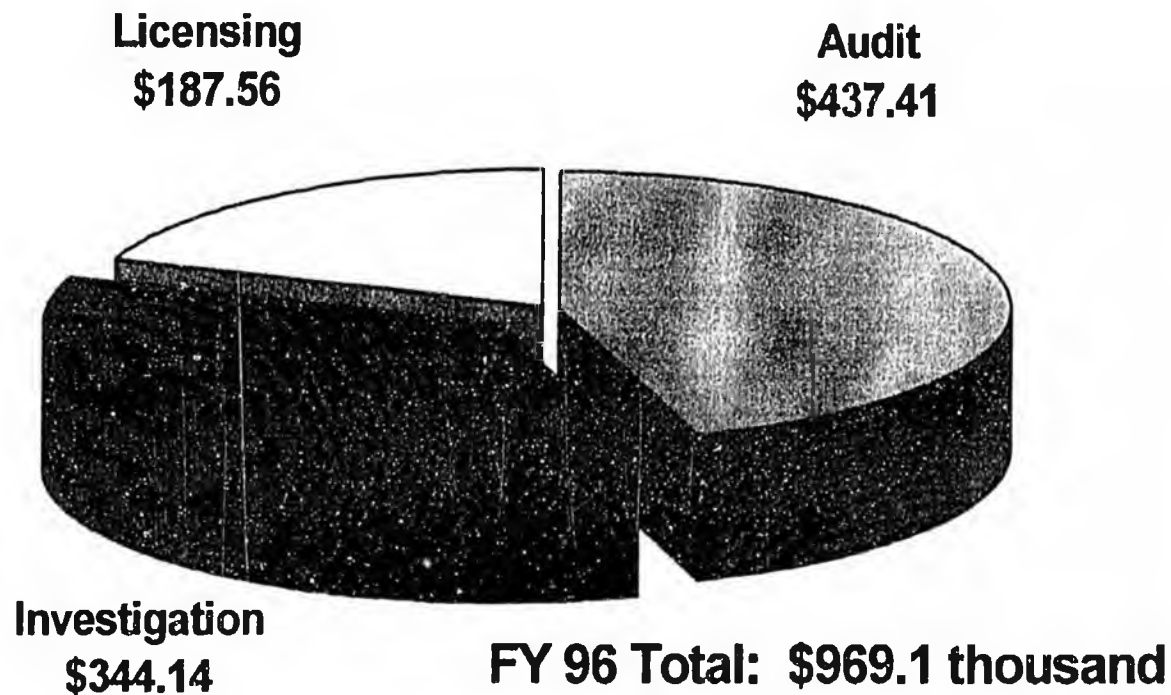
The Basics of the Charitable Gaming Business

The purpose of government's involvement in charitable gaming is to ensure the appropriate level of public benefit.

- **Public benefit consists of:**
 - Money to Charities
 - State Revenues

IIII

How Much does the State's involvement in Charitable Gaming Cost?





Licensing

1996 Permit Data

- 695 organizations were approved and entered into the system
- 2016 permits have been printed
- After the completed application is received & approved, it has taken an average of 14 calendar days to print and mail the permit

1995 Permit Data

- 28 operators were licensed
- 1052 qualified organizations permit applications were processed
- 3329 permits were printed or an average of 3.17 permits were issued per qualified organization



Auditing

<u>Activity</u>	<u>1994</u>	<u>1995</u>
Desk Audit Opened *	124	237
Desk Audits Closed	99	176
Field Audits Open **	4	3
Field Audits Closed	4	1
Audit Change Notices	101	119
Audit No Changes	2	58
Fees and taxes assessed	\$57,780	\$23,199

Money due to permittees (excluding interest) discovered through unit audits:

1994	\$699,000
1995	\$446,728

The ultimate receipt of these funds depends on the outcome of formal administrative hearings and/or litigation in superior court.

*Single Year, ** Consists of multiple years.



Investigations

<u>Activity</u>	<u>1994</u>	<u>1995</u>
Cases Opened	123	86
Cases Closed	158	83
Cases Pending	28	33
Notice of Violations	36	11
Advisory Notices	42	33
Revocations	3	1
Suspensions	1	3
Prosecutions	6	4
Convictions	6	4
Refer to Audit	4	4
Total:	123	98

Funds Discovered Missing:

\$470,000

\$325,200



State Revenue and Expenditures on Gaming

	<u>Revenue</u>	<u>Budget</u>
FY 1994	\$ 1.872	\$1.014
FY 1995	2.704	.959
FY 1996 Projected	2.413	.969
FY 1997 Projected	2.654	.910

* FY95 Revenue includes \$.510 in cruise ship gaming fees.

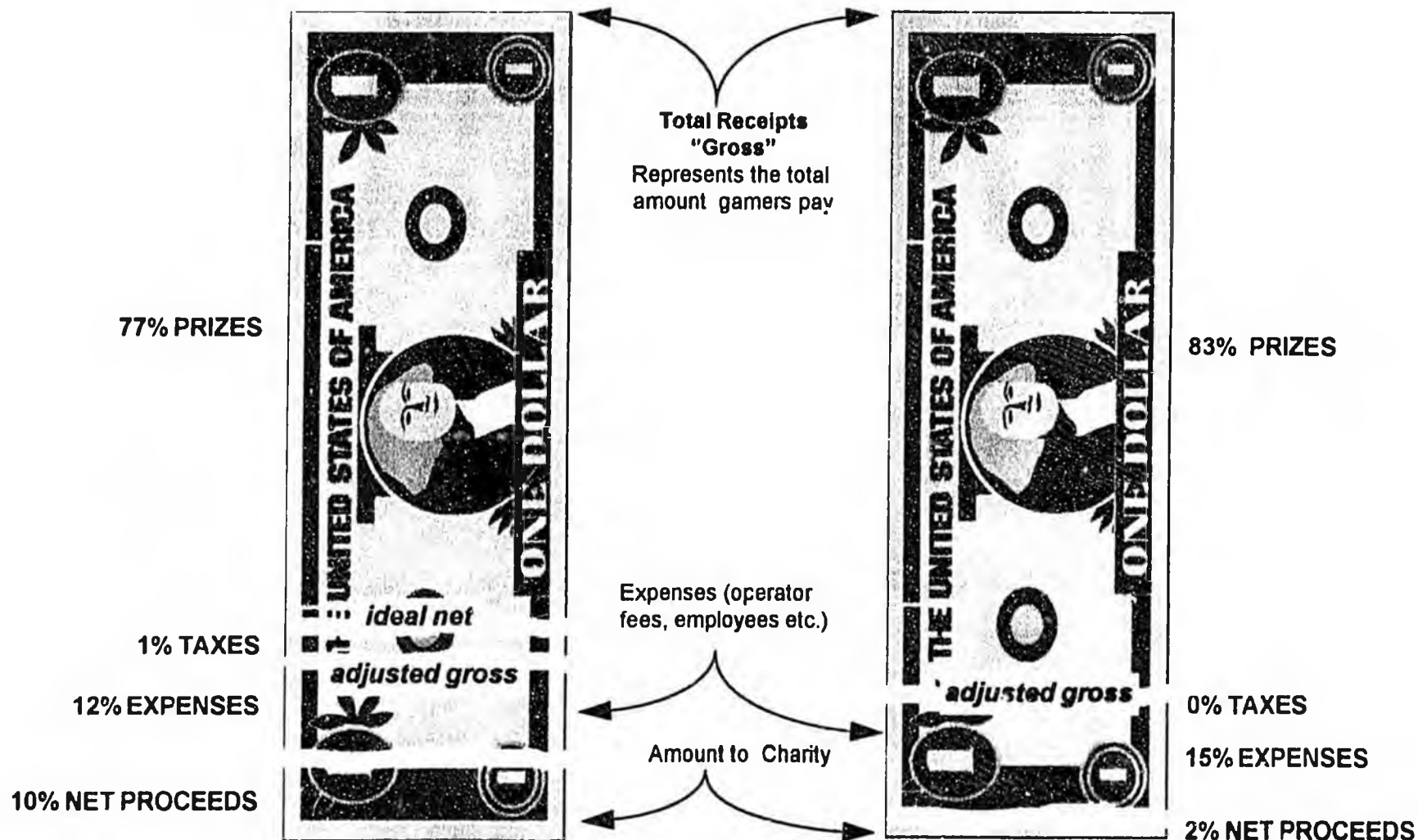
All figures are reported in millions



Alaska Gaming Dollars

Pull Tab Dollar

Bingo Dollar





The Jargon

Gross:

The dollar value of all amounts wagered on games of chance and skill. In many states and Canadian provinces the minimum amount going to charities and the government tax is calculated as a percentage of gross.

Ideal Net:

The money that would be left after every pull-tab in a series was sold at face value, and all prizes in that series were awarded. The state of Alaska calculates its 3% pull-tab tax on this amount.

Adjusted Gross:

Gross income less prizes awarded and state, federal, and municipal taxes. In Alaska, the minimum amount which must be paid to charities is a percentage of this amount.

Net Proceeds:

The gross receipts less prizes, taxes and authorized expenses. This is what the charities get.



How Alaska Ensures Public Benefit From Charitable Gaming

Money to Charities

- At least 30% of *adjusted gross income* on operator-run pull-tabs (about 10% of the total pull-tab gaming dollar)
- At least 10% of *adjusted gross income* on operator-run bingo and all other gaming activities (about 2% of the total bingo gaming dollar)
- All “profits” above statutory minimum

Tax Revenues for Government

- 3% of *ideal net* on pull-tabs (less than 1% of the total pull-tab dollar)
- 1% of *net proceeds* from all gaming activities (less than 0.1% of the total gaming dollar)
- Annual permit and license fees



“Policing Expenses” in Alaska and Elsewhere

Is Alaska’s “policing expenses program” the best approach?

- Alaska’s state regulation of charitable gaming is a “policing expenses program.”
 - Relatively “low” statutory floors.
 - Floors apply only to operator run games.
 - Program focused on policing books and records of individual gaming operations to assure that “profit” goes to charity and expenses are “reasonable.”



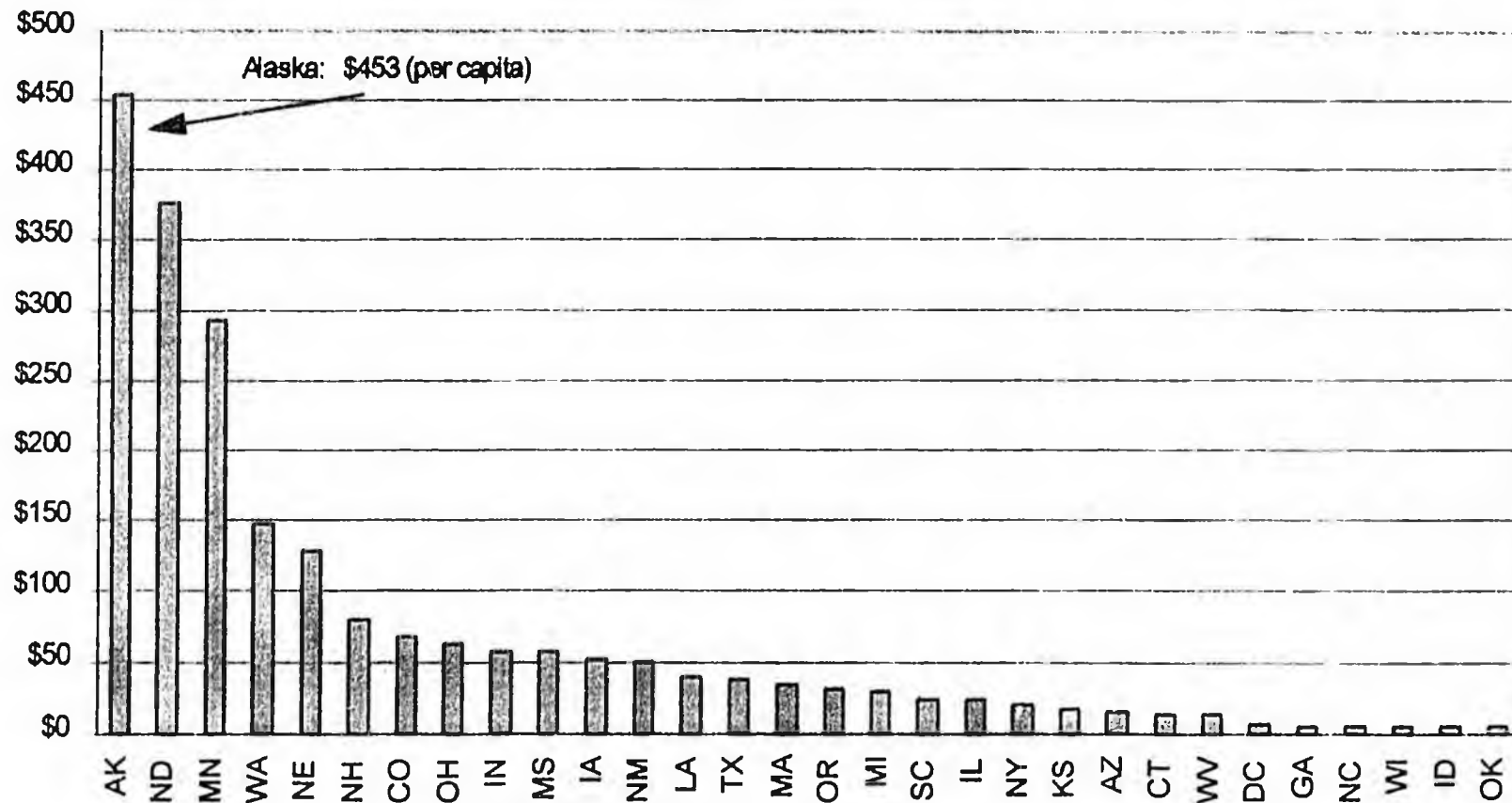
“Policing Expenses” in Alaska and Elsewhere

How some other States and Canadian provinces do it.

