

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11227 SENATE LABOR & COMMERCE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB82

ANALYSIS CONTINUATION

The bill introduces an exemption for the first 3,000 gallons of taxable wine per taxpayer, per calendar year.

The exemption is worth \$7,500 to a taxpayer selling or producing 3,000 gallons or more per year. Past experience indicates that large taxpayers may exploit the exemption by splitting themselves into multiple "taxpayers," each with its own 3,000 gallon exemption. The department recommends the following language be added to the bill in order to prevent this activity:

New section 43.60.010(d):

(d) For purposes of the threshold for taxable wine under (a)(3) of this section, two or more taxpayers who have a relationship, as that term is defined under 26 U.S.C. 267(b), shall be treated as a single taxpayer.

This revision, to prevent such activity, would reduce the estimated revenue loss to the state by \$29,000 in FY2004 and by \$14,000 in FY2005 and beyond. The new estimates of the revenue loss would be:

FY2004 - \$66,600

FY2005 - \$36,600

ALASKA STATE LEGISLATURE



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Alaska State Capitol
Juneau, AK 99801-1182
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(907) 486-4925
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Senator Gary Stevens

SPONSOR STATEMENT-SB 82

SB 82, "An Act relating to the state alcoholic beverage tax for certain wine and other beverages."

SB 82 replaces the Federal yearly sales eligibility excise tax limit of 100,000 gallons a year (basis used in HB 225 passed by the 22nd Alaska Legislature) with 3,000 gallons a year. This reduction decreases the impact on state revenues while stimulating and supporting small Alaskan wineries. This burgeoning Alaska industry needs support to prosper and contribute to the states changing economy; SB 82 is one means of assisting them. I urge your support for this measure.

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 4, 2003

SUBJECT: Alcoholic Beverage Tax; Sectional Summary (SB 82)

TO: Senator Gary Stevens
Attn: Doug Letch

FROM: Tamara Brandt Cook *TBC*
Director

Sec. 1. Exempts from the state tax on alcoholic beverages, wine or other beverages of 21 percent alcohol by volume or less, other than malt beverages and cider, on amounts sold in or consigned for shipment into the state that do not exceed 3000 gallons a year.

TBC:med
03-239.med

[Fwd: Attn: Doug]

Support

Subject: [Fwd: Attn: Doug]
Date: Wed, 12 Feb 2003 17:48:28 -0900
From: Representative Gary Stevens <Representative_Gary_Stevens@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Doug Letch <Doug_Letch@legis.state.ak.us>

Subject: Attn: Doug
Date: Wed, 12 Feb 2003 13:32:05 -0800
From: "Jeanette Menaker" <menak@wytbear.com>
To: <Representative_Gary_Stevens@legis.state.ak.us>

Sir:

My wife and I are part of a seriously beleaguered group of Alaskans, the small business person struggling to make a living in a world that has become increasingly unfriendly to the entrepreneur. We are trying to establish a business that will use wholly renewable resources to product a uniquely Alaskan product that leaves such a small foot print on the environment of Alaska as to not even be noticed. Great Land Wines, Ltd. of Haines is beginning its 4th year of operation. We are gaining recognition and interest in our State as well as in the lower 48. We were awarded a medal in the Indy International Wine competition last summer.

However, when the legislature passed the new liquor tax law last year it seriously impacted our ability to be successful. The law is aimed at hard liquor sales in the state. Microbreweries were exempted from the new tax while the four fledgling wineries in the state were not. Most likely this was an oversight on the part of the legislature since not many lawmakers knew there were any wineries in the state.

A tax increase of nearly three hundred percent is some impact! Since we are operating on very slim margins, this increased tax burden might be the difference between continuing this year and shutting our winery down for good.

Our winery and the other wineries in the state do not see a reason for the state to reward the breweries and punish the wineries. To correct this discrepancy we request that you revisit the law passed last year and insert a sentence that would give the wineries the same exemption that the breweries get. This is only fair. If the change can be made in a way that does not include a new law, all the better, but we invoke our right under the constitution of the State of Alaska and the Constitution of the United States for redress of grievances. Please treat us in the same way that you treat like businesses, the breweries.

If you require additional information, please contact me.

David B. Menaker
Great Land Wines, Ltd.
907.766.2698
907.766.2096
FAX 907.766.2094

SB

86

Testimony on Senate Bill 86
Senate Labor and Commerce Committee
March 18, 2003

Dan Dickinson, Director, Department of Revenue Tax Division

My name is Dan Dickinson. I am a CPA and currently serve as director of the Department of Revenue Tax Division. I was in the private sector in 1991 and I'd like to bring you a little history of this section of the law.

Throughout the '80s, if a taxpayer underpaid its taxes, interest was calculated at 12% simple interest when the company finally paid the amount due. As Governor Hickel characterized the situation in his March 1991 letter of transmittal for the bill that resulted in the current law, "As a result, the state ends up loaning billions of dollars to its taxpayers at very low interest rates."

As everyone knows, a huge backlog built up of oil and gas taxes owed to the state. I was able to locate an accounts receivable statement from March 1991 that shows \$3.6 billion in outstanding taxes. As you can imagine, over \$3 billion of that were in oil and gas back taxes.

The legislature and administration made a good decision in 1991 and changed the law. They made three changes. First of all interest was moved from simple to the more standard commercial practice of compound interest. The change to compound interest made a dramatic difference in the interest owed on the long-delayed cases. Second, interest was defined as the Federal Reserve intra-bank rate plus 5% or – and this third point is the interesting part – a minimum of 11%. This change was designed to get the attention of companies that had been underpaying their taxes.

And it did. At the same time a change was made in Title 38, putting oil and gas royalties on the same higher of the intra-bank rate or 11%, compounded. Over the next five years, \$3.5 billion in back taxes and royalties flowed into the CBRF. A whole different attitude became apparent. Clearly there was more than just interest rate changes at work here, but it is also clear that the interest rate played a significant role.

Now our accounts receivable in the Tax Division is \$71 million – or about 2% of what it was in 1991. Now it is time for another good decision – to bring the interest rates more in line with market rates. I don't think this will bring about a return to backlogs. Since this change sticks with compound rates, taxpayer delays will rapidly become more and more expensive to the taxpayer. And this bill does not change interest charged on past due royalties. This legislation simply eliminates the 11% minimum rate on taxes and allows the rate to float at 5% above the Federal Reserve's intra-bank rate.

And just as the new rate structure would apply to back taxes owed the state, it also would apply to tax refunds paid by the state — thereby saving us some money.

The administration supports this bill, and urges you to do the same. That concludes my testimony, and I'll be glad to answer any questions.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE COMMITTEE REPORT
First Committee of Referral

ATE: 2/28/03

FURTHER: Finance

ate of 5-Day Notice: _____
 1 accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 3/28/03

abor and Commerce Committee considered SENATE BILL NO. 86

SB 86 INTEREST ON DELINQUENT TAXES

An Act relating to the rate of interest on delinquent taxes."

nd recommends:

Senate Bill:

be replaced with _____ CS _____ (_____)

same title

adopt previous _____ CS _____ (_____)

new title

House Bill:

attached amendmerit(s)

same title

technical title

new: SCR # _____

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|---------|--------|------|-----|
| REV | 3/17/03 | ** | | |
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| Department | Date | Fiscal | Zero | FN# |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Beth Davis</i> | | | ✓ | |
| <i>BOB</i> | | | ✓ | |
| <i>Joseph Seekin</i> | X | | | |
| <i>[Signature]</i> | X | | | |
| CHAIR: <i>C. Bendo</i> | ✓ | | | |

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB86
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Interest on Delinquent Taxes BRU Revenue Operations
 Component Tax Division
 Sponsor Senate Finance Committee
 Requester Senate Labor and Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 |

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| 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 | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

** See Page 2 for discussion.

Prepared by: Dan E. Dickinson, Director Phone 269-1033
 Division Tax Division Date/Time 3/17/03 12:54 PM
 Approved by: Larry Persily, Deputy Commissioner Date 3/17/2003
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. SB86

ANALYSIS CONTINUATION

When a taxpayer pays delinquent taxes, or receives a refund for certain overpaid taxes, interest is calculated from the date the tax should have been paid through the date when the tax is actually paid (or refunded). For the past decade the interest rate pertinent to payment of delinquent taxes or refunds has been set statutorily at the higher of a market-based value (Federal Reserve rate plus 5%) or 11%. However, except for a short period right after the legislation was passed, the 11% rate has prevailed.