- Governments set much higher amount which must go to charities.
- Often a percentage of “gross” rather than “adjusted gross.”
- These governments don’t concern themselves with policing expenses to determine “profit” or “reasonableness.”



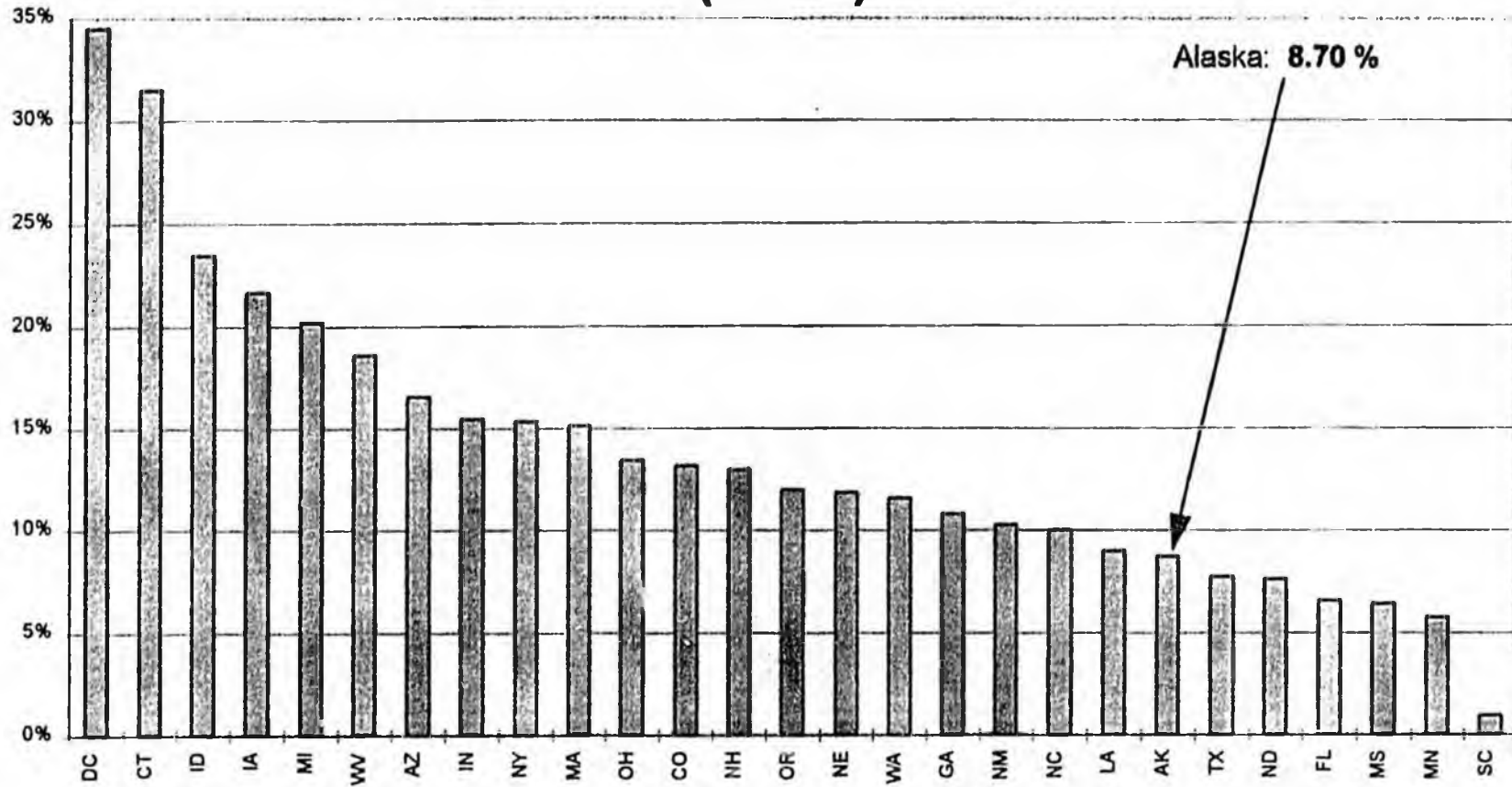
How Alaska Compares to Other States in Per Capita Gaming Activity (1994)



Per Capita Gross Sales of Bingo and Pull-Tabs
-- 1994 NAFTM report on Charity Gaming --



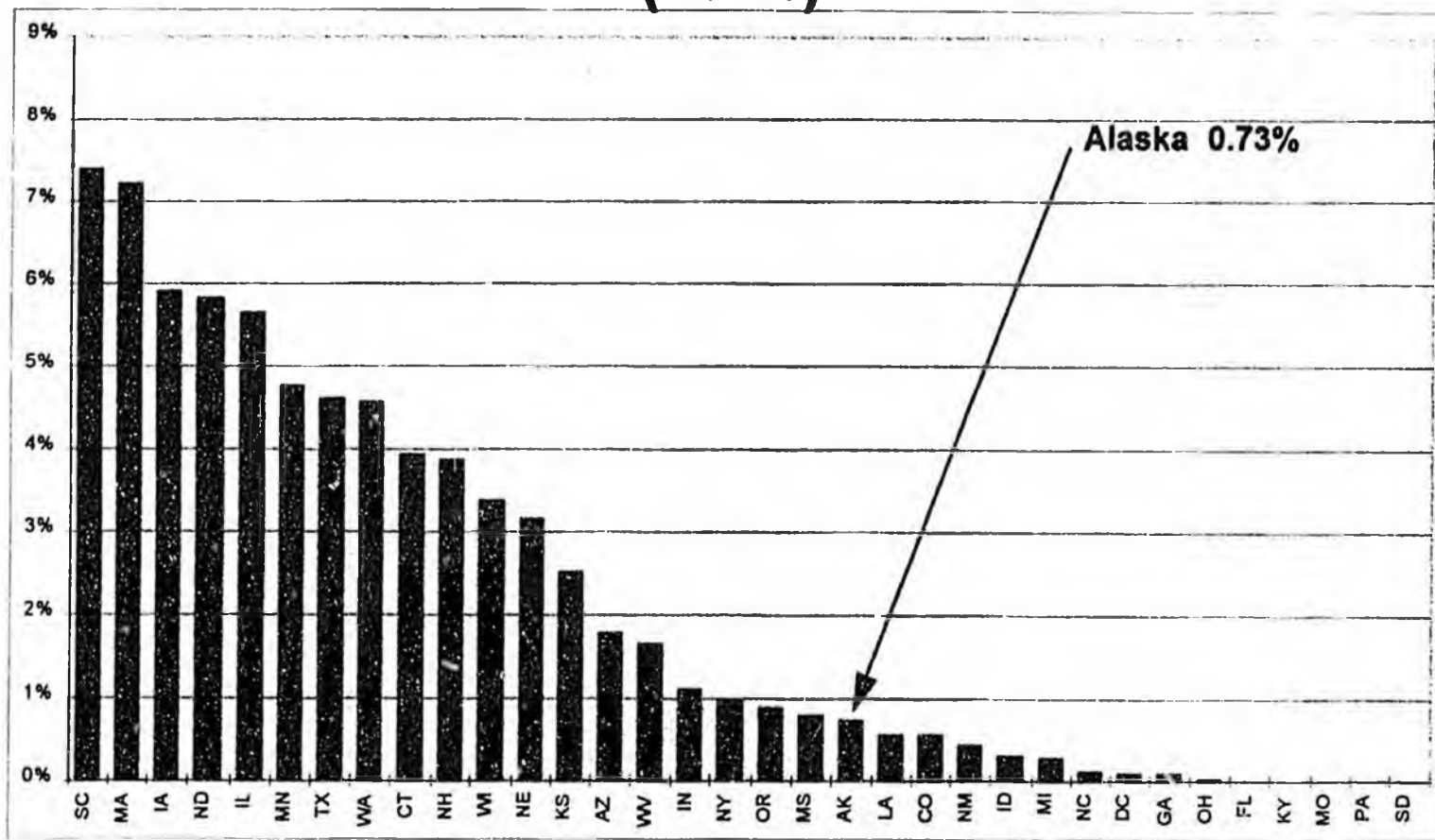
How Alaska Compares to Other States in Distributing Money to Charities (1994)



Net Proceeds as a percentage of total gross sales of bingo and pull-tabs
-- 1994 NAFTM report on Charity Gaming --



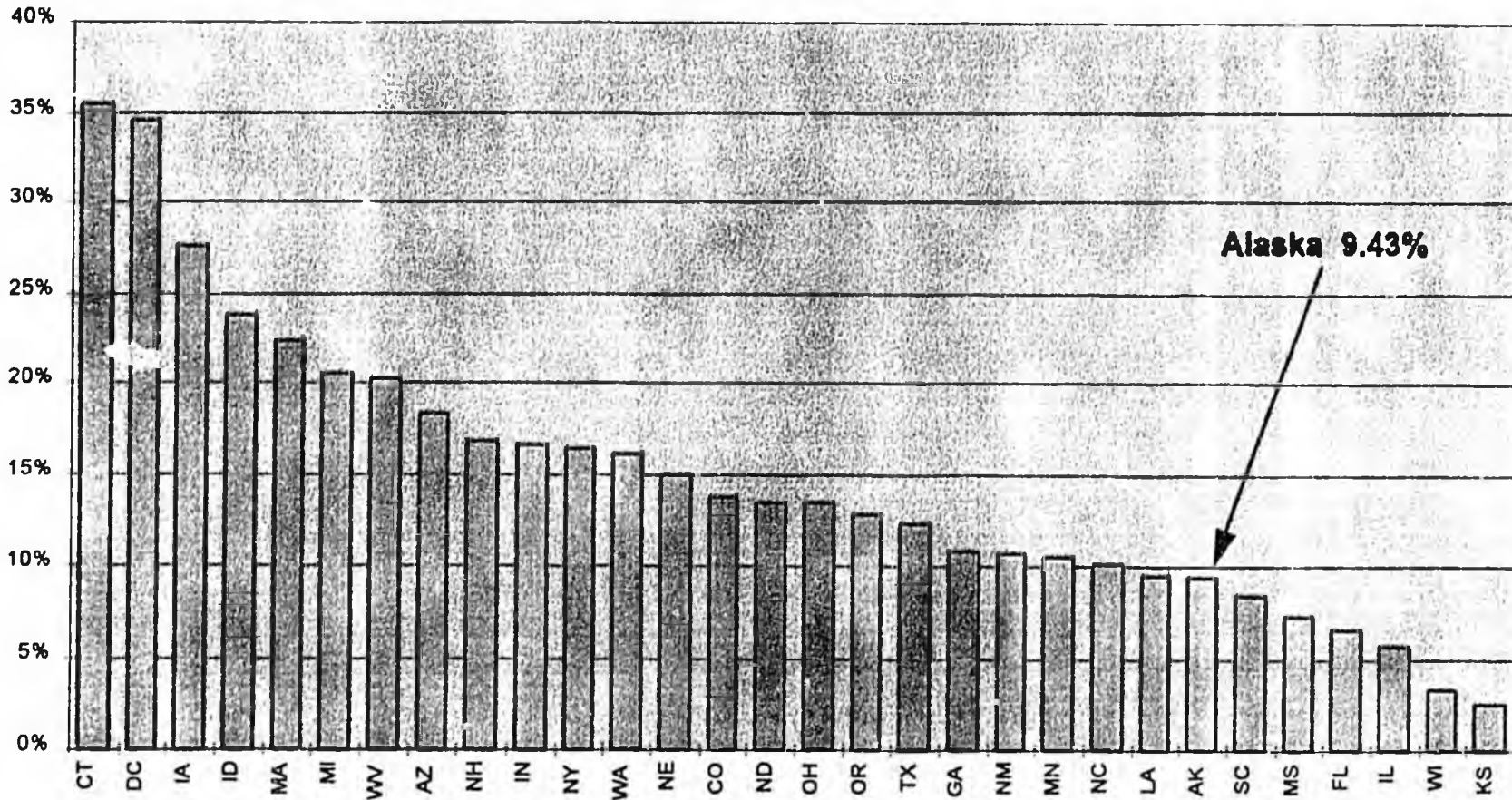
How Alaska Compares to Other States in Collecting State Revenue from Gaming (1994)



State Revenues as a percentage of total gross sales of bingo and pull-tabs
-- 1994 NAFTM report on Charity Gaming --