The market rate is currently 7.25%. This legislation would eliminate the 11% floor. The Department of Revenue supports this legislation to allow the interest rate to float with market conditions.

There is no additional administration cost after reprogramming our computers, which we can absorb.

To estimate the revenue effect of this change it is of course necessary to estimate future interest rates, thus we have declined to fill in a specific number. But, whatever the interest rate, this change will have minimal effect on the general fund. Existing cases will be charged the 11% rate until the effective date of this act, and any debts will then convert to the new rate. Therefore, the "cost" to the general fund of receiving a lower rate on delinquent taxes will be less in early years and grow in time as old cases are settled and new cases are based entirely on the lower rate. The estimated cost, therefore, in the first years could be less than \$100,000 a year, growing to several hundred thousand dollars in time, depending on the floating interest rate and the amount of tax cases.

It also is important to note that while the state will receive a lower interest rate on delinquent taxes, the state will save by paying out a lower interest rate on refunds. While it is not possible to accurately predict the savings, they will at least partially offset the cost of the lower rate paid by taxpayers.

The effect on the Constitutional Budget Reserve Fund (CBRF) will be more pronounced. Examination of recent oil and gas tax and royalty settlements suggests that interest represents about one-third of the deposits into the CBRF. If the interest rate were to drop from 11% to 9%, for example, that could make a difference of close to a million dollars a year in the amount going into the CBRF. However, it could take several years to attain that annual level. Cases now working their way through the system that will lead to settlements over the next several years will use the 11% rate up until this law becomes effective.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

SPONSOR STATEMENT

Senate Bill 86 Interest on Delinquent Taxes

Alaska's revenue and taxation laws are laid out in Title 43 of the Alaska Statutes. Section 43.05.225 sets the interest rate that the state must levy for delinquent taxes at 5 percentage points above the 12th Federal Reserve District discount rate or at the rate of 11%, whichever is greater. SB 86 eliminates the 11% minimum interest rate reference and retains the 12th District discount rate plus 5 formula as the only option for calculating interest on delinquent taxes.

Eliminating the statutory reference to a set interest rate of 11% will establish a fair method of calculating interest owed and interest due by allowing it to float with the market. Since 1991, the market driven formula of 5 percentage points above the 12th District discount rate has consistently remained below 11%. It is inappropriate to charge Alaskans 11% interest on delinquent taxes, especially since many delinquencies are a result of legitimate filing errors. In addition, the State has been forced to pay the exaggerated interest rate of 11% on refunds for overpayment of taxes.

According to the Department of Revenue, the fiscal impact to the State as a result of this legislation will be marginal. The State will receive a fair and reasonable interest from delinquent taxpayers and also pay a fair and reasonable interest on refunds to taxpayers.



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December 18, 2002

Alaska Dept of Revenue
Income and Excise Audit Division
P.O. Box 110420
Juneau, AK 99811-0420

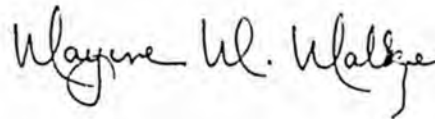
Dear Sir or Madam,

On November 26, 2002 we received notification from your office that we were being assessed an additional tax on the Tobacco Tax Report for the month of March 2001. Following an investigation on our part we discovered that we had made an error in calculating the correct total amount of cigarettes purchased. I have personally been handling the filing of these reports since their inception and have never made a mistake like this. It was truly an honest mistake. We have started making payments on the \$15,288.60 that we owe in additional taxes, as we are unable to pay the full amount due at this time. As you may or may not know, we have not been in the business of selling tobacco products for over a year now.

A few days after receiving the original notification we received another Amended Notice of Assessment adding an additional amount owed for interest in the amount of \$3152.02. We feel that this is an unfair assessment for the following reason. First of all, had we known that we had made this mistake sooner we would have been in a financial position to pay the entire amount due immediately thus accruing very little interest. The fact that this audit did not take place for 20 months is not our fault. In the past when mistakes were made on these reports we were notified almost immediately and able to correct accordingly. A conversation that I had with one of your staff indicated to me that because of decreased funding in your department audits were not able to be conducted in a timely manner. I would have thought that part of the increased tobacco tax revenues would be funding the personnel to audit these reports. At the very least interest should only be accruing from the date of the notification.