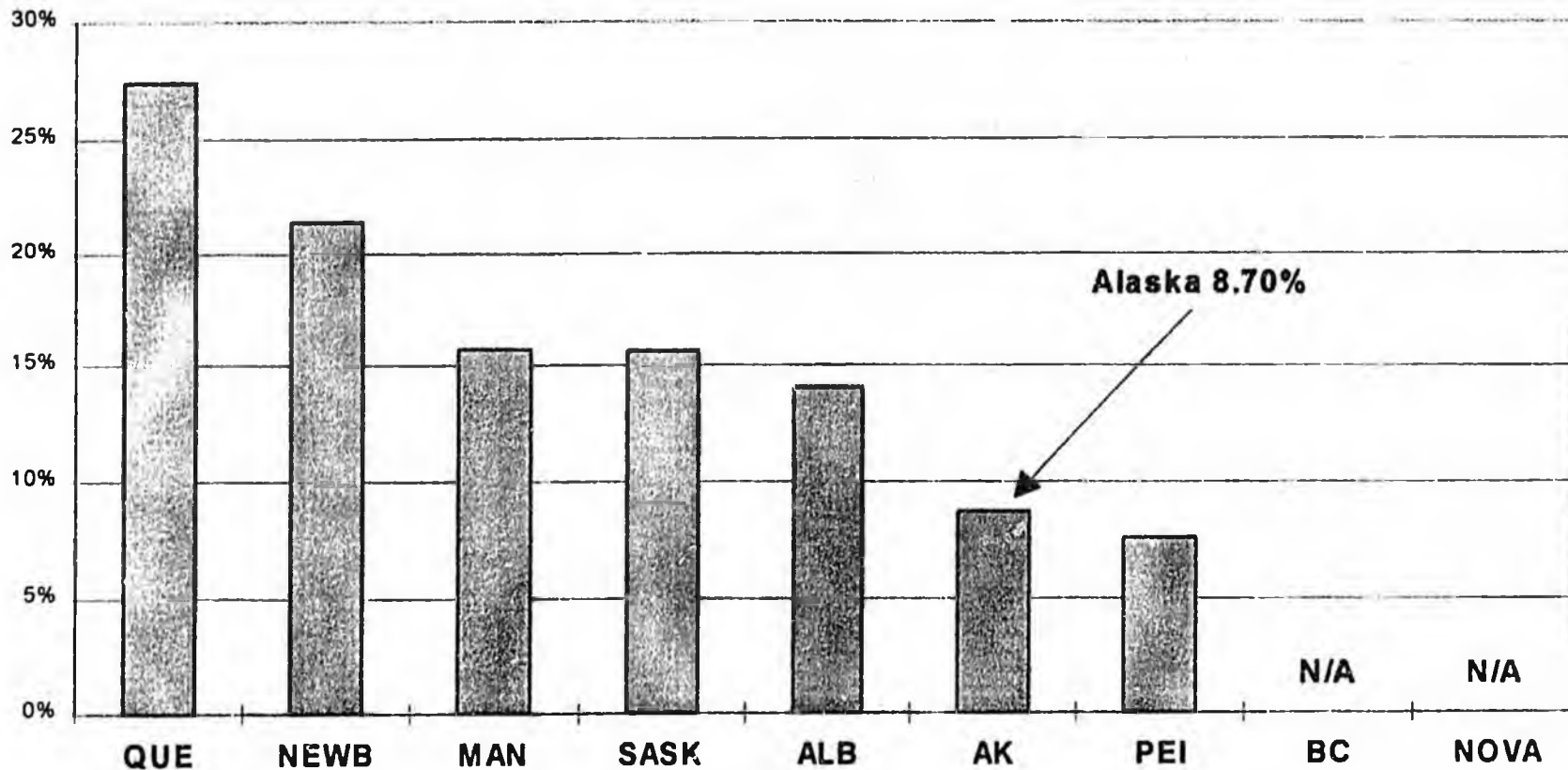
How Alaska Compares to Other States in Total Public Benefit (1994)



Total Public Benefit = Money to Charities + State Revenue;
-- 1994 NAFTM report on Charity Gaming --



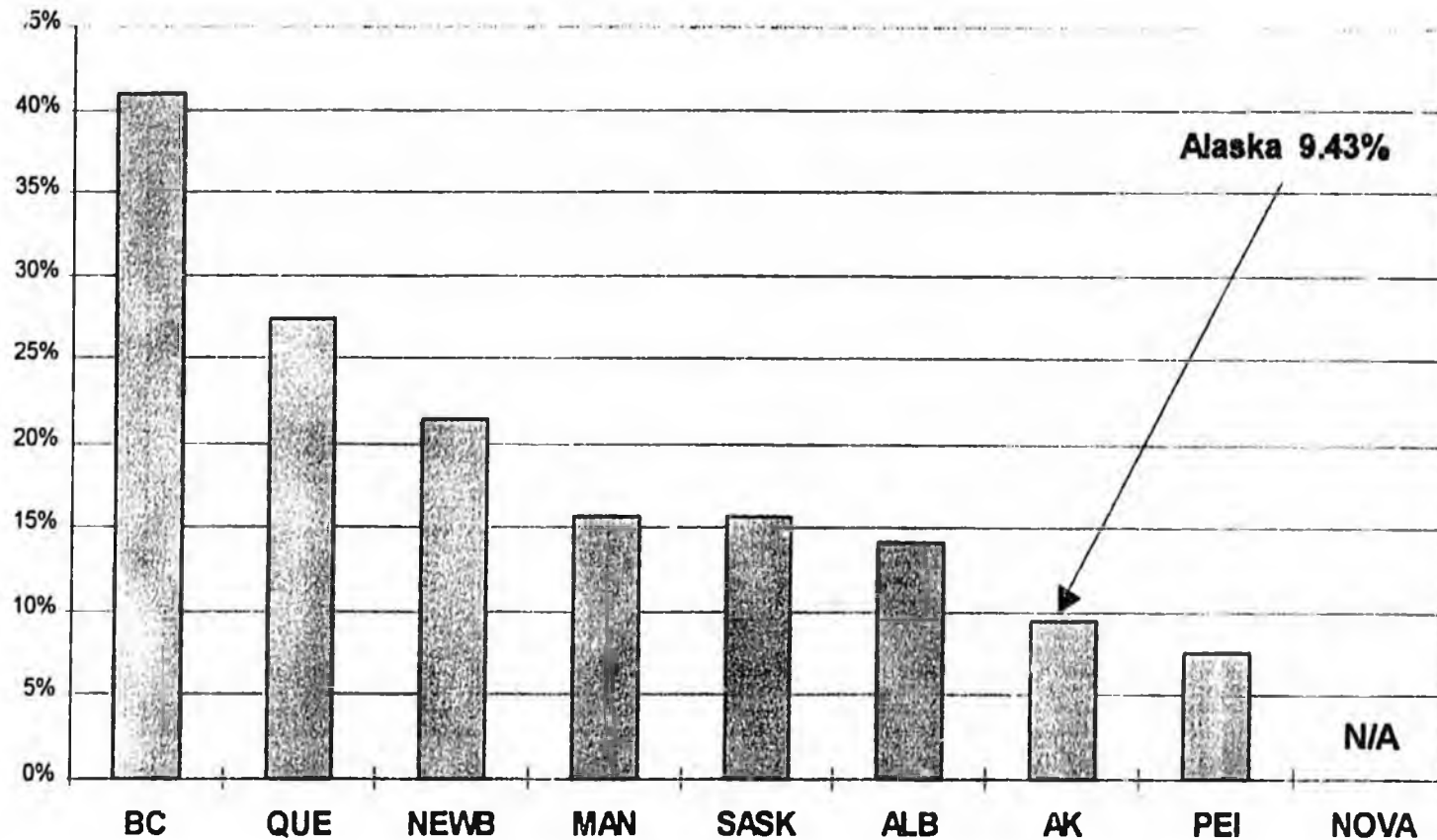
How Alaska Compares to the Canadian Provinces in Distributing Money to Charities (1994)



Net Proceeds as a percentage of total gross sales of bingo and pull-tabs
-- 1994 NAFTM report on Charity Gaming --



How Alaska Compares to the Canadian Provinces in Total Public Benefit (1994)



Total Public Benefit = Money to Charities + State Revenues
-- 1994 NAFTA report on Charity Gaming --

IIII

How Do Other Jurisdictions Establish Minimum Distributions to Charities

The following states and provinces compute minimum *net proceeds* as a percentage of *gross* (see page 11 if you forgot what *gross* is):

British Columbia
Newfoundland
Prince Edward Island

Connecticut
Nova Scotia
Saskatchewan

Georgia
Ontario
Washington

(See Appendix A for Rates)

The following states and provinces compute minimum *net proceeds* as a percentage of *adjusted gross* (see page 11 if you forgot what *adjusted gross* is):

Alaska

Idaho

(See Appendix B for Rates)

The following states and provinces compute minimum *net proceeds* by explicitly limiting expenses to a percentage of *gross* or *adjusted gross* (see page 11):

Northwest Territories
North Dakota

Iowa
Rhode Island

Minnesota
Delaware
Nebraska

(See Appendix C for Rates)

The following states and provinces have no established minimum net proceeds:

AL, ALBERTA, AZ, CA, CO, FL, IL, IN, KS, KY, LA, ME, MANITOBA, MO, MI, MS, MT, NH, NJ, NM, NY, NC, OK, OR, PA, SC, VT, D.C., WI, NY



How Do Other Jurisdictions Establish the Level of Government Revenues from Gaming

The following states and provinces compute state revenues as a percentage of *gross* (see page 11 if you forgot what "gross" is):

British Columbia	Connecticut	Georgia	Ontario
Colorado	Illinois	Indiana	South Carolina
Iowa	Minnesota	Nebraska	Missouri
Oklahoma	Wisconsin	Kansas	Arizona
Oregon			

(See Appendix D for Rates)

The following states and provinces compute state revenues as a percentage of *adjusted gross or ideal net* (see page 11 if you forgot what adjusted gross or ideal net is):

Alaska	North Dakota	Michigan	Connecticut
Missouri	Nebraska	Louisiana	

(See Appendix E for Rates)

The following states and provinces derive state revenues from license fees or head taxes:

Alaska	Indiana	Maine
New Hampshire	Ohio	Prince Edward Island
South Carolina		

(See Appendix F for Rates)

The following states and provinces derive no state revenues from charitable gaming:

AL, CA, FL, ID, MANITOBA, MS, MT, NJ, NC, NORTHWEST TERRITORIES, PA, RI, SASKATCHEWAN, VT, D.C., WY



Appendix A

States and Provinces that compute the minimum amount charities get (net proceeds) as a percentage of gross (total amount of gaming dollars.)

Ontario	30% of gross on all activities
Saskatchewan	20% of gross on all activities
Prince Edward Island	10% to 15% of gross of bingo and raffles
Newfoundland	15% and 22% of gross of bingo and pull-tabs, respectively
Nova Scotia	15% of gross of bingo
Connecticut	10% of gross of pull-tabs
Georgia	10% of gross of bingo
Washington	1% to 17% of gross, depending on activity type and scale
British Columbia	Bingo prize limit 58% of gross; expenses limited



Appendix B

States and Provinces that compute the minimum amount charities get (net proceeds) as a percentage of adjusted gross (total amount of gaming dollars less prizes and taxes.)

Alaska	30% of pull-tab AGI; 10% of non-pull-tab AGI
Idaho	20% of AGI of all activities



Appendix C

States and Provinces that ensure charities get a minimum level of net proceeds by limiting expenses.

Nebraska	Expenses limited to 8% of gross of all activities
Minnesota	Expenses limited to 50% of AGI
North Dakota	Expenses limited to 45% or 50% of AGI [depending upon activity variables]
Iowa	Expenses limited to 25% of AGI
Rhode Island	Expenses limited to 25% of bingo AGI
Northwest Territories	Expenses limited to 10% of AGI



Appendix D

States and Provinces that compute taxes as a percentage of gross (total gaming dollars).

State/Province	Rate of Taxation
Indiana	10% of gross of all activities
Oklahoma	10% gross of pull-tabs
Connecticut	10% of gross of pull-tabs. [State is sole source; game cost is included in tax.]
Nebraska	6% of gross of bingo ; 3% of gross of raffles
Illinois	5% of gross of all activities
South Carolina	5% sales tax on gross of bingo
Iowa	5% sales tax on gross of all activities
Georgia	4% of gross of bingo
Kansas	3% of gross of bingo
Minnesota	3% of gross of all activities
British Columbia	2% of gross of bingo and raffles. [Pull-tabs are run by the Province.]
Missouri	2% of gross of pull-tabs
Wisconsin	2% of gross of bingo
Arizona	1.5% of gross under \$300,000; 2% of gross over \$300,000.
Ontario	1% of gross of bingo
Oregon	.95% of gross of bingo and raffles
Colorado	.5% of gross of all activities

HB

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9-LS1833A ✓
Bannister
4/2/96

HOUSE BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE BY REQUEST

Introduced:
Referred:

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to partnerships; and providing for an effective date."

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

3 * Section 1. AS 32.05.010(a) is amended to read:

4 (a) A partnership is an association of two or more persons to carry on as
5 co-owners a business for profit, and includes a registered limited liability
6 partnership.

7 * Sec. 2. AS 32.05.030 is amended by adding a new subsection to read:

8 (e) A registered limited liability partnership shall hold title to all partnership
9 property in the name of the registered limited liability partnership.

10 * Sec. 3. AS 32.05.100 is amended to read:

11 Sec. 32.05.100. JOINT AND SEVERAL LIABILITY OF PARTNERS.

12 Except as provided in (b) of this section, all [ALL] partners are liable

13 (1) jointly and severally for everything chargeable to the partnership
14 under AS 32.05.080 and 32.05.090;

15 (2) jointly for all other debts and obligations of the partnership; but any

1 partner may enter into a separate obligation to perform a partnership contract.

2 * Sec. 4. AS 32.05.100 is amended by adding new subsections to read:

3 (b) A partner in a registered limited liability partnership that is in substantial
4 compliance with AS 32.05.416 and 32.05.500 - 32.05.860 is not liable, directly or
5 indirectly, including through indemnification, contribution, assessment, or other
6 manner, for the debts, obligations, and liabilities of, or chargeable to, the partnership,
7 whether in tort, in contract, or under another theory, that arise from negligence,
8 wrongful acts, wrongful omissions, malpractice, or misconduct committed by another
9 partner or by an employee or agent of the partnership

10 (1) while the partnership is a registered limited liability partnership; and

11 (2) in the course of the partnership business.

12 (c) The liability limitation in (b) of this section does not affect the liability of
13 a partner in a registered limited liability partnership for the

14 (1) partner's own negligence, wrongful acts, wrongful omissions,
15 malpractice, or misconduct;

16 (2) negligence, wrongful acts, wrongful omissions, malpractice, or
17 misconduct in the course of the partnership business of a person under the partner's
18 direct supervision and control; or

19 (3) loans, leases, and other ordinary commercial debts and obligations
20 entered into by the partnership or by a partner with apparent authority to bind the
21 partnership, even if the partner lacked actual authority or acted in breach of the
22 partnership agreement or of a duty owed to the partnership or other partners, unless
23 the creditor knew, or in the exercise of reasonable diligence should have known, that
24 the partner was acting without actual authority or in breach of the partnership
25 agreement or of a duty owed to the partnership or other partners.