We did not receive the Request for Informal Conference form with the assessment notice so if we need to fill that out in addition to this letter please let me know. I will be happy to comply and am anxiously awaiting your reply to this letter.

Sincerely,

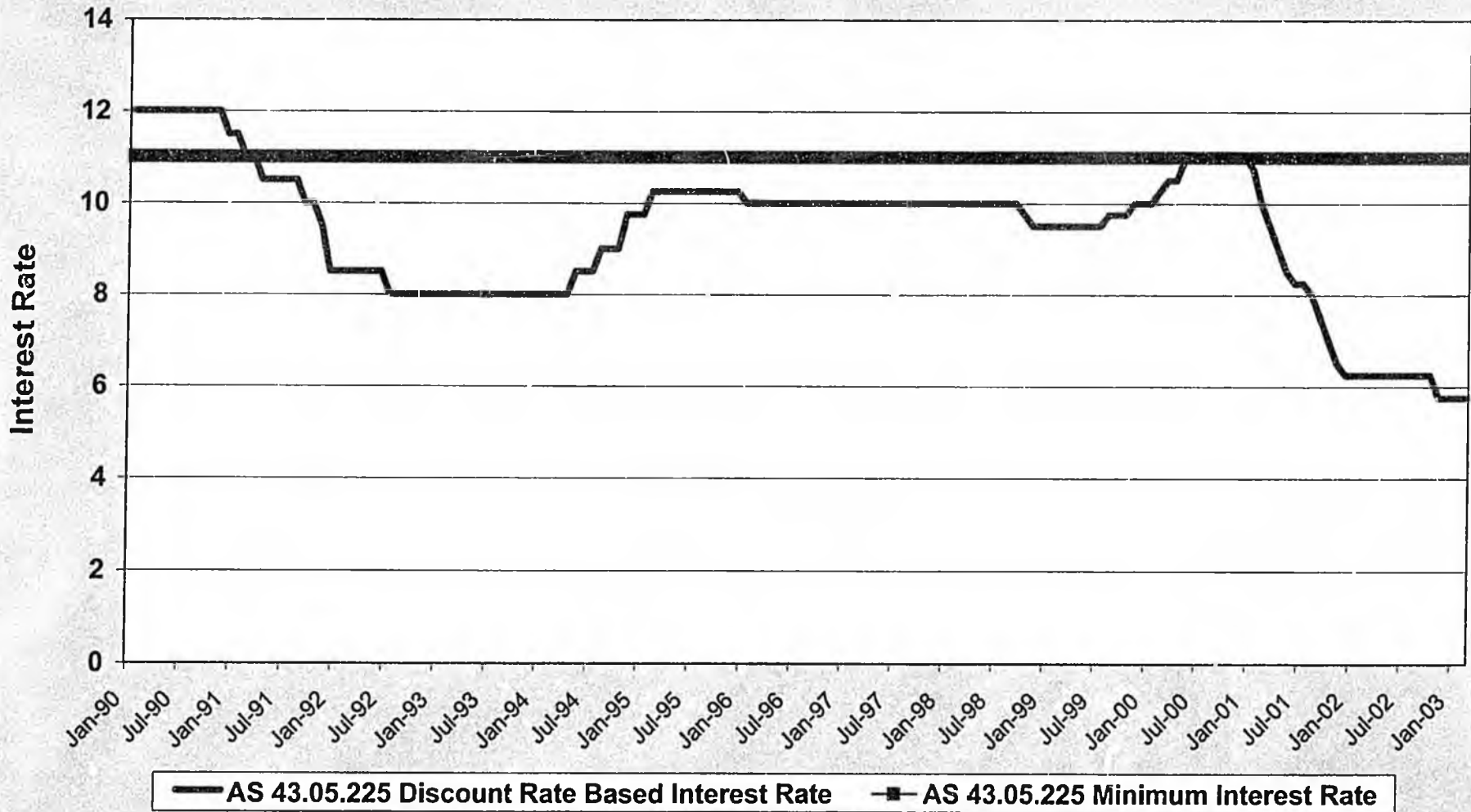
A handwritten signature in cursive script that reads "Wayne W. Walker". The signature is written in dark ink and extends to the right with a long horizontal line.