26 (d) The liability limitation in (b) of this section may be waived by a registered
27 limited liability partnership. The waiver may not be made unless made by the
28 agreement of at least a majority in interest of the partners, or in a manner otherwise
29 provided in a written partnership agreement. The waiver is valid and binding upon all
30 partners, and may be relied upon by a person dealing with the partnership under
31 AS 32.05.040(a). The waiver may be modified or revoked by the agreement of at least

1 a majority in interest of the partners, or in a manner otherwise provided in a written
2 partnership agreement, except that the modification or revocation does not affect the
3 liability of a partner for the debts, obligations, or liabilities incurred, created, or
4 assumed by the partnership before the modification or revocation.

5 * Sec. 5. AS 32.05.130 is amended to read:

6 Sec. 32.05.130. RULES DETERMINING RIGHTS AND DUTIES OF
7 PARTNERS. The rights and duties of the partners in relation to the partnership shall
8 be determined, subject to any agreement between them, by the following rules:

9 (1) each partner shall be repaid the partner's contributions, whether by
10 way of capital or advances to the partnership property, and shares [SHARE] equally
11 in the profits and surplus remaining after all liabilities, including those to partners, are
12 satisfied; and, except as provided in AS 32.05.100(b), shall contribute towards the
13 losses, whether of capital or otherwise, sustained by the partnership according to the
14 partner's share in the profits;

15 (2) the partnership shall indemnify every partner in respect of payments
16 made and personal liabilities reasonably incurred by the partner in the ordinary and
17 proper conduct of its business, or for the preservation of its business or property;

18 (3) a partner who in aid of the partnership makes a payment or advance
19 beyond the amount of capital that the partner agreed to contribute shall be paid interest
20 from the date of the payment or advance;

21 (4) a partner shall receive interest on the capital contributed by the
22 partner only from the date when repayment should be made;

23 (5) all partners have equal rights in the management and conduct of the
24 partnership business;

25 (6) a partner is not entitled to remuneration for acting in the partnership
26 business, except that a surviving partner is entitled to reasonable compensation for
27 services in winding up the partnership affairs;

28 (7) a person may not become a member of a partnership without the
29 consent of all the partners;

30 (8) any difference arising as to ordinary matters connected with the
31 partnership business may be decided by a majority of the partners; but an act in

1 contravention of an agreement between the partners may not be done rightfully without
2 the consent of all the partners.

3 * Sec. 6. AS 32.05.290 is amended to read:

4 Sec. 32.05.290. PARTNER'S RIGHT TO CONTRIBUTION FROM
5 COPARTNERS AFTER DISSOLUTION. Where the dissolution is caused by the act,
6 death, or bankruptcy of a partner, each partner is liable to the copartners for the
7 partner's share of any liability created by a partner acting for the partnership as if the
8 partnership had not been dissolved unless

9 (1) the dissolution being by act of a partner, the partner acting for the
10 partnership had knowledge of the dissolution; [OR]

11 (2) the dissolution being by the death or bankruptcy of a partner, the
12 partner acting for the partnership had knowledge or notice of the death or bankruptcy;

13 or

14 (3) the liability is for a debt, obligation, or liability for which the
15 partner is not liable under AS 32.05.100(b).

16 * Sec. 7. AS 32.05.310(d) is amended to read:

17 (d) The individual property of a deceased partner is liable for the [ALL]
18 obligations of the partnership incurred while the decedent was a partner and for which
19 the partner is liable under AS 32.05.100 but subject to the prior payment of the
20 decedent's separate debts.

21 * Sec. 8. AS 32.05.350 is amended to read:

22 Sec. 32.05.350. RULES FOR SETTLING ACCOUNTS FOLLOWING
23 DISTRIBUTION. In settling accounts between the partners after dissolution, the
24 following rules shall be observed, subject to any agreement to the contrary:

25 (1) the assets of the partnership are

26 (A) the partnership property;

27 (B) the contributions of the partners as [NECESSARY FOR
28 THE PAYMENT OF ALL THE LIABILITIES] specified in (4) [(2)] of this
29 section;

30 (2) the liabilities of the partnership [SHALL] rank in order of payment
31 as follows:

- 1 (A) those owing to creditors other than partners;
2 (B) those owing to partners other than for capital and profits;
3 (C) those owing to partners in respect of capital;
4 (D) those owing to partners in respect of profits;

5 (3) the assets shall be applied in the order of their declaration in (1) of
6 this section to the satisfaction of the liabilities;

7 (4) except to the extent the liability of a partner is limited under
8 AS 32.05.100(b).

9 (A) the partners shall contribute, as provided by
10 AS 32.05.130(1), the amount necessary to satisfy the liabilities;

11 (B) [, BUT] if any, but not all, of the partners is [ARE]
12 insolvent, or not being subject to process, refuses [REFUSE] to contribute, the
13 other partners shall contribute their share of the liabilities, and, in the relative
14 proportions in which they share the profits the additional amount necessary to
15 pay the liabilities;

16 (5) an assignee for the benefit of creditors or any person appointed by
17 the court may enforce the contributions specified in (4) of this section;

18 (6) a partner or the legal representative of a partner may enforce the
19 contributions specified in (4) of this section, to the extent of the amount that the
20 partner has paid in excess of the partner's share of the liability;

21 (7) the individual property of a deceased partner is liable for the
22 contributions specified in (4) of this section;

23 (8) when partnership property and the individual properties of the
24 partners are in the possession of a court for distribution, partnership creditors shall
25 have priority on partnership property and separate creditors on individual property,
26 saving the rights of lien or secured creditors as heretofore;

27 (9) where a partner has become bankrupt or the estate of a partner is
28 insolvent the claims against the partner's separate property [SHALL] rank in the
29 following order:

- 30 (A) those owing to separate creditors;
31 (B) those owing to partnership creditors;

1 (C) those owing to partners by way of contribution.

2 * **Sec. 9.** AS 32.05 is amended by adding a new section to read:

3 Sec. 32.05.405. **COMMERCE OUTSIDE THE STATE.** (a) A partnership that
4 is formed and operates under an agreement governed by this chapter may conduct its
5 business, carry on its operations, and has and may exercise the powers granted by this
6 chapter in a state, territory, district, or possession of the United States or in a foreign
7 country.

8 (b) It is the intent of this chapter that the legal existence of a partnership be
9 recognized outside the boundaries of the state and that a partnership transacting
10 business outside the state be granted the protection of art. IV, sec. 1, Constitution of
11 the United States, subject to a reasonable requirement of registration.

12 (c) The liability of the partners in a partnership for the debts, obligations, and
13 liabilities of the partnership shall at all times be determined solely and exclusively by
14 the laws of this state.

15 (d) In this section, "partnership" means a partnership that is formed and
16 operates under an agreement governed by this chapter.

17 * **Sec. 10.** AS 32.05 is amended by adding a new section to read:

18 Sec. 32.05.416. **FINANCIAL RESPONSIBILITY.** (a) A registered limited
19 liability partnership shall at all times have and maintain liability insurance or
20 qualifying assets in an amount of value not less than \$1,000,000 to satisfy liabilities
21 described in AS 32.05.100(b). To the extent the partnership maintains liability
22 insurance that is subject to a deductible, it shall maintain qualifying assets in the
23 deductible amount, but the sum of the liability insurance and the qualifying assets is
24 not required to exceed \$1,000,000.

25 (b) A foreign limited liability partnership may conduct business in this state
26 under this chapter if it has and maintains liability insurance or qualifying assets in an
27 amount of value not less than \$1,000,000 to satisfy liabilities that arise from acts or
28 omissions in this state of the type described in AS 32.05.100(b).

29 (c) To the extent that a registered limited liability partnership or a foreign
30 limited liability partnership maintains liability insurance or qualifying assets under the
31 laws of another jurisdiction, the liability insurance or qualifying assets maintained

1 under those laws satisfy (a) - (b) of this section if the amount of the insurance or
2 assets is equal to or greater than the amount required by (a) - (b) of this section.

3 (d) In a court action against a registered limited liability partnership or foreign
4 limited liability partnership in the courts of this state, upon request of a party to the
5 court action and subject to an order of the court, the partnership shall provide a
6 certification stating that the partnership is in compliance with this section, describing
7 the method by which the partnership has complied with (a) - (c) of this section, and
8 identifying the depository institution holding the qualifying assets or insurance carrier
9 issuing the liability insurance specified in (a) - (c) of this section.

10 (e) If a registered limited liability partnership or foreign limited liability
11 partnership fails to maintain the insurance or qualifying assets required by (a) - (c) of
12 this section, the partners are jointly and severally liable for the debts, obligations, and
13 liabilities of the partnership, except that the aggregate amount for which the partners
14 are jointly and severally liable is limited to the amount of insurance or qualifying
15 assets that would have been required to satisfy the requirements of (a) - (c) of this
16 section.

17 (f) In this section, "qualifying assets" means

18 (1) cash, federally insured deposits of a bank or other financial
19 institution, and obligations of the United States or one of its instrumentalities having
20 a maturity of not more than one year, if the partnership segregates the cash, deposits,
21 or obligations from other partnership property and specifically designates the cash,
22 deposits, or obligations for the exclusive purpose of satisfying liabilities described in
23 AS 32.05.100(b); or

24 (2) a letter of credit issued by a federally insured depository institution
25 for the benefit of persons in whose favor a judgment has been entered against the
26 partnership arising from liabilities described in AS 32.05.100(b).

27 * Sec. 11. AS 32.05.420 is amended to read:

28 Sec. 32.05.420. DEFINITIONS. In this chapter,

29 (1) "bankrupt" includes bankrupt under the Federal Bankruptcy Act or
30 insolvent under any state insolvent act;

31 (2) "business" includes every trade, occupation, or profession;

1 (3) "commissioner" means the commissioner of commerce and
2 economic development;

3 (4) "conveyance" includes every assignment, lease, mortgage, or
4 encumbrance;

5 (5) [(4)] "court" includes every court and judge having jurisdiction in
6 the case;

7 (6) "department" means the Department of Commerce and
8 Economic Development;

9 (7) "foreign limited liability partnership" means a partnership that
10 is formed and operates under an agreement governed by the laws of another
11 jurisdiction and that is registered as a limited liability partnership in that
12 jurisdiction;

13 (8) "partnership" includes a registered limited liability partnership,
14 unless the context indicates otherwise;

15 (9) [(5) "PERSON" INCLUDES INDIVIDUALS, PARTNERSHIPS,
16 CORPORATIONS, AND OTHER ASSOCIATIONS;

17 (6)] "real property" includes land and any interest or estate in land;

18 (10) "registered limited liability partnership" means a partnership
19 that is registered under AS 32.05.510 and that is formed and operates under an
20 agreement governed by this chapter.

21 * Sec. 12. AS 32.05 is amended by adding new sections to read:

22 ARTICLE 7. LIMITED LIABILITY PARTNERSHIPS.

23 Sec. 32.05.500. PARTNERSHIP AGREEMENT. The partners of a limited
24 liability partnership may adopt a partnership agreement for the partnership and may
25 amend and repeal the agreement.

26 Sec. 32.05.510. REGISTRATION REQUIRED. A partnership that is formed
27 and operates under an agreement authorized by AS 32.05.500 may not conduct affairs
28 in this state unless it registers as a registered limited liability partnership with the
29 department. To register, the partnership must submit a registration document and the
30 identification code statement required by AS 32.05.530 with the department.

31 Sec. 32.05.520. CONTENTS OF REGISTRATION DOCUMENT. (a) A

1 registration document under AS 32.05.510 must provide

2 (1) the name of the partnership;

3 (2) the address of the partnership's principal office, if the partnership's
4 principal office is not located in this state;

5 (3) the address of the partnership's registered office in this state;

6 (4) the name and address of the partnership's registered agent in the
7 state for the service of process;

8 (5) a brief description of the purpose for which the partnership is
9 formed, which may be stated to be or to include the conduct of all lawful affairs for
10 which a limited liability partnership may be formed under this chapter;

11 (6) the name and address of each general partner maintaining an office
12 in this state;

13 (7) a statement that the general partners executing the registration
14 document acknowledge the responsibility of the partnership under AS 32.05.416;

15 (8) if an election has been made that the existence of the partnership
16 will continue until a certain date or event, a statement of the election and the date or
17 event;

18 (9) a statement that the partnership is applying for registration.

19 (b) A partnership formed under AS 32.05.500 may include other information
20 in the registration document.

21 Sec. 32.05.530. DISCLOSURE OF PARTNERSHIP PURPOSES. An
22 application for registration under this chapter must be accompanied by a separate
23 statement of the codes taken from the identification codes established under
24 AS 10.06.870 that most closely describe the activities in which the corporation intends
25 to engage.

26 Sec. 32.05.540. EFFECTIVE DATE AND DURATION OF REGISTRATION.
27 Registration under AS 32.05.510 is effective immediately when the registration
28 document is filed under AS 32.05.510. The registration remains effective until the
29 earlier of the date when

30 (1) the partnership voluntarily withdraws its registration under
31 AS 32.05.700; or

1 (2) the partnership's registration is cancelled under AS 32.05.710 -
2 32.05.720.

3 Sec. 32.05.550. AMENDMENT OF REGISTRATION DOCUMENT. (a) A
4 registration document filed under AS 32.05.510 is amended by filing an amended
5 registration document with the department. The document must state

- 6 (1) the name of the limited liability partnership;
7 (2) the date of the filing of the original document of registration;
8 (3) the amendment to the document.

9 (b) An amendment may be filed at any time for any purpose that the partners
10 determine to be proper.

11 (c) A restated registration document may be executed and filed in the same
12 manner as an amendment.

13 Sec. 32.05.560. STATUS UNAFFECTED BY ERRORS OR SUBSEQUENT
14 CHANGES. The registration status of a registered limited liability partnership is not
15 affected by errors in the information provided in a registration application or by
16 changes that occur in the information provided in the registration application after the
17 application is filed.

18 Sec. 32.05.570. NAME. (a) The name of a registered limited liability
19 partnership must contain the words "Limited Liability Partnership," the abbreviation
20 "L.L.P.," or the abbreviation "LLP," as the last words or letters of its name.

21 (b) The name of a city, borough, or village may be used in a limited liability
22 partnership name; however, the name may not contain the word "city," "borough," or
23 "village," or otherwise imply that the partnership is a municipality.

24 (c) A person may not adopt a name that contains the words "Limited Liability
25 Partnership," the abbreviation "L.L.P.," or the abbreviation "LLP" unless the person
26 has been issued a certificate of registration under this chapter.

27 Sec. 32.05.580. DISTINGUISHABLE NAMES. The name of a limited
28 liability partnership must be distinguishable on the records of the department from

29 (1) the name of a limited liability partnership, limited liability company,
30 limited partnership, or corporation organized under the laws of this state;

31 (2) the name of a foreign limited liability partnership, foreign limited

1 liability company, foreign limited partnership, or foreign corporation authorized to
2 transact business in this state;

3 (3) a name reserved or registered by the department under the
4 provisions of this title or AS 10.

5 Sec. 32.05.590. RIGHT TO RESERVE NAME. The exclusive right to use a
6 name may be reserved by a

7 (1) person intending to register a limited liability partnership and to
8 adopt the name;

9 (2) person intending to register a foreign limited liability partnership
10 under this chapter;

11 (3) limited liability partnership or a foreign limited liability partnership
12 registered under this chapter that intends to change its name.

13 Sec. 32.05.600. APPLICATION TO RESERVE NAME. Reservation of a
14 name under AS 32.05.590 is made by filing an application with the department. If the
15 department finds that the name is available for use by a limited liability partnership,
16 the department shall reserve it for the exclusive use of the applicant for a period of
17 120 days.

18 Sec. 32.05.610. REGISTRATION OF NAME. (a) A foreign limited liability
19 partnership not intending to conduct affairs in this state may register its name if the
20 name is distinguishable on the records of the department.

21 (b) Registration of a name by a foreign limited liability partnership under (a)
22 of this section is made by filing with the department

23 (1) a signed application for registration setting out the name of the
24 partnership, the state or territory under the laws of which it is formed, and the date the
25 partnership was formed; and

26 (2) proof from the jurisdiction where the partnership is formed
27 indicating that the partnership was formed in that jurisdiction.

28 (c) The registration of a name under this section is effective until the close of
29 the calendar year in which the application for registration is filed.

30 (d) The registration of a name under this section may be renewed each year
31 by filing

1 (1) an application for renewal setting out the facts required in an
2 original application; and

3 (2) proof of formation as required by (b)(2) of this section.

4 (e) An application for renewal must be filed between October 1 and
5 December 31 in each year. The renewal extends the registration for the following
6 calendar year.

7 Sec. 32.05.620. USE OF NONDISTINGUISHABLE NAME. Registration or
8 reservation under this chapter gives the person who has registered exclusive right to
9 the use of the name. The person may enjoy the use of a name that is not
10 distinguishable from the name to which the person has the exclusive right, and the
11 person has a cause of action for damages against a person who uses a name that is not
12 distinguishable from the name to which the person has the exclusive right.

13 Sec. 32.05.630. REGISTERED AGENT AND OFFICE. A registered limited
14 liability partnership and a foreign limited liability partnership shall maintain in the
15 state a registered office and an agent for the service of process.

16 Sec. 32.05.640. CHANGE OF REGISTERED OFFICE OR AGENT. (a) A
17 registered limited liability partnership may change its registered office, agent, or both,
18 by filing with the department a verified signed statement that includes

19 (1) the name of the partnership;

20 (2) the address of its registered office;

21 (3) the address of its new registered office if the registered office is to
22 be changed;

23 (4) the name of its registered agent;

24 (5) the name of its new registered agent if the registered agent is to be
25 changed; and

26 (6) a statement that the change was authorized by one or more of the
27 partners.

28 (b) If the department finds that the statement filed under (a) of this section
29 complies with this chapter, the department shall file the statement in the department's
30 office. The change becomes effective when the statement is filed.

31 (c) A registered agent of a limited liability partnership may change the location

1 of the agent's office from one address to another in this state. The agent may change
2 the registered office for each limited liability partnership for which the person is acting
3 as registered agent by filing in the department a statement setting out the name of the
4 agent, the address of the agent's office before change, the address to which the office
5 is changed, and a list of companies for which the person is the registered agent. The
6 statement shall be executed by the registered agent in the individual name of the agent,
7 or, if the agent is a corporation, it shall be executed and verified by its president or
8 vice-president. The statement shall be delivered to the department and the limited
9 liability partnership, and, if the department finds that the statement complies with this
10 chapter, the department shall file it. The change becomes effective when the statement
11 is filed.

12 Sec. 32.05.650. RESIGNATION BY REGISTERED AGENT. A registered
13 agent may resign by filing a written notice and an exact copy of the notice with the
14 department. The written notice of resignation must set out the latest address of the
15 principal office of the partnership and the names and addresses of the general partners
16 known by the agent. The department shall immediately mail a copy of the notice to
17 the partnership at its principal office. The resignation becomes effective 30 days after
18 the filing of the written notice unless the partnership appoints a successor registered
19 agent before the resignation becomes effective.

20 Sec. 32.05.660. SERVICE OF PROCESS. (a) The registered agent of a
21 registered limited liability partnership is an agent upon whom process, notice, or
22 demand required or permitted by law to be served upon the partnership may be served.

23 (b) If a limited liability partnership fails to appoint or maintain a registered
24 agent in this state or if its registered agent cannot with reasonable diligence be found
25 at the registered office, the commissioner is an agent of the partnership upon whom
26 the process, notice, or demand may be served. A person may serve the commissioner
27 under this subsection by

28 (1) serving on the commissioner or the designee of the commissioner
29 a copy of the process, notice, or demand, with any papers required by law to be
30 delivered in connection with the service, and a fee established by the department by
31 regulation;

1 (2) sending to the partnership being served by certified mail a notice
2 that service has been made on the commissioner under this subsection and a copy of
3 the process, notice, or demand and accompanying papers; notice to the partnership
4 shall be sent to the address

5 (A) of the last registered office of the partnership as shown by
6 the records on file in the department; and

7 (B) the use of which the person initiating the proceedings
8 knows or, on the basis of reasonable inquiry, has reason to believe is most
9 likely to result in actual notice; and

10 (3) filing with the appropriate court or other body, as part of the return
11 of service, the return receipt of mailing and an affidavit of the person initiating the
12 proceedings that this subsection has been complied with.

13 (c) The commissioner shall keep a record of processes, notices, and demands
14 served upon the commissioner under this section.

15 (d) This section does not affect the right to serve process, notice, or demand
16 required or permitted by law to be served upon a limited liability partnership in
17 another permitted manner.

18 Sec. 32.05.670. BIENNIAL REPORT REQUIRED. A registered limited
19 liability partnership and a foreign limited liability partnership shall file a biennial
20 report within the time established by AS 32.05.

21 Sec. 32.05.680. CONTENTS OF BIENNIAL REPORT. A biennial report
22 required under AS 32.05.670 must state

23 (1) the name of the limited liability partnership and the state or country
24 where it was formed;

25 (2) the address of the registered office of the partnership in this state,
26 the name of its registered agent in this state at that address, and, in the case of a
27 foreign limited liability partnership, the address of its principal office in the state or
28 country where it was formed; and

29 (3) the names and addresses of the partners.

30 Sec. 32.05.690. FILING OF BIENNIAL REPORT. (a) A biennial report
31 required by AS 32.05.670 shall be filed with the department and is due before

1 January 2 of the filing year. A domestic limited liability partnership and a foreign
2 limited liability partnership registering during an even-numbered year shall file the
3 biennial report each even-numbered year. A domestic limited liability partnership and
4 a foreign limited liability partnership registering during an odd-numbered year shall
5 file the biennial report each odd-numbered year. The biennial report is delinquent if
6 not filed before February 1 of each odd- or even-numbered year as provided in this
7 subsection.

8 (b) Proof to the satisfaction of the department that on or before February 1 the
9 report was deposited in the United States mail in a sealed envelope, properly addressed
10 with postage prepaid, satisfies the deadline of (a) of this section.

11 (c) The department shall file the report if it conforms to the requirements of
12 this chapter. If the department finds that the report does not conform to the
13 requirements of this chapter, the report shall promptly be returned to the partnership
14 for necessary corrections.

15 Sec. 32.05.700. VOLUNTARY WITHDRAWAL OF REGISTRATION. A
16 registered limited liability partnership may withdraw its registration by filing with the
17 department a written withdrawal notice that is signed by a partner authorized to
18 execute the withdrawal notice.

19 Sec. 32.05.710. CANCELLATION OF REGISTRATION UPON
20 DISSOLUTION. The registration of a registered limited liability partnership shall be
21 cancelled upon the dissolution and the commencement of winding up of the
22 partnership. A notice of cancellation shall be filed with the department and must state

- 23 (1) the name of the registered limited liability partnership;
24 (2) the date of filing of its initial registration;
25 (3) the reason for cancellation;
26 (4) the effective date, which must be a date certain of cancellation if
27 the cancellation is not to be effective upon the filing of the application; and
28 (5) other information the general partners determine to be appropriate.

29 Sec. 32.05.720. INVOLUNTARY CANCELLATION. (a) A registered limited
30 liability partnership's registration may be cancelled involuntarily by the commissioner
31 if

1 (1) the partnership is delinquent six months in filing its biennial report
2 or in paying a fee or penalty;

3 (2) the partnership has failed for 30 days to appoint and maintain a
4 registered agent in the state;

5 (3) the partnership has failed for 30 days after change of its registered
6 office or registered agent to file in the office of the commissioner a statement of the
7 change; or

8 (4) a misrepresentation of material facts has been made in an
9 application, report, affidavit, or other document submitted under this chapter.

10 (b) Before a registration may be cancelled under this section, the commissioner
11 shall give the partnership written notice of its delinquency, failure, or misrepresentation
12 by certified mail addressed to its registered agent, registered office, or partners at the
13 last known address as shown by the records of the commissioner. If the partnership
14 fails, within 60 days after the notice is sent by certified mail, to contest the alleged
15 delinquency, failure, or misrepresentation, the partnership may be dissolved under (d)
16 of this section.

17 (c) If a registered limited liability partnership contests the proposed
18 cancellation, the partnership may request a hearing. If, following a hearing, the
19 commissioner decides there are grounds, under (a) of this section, for involuntary
20 cancellation under this section, the partnership may appeal the decision to the superior
21 court.

22 (d) If the registration of a registered limited liability partnership is subject to
23 cancellation under (a) - (c) of this section, the partnership fails to correct the
24 delinquency, failure, or misrepresentation as provided in this section, and there is no
25 controlling order of the superior court, the commissioner shall cancel the partnership
26 by issuing a certificate of involuntary cancellation. The certificate must contain a
27 statement that the partnership's registration has been cancelled, and the date and the
28 reason for the cancellation. The original certificate shall be placed in the department's
29 files and a copy of it mailed to the partnership at its registered office or in care of its
30 registered agent, at the last known address shown on the records of the department.
31 Upon the issuance of the certificate of involuntary cancellation, the existence of the

1 partnership ceases, except as otherwise provided in this chapter, and its name shall be
2 available for use and may be adopted by another limited liability partnership on a date
3 that is six months or more after the cancellation.

4 (e) If the registration of a registered limited liability partnership is cancelled
5 under this section, the registration may be reinstated within two years from the date
6 of the certificate of cancellation if it is established to the satisfaction of the
7 commissioner that in fact (1) there was no cause for the cancellation, or the
8 delinquency, failure, or misrepresentation resulting in cancellation has been corrected;
9 and (2) the partnership pays two times the amount of any delinquent fee and the
10 amount the partnership would have paid had it not been cancelled during the two-year
11 period. Unless the partnership being reinstated amends its registration to change its
12 name to comply with AS 32.05.570 - 32.05.620, reinstatement may not be authorized
13 if the name of the partnership is not distinguishable in the records of the department.

14 Sec. 32.05.730. FOREIGN LIMITED LIABILITY PARTNERSHIPS. (a) In
15 addition to the requirements of AS 32.05.416, before a foreign limited liability
16 partnership conducts affairs in this state, the partnership must submit to the department
17 an application for registration.

18 (b) Subject to the constitution of this state, and except that a partner in the
19 partnership is liable for acts and omissions in this state of the type described in
20 AS 32.05.100(c), the law of the state or other jurisdiction under which a foreign
21 limited partnership is formed governs the affairs of the partnership.

22 (c) The department may not deny registration to a foreign limited liability
23 partnership because of differences between the law of this state and the law of the state
24 or other jurisdiction under which the foreign limited liability partnership is formed.

25 Sec. 32.05.740. CONTENTS OF REGISTRATION APPLICATION. (a) An
26 application for the registration of a foreign limited liability partnership must state

27 (1) the name of the foreign limited liability partnership and, if different,
28 the name the partnership proposes to use in this state;

29 (2) the state or other jurisdiction where the partnership was formed and
30 the date of its formation;

31 (3) the name and address of its registered agent;

1 (4) that the department is appointed the agent of the partnership for
2 service of process if the foreign limited liability partnership fails to appoint or maintain
3 a registered agent;

4 (5) the address of the office that is required by the state or other
5 jurisdiction of the partnership's formation to be maintained in that state or other
6 jurisdiction, or, if the state or other jurisdiction does not require an office to be
7 maintained in that state or other jurisdiction, the principal office of the partnership;

8 (6) the purpose the partnership proposes to pursue in the conduct of its
9 affairs in this state and the codes from the identification code established under
10 AS 10.06.870 that most closely describe the activities in which the partnership intends
11 to engage in this state; and

12 (7) the names and addresses of the general partners.