Wayne W. Walker
President

cc:

Honorable James Holm
Honorable John Coghill
Honorable Hugh Fate
Honorable Jim Whitaker
Honorable Ralph Seekins
Honorable Gene Therriault
Honorable Gary Wilken

Comparison of the Statutory Minimum Interest Rate for Over/Under Payment of Taxes with 12th District Discount Rate + 5% (Jan 1990--Feb 2003)



SB

93

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB 93
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Adverse Possession BRU Community Assist. & Econ. Dev. (405)
 Component Community & Business Development
 Sponsor Senator Wagoner
 Requester Senate Labor & Commerce Component No. 2486

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 |

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| CAPITAL EXPENDITURES | | | | | | |
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| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This legislation would change current adverse possession law so that title holders of real property under AS 40.17 would no longer be required to initiate eviction processes within a ten-year limit to preclude adverse possession. A property owner could initiate an eviction process at any time. This legislation has no fiscal impact on this division.

Prepared by: Gene Kane, Acting Director
 Division Community & Business Development
 Approved by: Edgar Blatchford, Commissioner
 Agency Department of Community & Economic Development

Phone 907-269-4578
 Date/Time 3/11/03 9:17 AM
 Date 3/11/2003



ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER
CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE
VICE-CHAIR, SENATE RESOURCES COMMITTEE

Senate Bill 93

Sectional Analysis

Section 1. Amends AS 09.10.030 by inserting a new subsection (a) which sets out an exception.

Amends by inserting new subsection (b), which is referenced as the "exception" in subsection (a); specific language stating that action may be brought at any time by a property owner that has property rights recorded under AS 40.17.

Amends by inserting new subsection (c), which is conforming language regarding the application of the new subsections;

Amends by deleted specific time frame of "within 10 years" and replacing with "at some time".

Section 2. Amends by inserting new section in the uncodified laws, stating that as long as court action has not been taken to bar the proceeding, action to quiet title is now allowed.

Section 3. This is the effective date of the act – which is immediate.

SA S(L&C) SB 93 3-05-03 as



ALASKA STATE LEGISLATURE

SENATOR THOMAS H. WAGONER

CHAIR, SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

VICE-CHAIR, SENATE RESOURCES COMMITTEE

Senate Bill 93

Sponsor Statement

“An Act relating to limitations on actions to quiet to, eject a person from, or recover real property or the possession of it; and providing for an effective date.”

Adverse possession, or “squatters rights”, is the doctrine in which a person may receive the title to property simply by possessing it. The Doctrine of Adverse Possession was born hundreds of years ago during the Middle Ages, but incredibly still applies in the State of Alaska.

The current doctrine places undue hardships on Alaska’s private landowners by charging them with the impossible task of policing their large or remote property. SB 93 would repeal the Doctrine of Adverse Possession, giving private property owner’s security in knowing their property can not be taken by squatters. This bill does not affect any existing rights that one may have already acquired through adverse possession.

Under existing law, a person is prohibited from taking government property by adverse possession. SB 93 simply accords equal dignity and protection to private land ownership rights.

SPONSOR STATEMENT

Title 09. CODE OF CIVIL PROCEDURE

Chapter 09.10. LIMITATIONS OF ACTIONS

Sec. 09.10.010. General limitations on civil actions.

A person may not commence a civil action except within the periods prescribed in this chapter after the cause of action has accrued, except when, in special cases, a different limitation is prescribed by statute.

Sec. 09.10.020. When action commenced. [Repealed, Sec. 1 ch 27 SLA 1966. For present law, see Civ. R. 3].

Repealed or Renumbered

Sec. 09.10.030. Actions to recover real property in 10 years.

A person may not bring an action for the recovery of real property, or for the recovery of the possession of it unless the action is commenced within 10 years. An action may not be maintained for the recovery unless it appears that the plaintiff, an ancestor, a predecessor, or the grantor of the plaintiff was seized or possessed of the premises in question within 10 years before the commencement of the action.

Sec. 09.10.040. Action upon judgment or sealed instrument in 10 years.

(a) A person may not bring an action upon a judgment or decree of a court of the United States, or of a state or territory within the United States, and an action may not be brought upon a sealed instrument, unless the action is commenced within 10 years.

(b) [Repealed, Sec. 54 ch 132 SLA 1998].

Sec. 09.10.050. Certain property actions to be brought in six years.