13 (b) In addition to the information required by (a) of this section, an application
14 must include proof from the jurisdiction where the partnership was formed that
15 indicates that the partnership was formed in that jurisdiction.

16 Sec. 32.05.750. NAME OF FOREIGN LIMITED LIABILITY
17 PARTNERSHIP. The department may not file the application for registration of a
18 foreign limited liability partnership unless the name of the partnership satisfies the
19 requirements of AS 32.05.570 - 32.05.620. If the name under which a foreign limited
20 liability partnership is formed does not satisfy the requirements of AS 32.05.570 -
21 32.05.620, the partnership may register under AS 32.05.730 if the partnership uses an
22 assumed name that is available to the partnership under this chapter and that satisfies
23 the requirements of AS 32.05.570 - 32.05.620.

24 Sec. 32.05.760. AMENDMENT OF REGISTRATION OF FOREIGN
25 LIMITED LIABILITY PARTNERSHIP. (a) A foreign limited liability partnership
26 may amend its registration by filing an amendment of registration with the department
27 that is signed by a partner authorized to execute the amendment.

28 (b) The amendment of registration filed by a foreign limited liability
29 partnership must state

30 (1) the name of the partnership;

31 (2) the date the original registration was filed; and

1 (3) the amendment.

2 (c) The application for registration may be amended if the application for
3 registration as amended contains only provisions that this chapter allows to be
4 contained in an application for registration at the time the partnership amends the
5 registration.

6 Sec. 32.05.770. REVOCATION OF REGISTRATION OF FOREIGN
7 LIMITED LIABILITY PARTNERSHIP. (a) The registration of a foreign limited
8 liability partnership authorizing the partnership to conduct affairs in this state may be
9 revoked by the commissioner if

10 (1) the partnership is delinquent for six months in filing its biennial
11 report or in paying a fee or penalty imposed under this chapter;

12 (2) the partnership has failed for 30 days to appoint and maintain a
13 registered agent in the state;

14 (3) the partnership has failed for 30 days after change of its registered
15 office or registered agent to file in the office of the commissioner a statement of the
16 change; or

17 (4) a misrepresentation of material facts has been made in an
18 application, report, affidavit, or other document submitted under this chapter.

19 (b) Before a registration may be revoked under this section, the commissioner
20 shall give the partnership written notice of its delinquency, failure, or misrepresentation
21 by certified mail addressed to its registered agent, registered office, or partners at the
22 last known address as shown by the records of the commissioner. If the partnership
23 fails, within 60 days after the notice is sent by certified mail, to contest the alleged
24 delinquency, failure, or misrepresentation, the registration may be revoked under (d)
25 of this section.

26 (c) If a partnership contests the proposed cancellation, the partnership may
27 request a hearing. If, following a hearing, the commissioner decides there are grounds
28 for revocation under this section, the partnership may appeal the decision to the
29 superior court.

30 (d) If the registration of a foreign limited liability partnership is subject to
31 revocation under (a) - (c) of this section, the partnership fails to correct the

1 delinquency, failure, or misrepresentation as provided in this section, and there is no
2 controlling order of the superior court, the commissioner shall revoke the partnership
3 by issuing a certificate of revocation containing a statement that the partnership's
4 registration has been revoked, and the date and the reason for the revocation. Upon
5 cancellation, the original certificate of cancellation shall be placed in the department's
6 files and a copy of the certificate mailed to the partnership at its registered office or
7 in care of its registered agent at the last known address shown on the records of the
8 department. Upon the issuance of the certificate of revocation, the foreign limited
9 liability partnership's authority to conduct affairs in this state ceases.

10 Sec. 32.05.780. VOLUNTARY WITHDRAWAL OF FOREIGN LIMITED
11 LIABILITY PARTNERSHIP. (a) A foreign limited liability partnership registered in
12 this state may withdraw its registration by filing an application for withdrawal with the
13 department.

14 (b) An application for withdrawal filed by a foreign limited liability
15 partnership must state

16 (1) the name of the partnership and the state or other jurisdiction where
17 the partnership was formed;

18 (2) that the partnership is no longer conducting affairs in this state;

19 (3) that the partnership is withdrawing;

20 (4) that the partnership revokes the authority of its registered agent for
21 service of process in this state and agrees that service of process may subsequently be
22 made on the partnership by service on the commissioner for a cause of action arising
23 in this state during the time the partnership was registered in this state; and

24 (5) an address for mailing a copy of the process to the partnership.

25 (c) The application for withdrawal must be in the form and manner designated
26 by the department and shall be signed on behalf of the foreign limited liability
27 partnership by a partner authorized to execute the application for withdrawal.

28 Sec. 32.05.790. CONDUCTING AFFAIRS WITHOUT REGISTRATION. (a)
29 A foreign limited liability partnership conducting affairs in this state may not maintain
30 an action or other proceeding in a court of this state until it has registered in this state.

31 (b) A foreign limited liability partnership that conducts affairs in this state

1 without registration is subject to a civil penalty payable to the state not to exceed
2 \$10,000 for each calendar year, including a partial year, that the partnership conducts
3 affairs in this state without being registered under this chapter. The civil penalty
4 imposed may be recovered in an action brought in the superior court by the attorney
5 general.

6 (c) The failure of a foreign limited liability partnership to register in this state
7 does not

8 (1) impair the validity of a contract or act of the partnership;

9 (2) affect the right of another party to a contract of the partnership to
10 maintain a suit or proceeding on the contract; or

11 (3) prevent the partnership from defending an action or other
12 proceeding in a court of this state.

13 Sec. 32.05.800. TRANSACTIONS NOT CONSTITUTING CONDUCTING
14 AFFAIRS. The activities of a foreign limited liability partnership that are not
15 considered to be conducting affairs in this state for the purposes of AS 32.05.720
16 include

17 (1) maintaining, defending, or settling a court action or other
18 proceeding or claim;

19 (2) holding partnership meetings in this state;

20 (3) maintaining bank accounts;

21 (4) selling through independent contractors;

22 (5) soliciting or procuring orders by mail, through employees, agents,
23 or other persons if the orders require acceptance outside the state before becoming
24 binding contracts;

25 (6) creating as borrower or lender, or acquiring, indebtedness or
26 mortgages or other security interests in real or personal property;

27 (7) securing or collecting debts, or enforcing rights in property securing
28 debts;

29 (8) conducting an isolated transaction that is completed within 30 days
30 and that is not part of a course of repeated transactions of a similar nature; or

31 (9) conducting affairs in interstate commerce.

1 Sec. 32.05.810. EXECUTION OF DOCUMENTS. A registration document
2 filed under AS 32.05.510 or a biennial report filed under AS 32.05.670 shall be
3 executed by a partner authorized to execute the registration document or biennial
4 report.

5 Sec. 32.05.820. SUBMISSION OF DOCUMENTS TO THE DEPARTMENT.
6 When a document is required or allowed to be delivered to or filed with the
7 department under AS 32.05.500 - 32.05.860, the person delivering the document shall
8 deliver to the department the required fee, the original signed document, and an exact
9 copy of the document.

10 Sec. 32.05.830. FILING OF DOCUMENTS BY THE DEPARTMENT. (a)
11 If the department determines that a document filed under AS 32.05.500 - 32.05.860
12 conforms to the filing requirements of AS 32.05.500 - 32.05.860, the department shall

13 (1) mark on the original signed document and on the exact copy the
14 word "filed" and the date of the document's acceptance for filing;

15 (2) retain the exact copy in the department's files; and

16 (3) return the original signed document to the person who filed the
17 document or to that person's representative.

18 (b) The department may not file a document that does not meet the
19 requirements of this section.

20 Sec. 32.05.840. DISAPPROVAL OF WRITING BY DEPARTMENT;
21 APPEAL. If the department fails to approve applications for registration, amendment,
22 cancellation, or withdrawal, or another document required by AS 32.05.500 - 32.05.860
23 to be approved by the department, the department shall, within 10 days after the
24 delivery of the document to the department, give written notice of disapproval to the
25 person delivering the document. The notice must specify the reasons for disapproval.
26 The person may appeal the disapproval to the superior court.

27 Sec. 32.05.850. FILING AND OTHER FEES. The department shall charge
28 fees established by the department by regulation for the following under AS 32.05.500
29 - 32.05.860:

30 (1) filing applications for registration;

31 (2) filing amendments to registration;

- 1 (3) filing applications for cancellation or withdrawal;
- 2 (4) issuing a document not otherwise covered by this section;
- 3 (5) furnishing a copy of a document;
- 4 (6) accepting an application for reservation or registration of a name;
- 5 (7) filing a statement of change of registered agent or registered office;
- 6 (8) accepting service of a process, notice, or demand upon the
- 7 department;
- 8 (9) filing another document allowed or required under this chapter.

9 Sec. 32.05.860. DEPARTMENT FORMS. The department may provide forms
10 for filing documents under AS 32.05.500 - 32.05.850.

11 * Sec. 13. ADOPTION OF REGULATIONS. The department of Commerce and Economic
12 Development may adopt regulations to implement AS 32.05.660(b)(1), added by sec. 12 of
13 this Act. The regulations take effect under AS 44.62, but not before the effective date of
14 AS 32.05.660.

15 * Sec. 14. A foreign limited liability partnership conducting affairs in this state shall
16 comply with AS 32.05.730(a), added by sec. 12 of this Act, on or before 30 days after the
17 effective date of sec. 12 of this Act.

18 * Sec. 15. Section 13 of this Act takes effect immediately under AS 01.10.070(c).

19 * Sec. 16. Sections 1 - 12 and 14 of this Act take effect January 1, 1997.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH 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

April 2, 1996

SUBJECT: Bill relating to partnerships (Work Order No. 9-LS1833\A)

TO: Representative Brian Porter
Attn: Tom Meyer

FROM: *TB*
Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

In the bill under sec. 32.05.790, a foreign limited liability partnership conducting affairs in the state may not maintain a court action until it has registered in the state. Domestic limited liability partnerships do not have the same prohibition if they don't register. Since access to the courts would seem to be an important right, there may be an equal protection issue with only penalizing foreign limited liability partnerships in this manner for failing to register. I do not know whether this is a significant problem, but I wanted to alert you to the possibility. For your information, in the corporation code, AS 10.06.848 bars domestic corporations from using the courts if they haven't filed their biennial report or paid the biennial tax and AS 10.06.713 bars foreign corporations (doing business in the state) from using the courts without a certificate of authority. With regard to limited liability companies, foreign limited liability companies are similarly prohibited from maintaining court actions in this state under AS 10.50.675, but there does not appear to be a corresponding provision for domestic limited liability companies.

If I may be of further assistance, please advise.

TLB:klb
96-248.klb

Enclosure

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

1907) 465-3867 or 465-2450
FAX 1907) 465-2039
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2103

MEMORANDUM

April 27, 1995

SUBJECT: Draft of bill relating to partnerships (Work Order No. 9-LS1125A)

TO: Senator Tim Kelly, Chair
Senate Labor and Commerce Committee
Attn: Josh

FROM: Theresa Bannister *TB*
Legislative Counsel

This memo accompanies a draft of the bill that you requested relating to partnerships.

1. You may wish to consider defining "limited liability partnership" for the provision in sec. 32.05.600(a) that requires a foreign limited liability partnership to indicate the jurisdiction where it is formed and registered as that type of partnership. The chapter does not include a definition of "limited liability partnership." What will determine if the partnership is formed and registered as a limited liability partnership in another state? What it is called in the other state? Certain features similar to that type of partnership in this state?
2. The definition of person in AS 32.05.420 has been repealed. It is unnecessary because "person" is defined very broadly for all the statutes in AS 01.10.060.

If I may be of further assistance, please advise.

TLB:glc:pl
95-306.glc

Attachment

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 7, 1996

SUBJECT: Draft CSSB 186(L&C) (Work Order 9-LS1125\F)

TO: Senator Tim Kelly
Attn: Sherman Ernouf

FROM: *TB*
Theresa Bannister
Legislative Counsel

This memo accompanies the draft committee substitute that you requested for SB 186.

In the draft under sec. 32.05.790, a foreign limited liability partnership conducting affairs in the state may not maintain a court action until it has registered in the state. Domestic limited liability partnerships do not have the same prohibition if they don't register. Since access to the courts would seem to be an important right, there may be an equal protection issue with only penalizing foreign limited liability partnerships in this manner for failing to register. I do not know whether this is a significant problem, but I wanted to alert you to the possibility. For your information, in the corporation code, AS 10.06.848 bars domestic corporations from using the courts if they haven't filed their biennial report or paid the biennial tax and AS 10.06.713 bars foreign corporations (doing business in the state) from using the courts without a certificate of authority. With regard to limited liability companies, foreign limited liability companies are similarly prohibited from maintaining court actions in this state under AS 10.50.675, but there does not appear to be a corresponding provision for domestic limited liability companies.

If I may be of further assistance, please advise.

TLB:klb:glc
96-170.klb

Enclosure

**PRESENTATION TO THE SENATE LABOR AND COMMERCE
COMMITTEE ON SENATE BILL 186**

MISTER CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS PETER DENN AND I AM AN ALASKAN CPA, HAVING LIVED AND WORKED IN THE STATE FOR THE LAST 22 YEARS. I AM THE MANAGING PARTNER OF THE ALASKA PRACTICE FOR DELOITTE & TOUCHE, WHICH NOW EMPLOYS APPROXIMATELY 50 ALASKANS, AND I AM HERE TODAY AS A MEMBER OF AND BEHALF OF THE ALASKA SOCIETY OF CPA'S. I GREATLY APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY TO SPEAK IN FAVOR OF SB 186, THE PROPOSED REGISTERED LIMITED LIABILITY PARTNERSHIP LAW.

BEFORE I TALK ABOUT THE BILL, I WOULD LIKE TO THANK YOU, SENATOR KELLY, THE MEMBERS OF YOUR COMMITTEE AND YOUR STAFF FOR YOUR PATIENCE OVER THE LAST YEAR. WE HAVE WORKED CLOSELY WITH THE ALASKA BANKERS, ESPECIALLY JOE SCHIERHORN AND JOHN BEARD, TO ARRIVE AT CONSENSUS BEFORE TODAY'S MEETING AND I BELIEVE YOU HAVE THE RESULTS OF THAT EFFORT BEFORE YOU.

I WOULD LIKE TO POINT OUT THAT I AM NOT AN ATTORNEY THOUGH TODAY I AM ADDRESSING LEGAL FORMS OF ORGANIZATION. I BELIEVE, AS A

BUSINESSMAN, THAT THE LLP WILL BENEFIT SMALL AND GROWING BUSINESSES IN ALASKA AND ENHANCE OUR BUSINESS FRIENDLY ENVIRONMENT.

SELECTING THE FORM IN WHICH TO OPERATE IS ONE OF THE MOST SIGNIFICANT DECISIONS A CLIENT STARTING A BUSINESS, OR CONTINUING AN EXISTING ONE, WILL HAVE TO MAKE WITH RESPECT TO THAT BUSINESS.

THE CHOICE OF ENTITY WILL HAVE BROAD IMPLICATIONS. IT WILL AFFECT HOW THE BUSINESS IS CONDUCTED, THE PERSONAL AFFAIRS OF ITS OWNERS, AND EVEN IMPACT ON THE BUSINESSES' EMPLOYEES. TO CONTINUE TO ATTRACT AND RETAIN BUSINESSES, IT IS IMPORTANT THAT BUSINESSES HAVE, AND ALASKA PROVIDES, A FULL CHOICE OF FORMS IN WHICH BUSINESSES MAY OPERATE.

THE LIMITED LIABILITY PARTNERSHIP (OR LLP) IS A NEW TYPE OF GENERAL PARTNERSHIP THAT IS BEGINNING TO SWEEP THE NATION. THIRTY-EIGHT (38) STATES AND THE DISTRICT OF COLUMBIA HAVE ALREADY ADOPTED LLP LEGISLATION. TWELVE (12) ADDITIONAL STATES, NOW INCLUDING ALASKA, ARE CONSIDERING LLP LEGISLATION IN 1996.

THE LLP FORM IS APPEALING TO LOTS OF PARTNERSHIPS, BUT PARTICULARLY TO THE SEGMENT OF THE ECONOMY THAT IS GROWING THE FASTEST -- SMALL

BUSINESSES AND START-UP VENTURES. THIS IS BECAUSE IT HAS LOW START-UP COSTS, IS FLEXIBLE, AND RELATIVELY EASY TO OPERATE.

LLP'S PROVIDE A FLEXIBLE FORM OF ORGANIZATION FOR SMALL BUSINESSES THAT HELPS THEM OBTAIN PARITY WITH LARGER, BETTER CAPITALIZED ORGANIZATIONS WHICH CAN AFFORD THE ANCILLARY BENEFITS OF MORE COMPLICATED BUSINESS ORGANIZATIONS. AT THE SAME TIME, THE LIMITED LIABILITY PARTNERSHIP RETAINS MANY OF THE POSITIVE ATTRIBUTES OF A GENERAL PARTNERSHIP.

FIRST, IT IS SIMPLE TO FORM.

SECOND, IT IS SIMPLE TO OPERATE – UNLIKE GENERAL CORPORATIONS, THERE ARE NO REQUIRED ARTICLES OF INCORPORATION BY-LAWS, BOARD OF DIRECTORS MEETINGS, ETC.

THIRD, IT IS TAXED LIKE A PARTNERSHIP -- MEANING THAT THE TAX LIABILITY FLOWS THROUGH DIRECTLY TO THE LLP'S PARTNERS.

↓
Similar
to a
Sub-S

THE LIMITED LIABILITY PARTNERSHIP ALSO HAS ONE OF THE POSITIVE ATTRIBUTES OF MORE COMPLICATED BUSINESS FORMS – PARTIAL LIMITED LIABILITY.

INDIVIDUAL PARTNERS IN AN LLP ARE NOT PERSONALLY LIABLE FOR THE DEBTS AND OBLIGATIONS OF THE LLP ARISING OUT OF ERRORS, OMISSIONS, NEGLIGENCE, INCOMPETENCE, OR MALFEASANCE COMMITTED IN THE COURSE OF THE PARTNERSHIP BUSINESS BY ANOTHER PARTNER OR REPRESENTATIVES OF THE PARTNERSHIP NOT WORKING UNDER THEIR DIRECTION OR SUPERVISION.

PLEASE NOTE THAT ALL PARTNERS CONTINUE TO BE PERSONALLY LIABLE FOR THEIR OWN ACTS AND OMISSIONS AND THE ACTS AND OMISSIONS OF PERSONS OVER WHOM THEY HAVE CONTROL. ALL PARTNERS ALSO CONTINUE TO BE PERSONALLY LIABLE FOR ALL OTHER DEBTS AND OBLIGATIONS OF THE PARTNERSHIP.

THE LLP ITSELF REMAINS LIABLE FOR ALL OF THE ACTIONS OF ITS OWNERS AND EMPLOYEES AND THE LLP OWNERS REMAIN PERSONALLY LIABLE FOR THEIR OWN ACTIONS AND THE ACTIONS OF THOSE UNDER THEIR CONTROL. BUT, BEYOND ANY INVESTMENTS IN THE LLP ITSELF, THE PERSONAL ASSETS OF THE OWNERS AND THEIR FAMILIES NEED NOT BE SACRIFICED TO PAY JUDGMENTS ARISING FROM EVENTS OR ACTIONS OVER WHICH THEY HAVE NO CONTROL.

WHILE THE OTHER FORMS OF ORGANIZATION, SUCH AS CORPORATIONS, PROFESSIONAL CORPORATIONS, AND LIMITED PARTNERSHIPS, PROVIDE FAR MORE COMPREHENSIVE PROTECTION FOR THE PERSONAL ASSETS OF A BUSINESS OWNER AND GENERALLY PROTECT OWNERS FROM ANY ACTION AGAINST THE ENTITY, THEY ALSO CARRY WITH THEM SIGNIFICANT COSTS AND REQUIRE A LEVEL OF SOPHISTICATED TO SET UP AND OPERATE.

CONSEQUENTLY, THE LIMITED LIABILITY PARTNERSHIP SHOULD APPEAL TO THE TYPES OF BUSINESSES TODAY THAT ARE OPERATING AS PARTNERSHIPS AND THAT CAN NOT AFFORD OR DO NOT HAVE THE TIME TO DEAL WITH STATUTORY AND REGULATORY REQUIREMENTS OF QUALIFYING AND OPERATING AS THESE OTHER BUSINESS FORMS.

FROM ALASKA'S PERSPECTIVE, IT WILL BE A TREMENDOUS ADVANTAGE TO OFFER BUSINESS THE LLP FORM FOR THE FOLLOWING REASONS:

THE LLP IS BUSINESS DEVELOPMENT ORIENTED. STATES AT THE FOREFRONT OF ECONOMIC DEVELOPMENT ARE THERE BECAUSE THEY OFFER AN EXPANSIVE MENU OF ORGANIZATIONAL ALTERNATIVES FOR DOING BUSINESS. THEY ENABLE THE BUSINESSES IN THEIR STATES TO BE COMPETITIVE WITH BUSINESSES FROM OTHER STATES AND ABROAD BY ENABLING THEM TO USE THE BUSINESS FORM MOST SUITABLE TO THEIR BUSINESS SITUATION.

ENACTMENT OF LLP LEGISLATION IS CONSISTENT WITH PUBLIC POLICY POSITIONS ALREADY ADOPTED BY THE STATE. LIKE ANY BUSINESS FORM, THE PARTNERS IN AN LLP ALWAYS REMAIN RESPONSIBLE FOR THEIR OWN ACTIONS, AND THE PARTNERSHIP REMAINS RESPONSIBLE FOR THE ACTIONS TAKEN ON ITS BEHALF BY EMPLOYEES OR PARTNERS.

ADOPTION OF A LIMITED LIABILITY PARTNERSHIP LAW WILL PROVIDE A FAVORABLE BUSINESS CLIMATE -- AND WILL ESPECIALLY BENEFIT THAT PORTION OF THE ECONOMY THAT HAS THE POTENTIAL TO GROW THE FASTEST, SMALL BUSINESSES AND START-UP VENTURES.

A LLP LAW WILL ENABLE ALASKA TO MAKE AVAILABLE AN ORGANIZATION FORM AVAILABLE TO 4/5 OF THE NATION AND ALLOW BUSINESSES THAT ARE RESIDENT HERE TO BETTER COMPETE WITH OUT-OF-STATE FIRMS.

FOR THESE REASONS, WE URGE YOU TO ADOPT THIS LEGISLATION.

THANK YOU OR ALLOWING ME TO APPEAR HERE. IF YOU HAVE ANY QUESTIONS, I WILL BE HAPPY TO TRY TO ANSWER THEM.

HCR

30

Alaska State Legislature

WHILE IN SESSION
CAPITOL BUILDING
JUNEAU, ALASKA 99801-1182
(907) 465-4931
1-800-870-4931
(907) 465-4316 FAX

INTERIM ADDRESS
716 WEST 4TH AVENUE
ANCHORAGE, ALASKA 99501
(907) 258-8198
(907) 258-6171 FAX



CO-CHAIR, RESOURCES COMMITTEE
VICE CHAIR, JUDICIARY COMMITTEE
MEMBER, STATE AFFAIRS COMMITTEE

FINANCE SUBCOMMITTEES
DEPT. OF NATURAL RESOURCES
DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
DEPT. OF ENVIRONMENTAL CONSERVATION

Representative Joe Green

District 10

SPONSOR STATEMENT

HCR 30 - Student Rights

House Concurrent Resolution 30 was introduced to send a strong message to students, parents and schools that education and school safety are top priorities with the 19th Legislature. Children are one of the state's most valuable resources for the future economic and social well-being of our state. We, as elected leaders have the responsibility to safeguard their future to the best of our ability.

Education should be the key concern of a parent sending a child to school, yet the issue of safety has surpassed this concern. In 1940, the major problems in public schools identified by teachers were talking out of turn, chewing gum, making noise in the classroom, running in the halls, cutting in line, littering, and disobeying the dress code. Educators now consider the top problems to be assaults by students on teachers and other students, weapons in school, racial or ethnic attacks, gang disruptions, shootings, knifings, and drive-by shootings. While schools should be a safe haven for learning, many students are burdened with intimidation and fear of violence.

This resolution declares that our children have a right to be provided with a safe, orderly, and drug free environment in which they can learn, and that they have a right to high academic standards in order to prepare them to meet the challenges they will encounter in the future. Our present system, programs, and attitudes need to be changed. The conditions that allow students to become disenfranchised need to be identified and reworked. With the cooperation of parents, educators, and elected officials, we can all work together to provide our children the quality they will need and education they deserve.



Anchorage School District

April 1, 1996

4600 DeBarr Road
P. O. Box 196614
Anchorage, Alaska 99519-6614
(907) 333-9561

Dear Representative Green:

SCHOOL BOARD

Faggy Robinson-Wilson
President

Lorraine M. Ferrell
Vice President

Harold A. Drummond
Clerk

Patti Higgins
Treasurer

Kathi Gillospie

Kelly Haney

Debbie Ostrander
Past President

SUPERINTENDENT

Bob Christal

The Anchorage School District supports HCR 30, and offers as evidence of our support, the attached ASD Statement of Rights and Responsibilities and Anchorage School Board Resolutions:

- ASD STATEMENT OF RIGHTS AND RESPONSIBILITIES
- RESOLUTION URGING STAFF, STUDENTS, PARENTS AND THE ANCHORAGE COMMUNITY TO JOIN IN CONDEMNING AND REJECTING RACISM, HARASSMENT, RELIGIOUS BIGOTRY AND ANTI-SEMITIC ATTACKS
- RESOLUTION IN SUPPORT OF SAFE SCHOOLS FOR ALL STUDENTS AND EMPLOYEES.

Please feel free to adopt any of the components of these into your HCR 30 as you deem appropriate.

Sincerely,

Larry Wiget
Larry Wiget, Director
Government Relations

Anchorage School Board Resolutions

A Resolution Urging Staff, Students, Parents, and the Anchorage Community

To Join In Condemning and Rejecting Racism, Harassment, Religious Bigotry and Anti-Semitic Attacks

Whereas, students within the Anchorage School District have experienced an increase in racial incidents and mail expressing racism, anti-semitism and religious bigotry; and

Whereas, children within the Anchorage School District are coming increasingly into contact with students allied with various hate groups; and

Whereas, recent vandalism and harassment has had both racial and sexual overtones; and

Whereas, such behavior is unacceptable in a sound educational environment that is built on the premise that every student must be nurtured with respect for gender, ethnic, and religious diversity to support a healthy society; and

Whereas, the Anchorage School District prepares students to join our community rich in ideas and accomplishments attained through a tradition of shared learning, creativity and effort.

Therefore Be It Resolved, that the Anchorage School Board:

1. Urges the students, staff, parents and all citizens of Anchorage to join us in condemning and repelling this bigotry, and in standing up for the principles and practices of equity, freedom, tolerance, compassion and responsibility that safeguard against such practices.
2. Wishes to send a clear message that actions which violate a student's right to good self-esteem and quality education, and which inhibit respect for every human being are contrary to our educational values and will not be tolerated; and
3. Urges Anchorage School District staff, parents, government agencies, other education, religious and service groups to strengthen their educational efforts to address this problem.

A Resolution in Support of Safe Schools For All Students and Employees

Whereas, students and employees have a right to attend and work in schools without fear of violence to themselves or others;

Whereas, safe schools enhance the learning environment, necessary for quality schools, which are essential to a successful democracy;

Whereas, the causes for violence are multiple: chronic poverty, the lack of role models, the disintegration of families, and a popular culture that seems to glorify violence;

Whereas, a major Louis Harris poll about American youth reports that 1 in 25 students have taken a firearm to school, and many know where to get a firearm;

Whereas, this increases the potential for violence in our schools;

Now Therefore Be It Resolved, that the Anchorage School Board:

- establish and promote activities to encourage a closer home-school relationship designed to focus positive support and to promote success of all students and to promote a safe school environment;
- encourage local school efforts to promote positive working relationships between the local school parent groups(s), the employees, the community at large, and the students to establish a safe school plan at each local school;
- continue a zero tolerance towards weapons and violence in schools;
- continue policies and procedures that prohibit possession or use of weapons, or the commission of violent acts by any one in the school setting;
- develop policies and procedures for the appropriate training of school district employees in dealing with these issues;
- adopt policies and procedures related to the safety of students, parents, and employees in the school setting that are clearly communicated to staff and the community;
- assess periodically the state of school decorum and report it to school employees, students, parents, and the community at large.

ASSOCIATION OF ALASKA SCHOOL BOARDS

316 West 11th Street, Juneau, Alaska 99801-1510 • Tel. (907) 686-1033 • Fax (907) 588-2995

Advocates for Alaska's Youth

March 13, 1996



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Barbara Nageak

DELTA WEST ARCTIC

Barbara Bahr

DELTA

Barbara Kaenyulia

EXECUTIVE

DIRECTOR

Carl F. N. Rose

Representative Joe Green
State House District #10
State Capitol Building
Juneau, AK 99801

Dear Representative Green:

Thank you for sponsoring a House Resolution which speaks to the rights of Alaska's public school students.

The Association of Alaska School Boards (AASB) agrees with the tenets of this resolution. Education is a key component to teaching our children to be responsible members and positive forces in the Alaskan community and economy.

Today's societal problems are being carried into our schools. Because of this, AASB has established child advocacy as one of our top priorities. Our mission to promote parental, public, and social service commitment to the shared responsibility of educating all children empowers us to address issues that deal with the health and safety of Alaska's children.

During the 1995 AASB Annual Conference our membership adopted several resolutions which recommend giving local boards the tools to reduce violence and keep our kids free of tobacco and other harmful and addictive drugs. We ask for the tools to provide our students a top quality education which will prepare them for the challenges of tomorrow. We ask for the tools that are necessary to build community wide support for the shared responsibility of educating all of Alaska's children.

AASB supports resolutions which guarantee our children the right to a "world class" education. Thank you for your commitment to the education and well-being of Alaska's children.

Sincerely,

Carl F. N. Rose

12825 Lindsey Circle
Anchorage, Alaska 99516
March 17, 1996

Representative Joe Green
State Capitol, Room 24
Juneau, Alaska 99801

Dear Representative Green:

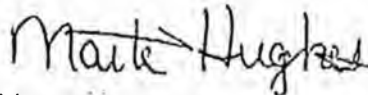
As a parent of two teenagers, I thank you for introducing House Concurrent Resolution No. HCR 30 relating to the rights of public school students. How unfortunate it is that we must take steps to insure the rights of our children in the public schools, but your resolution is indeed timely and necessary.

HCR 30 focuses on several areas that I have great concerns for: safe schools; clearly written, fair and consistent enforcement of discipline policies; the right for students to be treated by school staff members in the same manner the staff members wish students to treat them; high academic standards; and teachers knowledgeable of the subject matter they teach.

I trust this resolution will pass from Committee without hesitation and look forward to seeing it pass in the House in the immediate future.

Please let me know if there is anything I can do to help.

Sincerely,



Marti Hughes
(345-8337)

Kathleen Gillespie
2741 Seafarer Loop
Anchorage, Alaska 99516
Phone 345-5335 / FAX 345-9891

To: The Members of the House HESS Committee
Date: March 19, 1996
RE: HCR 30

I support the adoption of HCR 30 as a statement of support for the students in our schools. In many instances, the rights of students to an environment free of fear and intimidation and based on the respect of all members of the school community is not emphasized as it should be. There are a lot of good kids in our schools who need our support and our recognition of their rights to a quality education. I hope you will pass this resolution.

FISCAL NOTE

STATE OF ALASKA

BILL NO. HCR 30

1996 LEGISLATIVE SESSION

Revision Date: _____

Department Affected: Education

Title: Student Rights

BRU: Executive Administration

Component: Commissioner's Office

Sponsor: Representative Joe Green

Requester: House HESS

COMPONENT SERIAL NO. 185

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ 0.0

ANALYSIS:

Prepared by: Kimberly Homme, Special Assistant

Phone: 465-2803

Division: Commissioner's Office

Date: March 18, 1996

Approved by Commissioner: *Richard S. Cross*

Richard S. Cross, Deputy Commissioner

Agency: Education

Date: March 18, 1996

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CS FOR HOUSE CONCURRENT RESOLUTION NO. 30(JUD)**IN THE LEGISLATURE OF THE STATE OF ALASKA****NINETEENTH LEGISLATURE - SECOND SESSION****BY THE HOUSE JUDICIARY COMMITTEE****Offered:****Referred:****Sponsor(s): REPRESENTATIVE GREEN****A RESOLUTION****1 Relating to rights and responsibilities of public school students.****2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:****3 WHEREAS** the State of Alaska spends 2.6 times the national average on public
4 education spending per capita; and**5 WHEREAS** education is a key component in teaching our children to be responsible,
6 productive adults; and**7 WHEREAS** a well-educated workforce is necessary for the continued growth of
8 Alaska's economy; and**9 WHEREAS** Alaska students' efforts to achieve academic excellence are increasingly
10 hampered by, among other things, violent and chronically disruptive behavior in the classroom
11 and on campus, a lack of funding directed to basic academics, and instructors who need more
12 training and support;**13 BE IT RESOLVED** that the Alaska State Legislature encourages all school districts
14 in Alaska to develop and adopt operating guidelines and procedures relating to student rights
15 and responsibilities, including student behavior, treatment, and discipline; in developing
16 operating guidelines and procedures, school districts should consider:**17 (1) ways to maintain schools that are safe, orderly, and drug free;**

- 1 (2) ways to develop clear discipline codes with fair and consistently enforced
2 consequences for misbehavior;
- 3 (3) ways to make resources available to encourage and maintain a physically
4 and mentally healthy lifestyle;
- 5 (4) ways to create and maintain a learning environment that is free of violent
6 and chronically disruptive behavior;
- 7 (5) ways to develop and encourage courtesy and mutual respect among
8 students, teachers, and staff;
- 9 (6) ways to create and maintain classrooms with clearly stated and rigorous
10 academic standards;
- 11 (7) ways to equip and maintain classrooms with all instructional materials
12 needed to carry out a rigorous academic program;
- 13 (8) ways to employ, nurture, and keep teachers who know their subject matter
14 and how to teach it;
- 15 (9) ways to create a learning environment in schools and classrooms where
16 high grades stand for high achievement and promotion is earned;
- 17 (10) ways to create and maintain schools where the award of a high school
18 diploma communicates that the student has the knowledge and skills essential for college or
19 a good job; and
- 20 (11) ways to generate and maintain the support of parents, the community,
21 public officials, and business in a mutual effort to uphold high standards of conduct and
22 achievement.

HJR

1

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 6, 1995

Hon. Brian Porter, Chair
House Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, AK 99801-1182

RECEIVED

MAR - 6 1995

Re: HJR 1

Rep. Brian Porter

Dear Representative Porter:

HJR 1 has been scheduled for review by the House Judiciary Committee. This letter is to express the Department of Law's opposition to HJR 1.

HJR 1 is a resolution to place before the voters for the fourth time in 15 years an amendment to the Constitution of the State of Alaska to allow repeal of regulations by resolution of the legislature. If passed by the voters, the amendment would create a new section 22 in Article II of our state constitution to allow the legislature, by joint resolution, to repeal a regulation adopted by a state department or agency. The resolution would not be subject to the review, and possible veto, of the governor.

The Department of Law opposes the resolution for the following reasons:

1. Under existing law, the legislature has substantial power to guide or limit the adoption of regulations. Initially, the legislature can pass tight statutes that clearly define the executive branch's rule-making authority. The Administrative Procedure Act requires that a regulation must be consistent with the statute. See AS 44.62.030. The Department of Law makes a legal review for consistency before a regulation is filed by the Office of the Lieutenant Governor. After an

executive-branch regulation is adopted, if the legislature believes that the regulation is not consistent with the enabling statute, the legislature can amend the statute to clarify its intent. The current system provides the legislature with the power to guide regulation formation.

2. Allowing the legislature to repeal a regulation by resolution would mean a major change in the way law is developed in this state. Regulations have the force of law. Repealing regulations changes law. Our constitution presently grants the power to the legislature to change law by passing a bill, which is then subject to the governor's review and possible veto. Because the governor cannot veto a resolution, allowing repeal of regulations by resolution would allow the legislature to change law without that action being subject to the governor's review. This is an important change in our constitution's system of checks and balances between the legislative and executive branches.

3. By repealing a regulation by resolution, the legislature would not be providing policy guidance or direction that is appropriate to the legislature's law-making function. In other words, the resolution would tell the executive branch that the regulation was unacceptable, but not what is acceptable. The state agency would have to guess again and spend state money to develop a new regulation, which might not be on the "right track." By using a bill, the legislature could change statutes to give clearer policy direction to the executive branch.

4. The Administrative Procedure Act allows legislators, as well as the general public, to comment on any new regulation proposed. The executive branch considers comments in the development of regulations. In this way, the legislature and the public have input into the regulation-adoption process.

5. The voters of Alaska have voted down this type of constitutional amendment three times in the last 15 years. We assume that the public means what its votes have indicated, and that the public prefers the status quo on checks and balances in the development and enforcement of regulations.

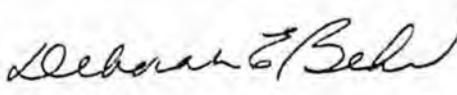
Hon. Brian Porter, Chair
House Judiciary Committee

March 6, 1995
Page 3

If you have additional questions, please let me know.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Representative Gail Phillips
Speaker of the House
State Capitol, Room 208

Representative Tom Brice
Alaska House of Representatives
State Capitol, Room 426

Bruce M. Botelho, Attorney General
Barbara J. Ritchie, Deputy Attorney General

Pat Pourchot, Legislative Administrator
Office of the Governor

FISCAL NOTE

J. 2

Bill Version: HJR 1

(H) Publish Date: 3/1/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____	Dept. Affected: <u>Department of Law</u>
Title: <u>"...relating to repeal of regulations by the legislature..."</u>	BRU: <u>Legal Services</u>
Sponsor: <u>Representative Phillips</u>	Component: <u>Operations</u>
Requester: <u>House State Affairs</u>	COMPONENT SERIAL NO. <u>0093</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

House Joint Resolution No. 1 proposes an amendment to the Constitution of the State of Alaska that would give the legislature the power to repeal a regulation adopted by a state department or agency by joint resolution of the legislature. If the amendment is adopted in the 1996 general election, it will probably not have a direct immediate fiscal impact on the department's operations. The department is statutorily responsible for reviewing all regulations for legality and form to insure consistency with the appropriate enabling legislation. The department also drafts regulations on behalf of some departments and assists other departments in drafting regulations that deal with highly complex matters requiring the attention of an attorney. Obviously, some of the time spent in these efforts will have been lost whenever a regulation has been annulled. Larger departments which have the responsibility for carrying out major state programs, and who routinely draft numerous program operating regulations inhouse, will probably experience an even greater loss of staff time. More importantly, the absence of statutorily mandated regulations, which would occur after annulment, could result in litigation from an adversely impacted industry, public interest group, or a member of the public claiming damages due to the

Prepared by: <u>Richard I. Peques, Director</u>	Phone: <u>465-3672</u>
Division: <u>Administrative Services Division</u>	Date: <u>2/13/95</u>
Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>2/13/95</u>
Agency: <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HJR 1

ANALYSIS CONTINUATION:

absence of required regulations. The impact of such litigation cannot, in this case, be estimated in advance and therefore no cost impact can be shown.

No. 1

Bill Version: HJR 1

(H) Publish Date: 3/1/95

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: Amendment to the Constitution RE:
Repeal of regulations by legislators.
Sponsor: Senator Phillips
Requester: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: General and Primary Elections
COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	2.2*	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	2.2*	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1008 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	2.2*	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 (FY95) impact: 0

ANALYSIS: (Attach a separate page if necessary.) *This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be \$3.4.

Prepared by: David Koivumäki, Acting Director Phone: 463-4611
Division: Division of Elections Date: 2-22-95

Approved by Commissioner: Lt. Governor Fran Ulmer Date: _____
Agency: Office of the Lt. Governor

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Rev 12/93

Page 1 of 1

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3/1/95

HOUSE COMMITTEE REPORT

(7)
Date Referred: January 16, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: Feb 28, 1995

The STATE AFFAIRS Committee considered:

HJR 1

HOUSE JOINT RESOLUTION NO. 1

REPEAL OF REGULATIONS BY LEGISLATURE

Proposing an amendment to the Constitution of the State of Alaska relating to repeal of regulations by the legislature.

recommends it be replaced with the following committee substitute _____ [] the same title [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[x] fiscal note(s) Div of Elections

[] fiscal note(s) _____

[x] zero fiscal note(s) Dept of Law

[] zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Jeanette James</i>	JAMES	✓			
<i>James Porter</i>	PORTER	✓			
<i>Joseph Green</i>	GREEN	✓			
<i>Green Robinson</i>	ROBINSON			✓	
<i>Ed Willis</i>	WILLIS			✓	
		(3)		(2)	

CHAIR'S SIGNATURE *Jeanette James*
JAMES