Unless the action is commenced within six years, a person may not bring an action for waste or trespass upon real property.

Sec. 09.10.053. Contract actions to be brought in three years.

Unless the action is commenced within three years, a person may not bring an action upon a contract or liability, express or implied, except as provided in AS 09.10.040, or as otherwise provided by law, or, except if the provisions of this section are waived by contract.

...

Chapter 40.17. RECORDING OF DOCUMENTS

- Sec. 40.17.010. Place of recording and access to records.
- Sec. 40.17.020. Recording conveyances.
- Sec. 40.17.030. Formal requisites for recording.
- Sec. 40.17.035. Recording criteria.
- Sec. 40.17.040. Indexing.
- Sec. 40.17.050. Incorporation of master form.
- Sec. 40.17.060. Documents executed under former law.
- Sec. 40.17.070. Duties of recorder: time recording is effective.
- Sec. 40.17.075. Account.
- Sec. 40.17.080. Effect of recording on title and rights: constructive notice.
- Sec. 40.17.090. Conveyances and recorded documents as evidence.
- Sec. 40.17.100. Recording a reconveyance.
- Sec. 40.17.110. Documents eligible for recording.
- Sec. 40.17.120. Recording memorandum of lease.
- Sec. 40.17.130. Action against recorder and state.
- Sec. 40.17.900. Definitions.

***SB 93: Legislation to Limit the Circumstances Under Which
A Person May Divest a Landowner of Title to Its Land
Under the Doctrine of Adverse Possession***

A. Overview of the Legislation

“Adverse possession” is the doctrine under which a person--even a squatter acting in bad faith--can take another person’s property without compensation by simply possessing it, in an open and hostile way, for a certain period of years. It is a doctrine born in the Middle Ages under circumstances that have little applicability to 21st Century Alaska, and it offends Alaska’s abiding respect for private property ownership.

SB 93 would limit the availability of this doctrine to circumstances in which a person has, in good faith, occupied property under color of title for seven years. Beyond that situation, “adverse possession” is a doctrine inimical to the concept of private property ownership. And it imposes a particularly harsh burden on private landowners in Alaska who, because of the doctrine, are often charged with the impossible task of policing large remote landholdings to assure themselves that no squatter has taken residence. That burden is an economic waste, and serves no valid public policy.

B. The Origins and Purpose of the “Adverse Possession” Doctrine

1. The Doctrine’s Original Rationale--Possession was Equated with Ownership

“Adverse possession” is a doctrine that rewards possession of land at the expense of the landowner. The doctrine has its roots in the feudal concept of “seizin.” In the early Middle Ages, “ownership” of land was proven not by title or deed, but rather by actual possession. If a person was forcefully expelled from his property, the trespasser became

the land's new "owner," and the dispossessed person could regain "ownership" only by himself resorting to force. ^{1/}

Gradually, the dispossessed "owner" was given a legal remedy to regain possession--a remedy which, by virtue of a statute issued under Henry VIII, must be exercised within 60 years of dispossession. Thus was borne the thought that a person could recover his land from an "adverse possessor," but only if he acted within a specific period of time. ^{2/}

Remember, though, that in those days possession--or "seizin"--was title. Therefore, by giving the "adverse possessor"--or "disseizor"--the opportunity to bar the person he dispossessed from reclaiming his property after 60 years, feudal courts were, in their minds, doing no injustice to the prior occupant, since that occupant had lost the basis for his claim of "ownership" when he was forceably dispossessed.

2. A New Rationale--Possession was the Best Proof of Ownership

Gradually, English common law came to recognize the concept of conveying and holding land by deed. "Title" became something different from, and superior to, mere "possession." And so the doctrine of "adverse possession" needed a new rationale.

^{1/} 5 George W. Thompson, *Commentaries on the Modern Law of Real Property* (1979) ("Commentaries") at 573-76.

^{2/} *Commentaries, supra* at 574-76. Actually, "adverse possession" rules can be traced further back, to the Code of Hammurabi, which provided, in part, that:

If a captain or a soldier has neglected his field, his garden and his house, instead of working them; and another takes his field, his garden and his house, and works them for three years; if he returns and desires to till his field, his garden, and his house, they shall not be given to him. He that has taken and worked them shall continue to use them.

The Hammurabi Code and the Sinaitic Legislation at 32-33 (Chilperic Edwards ed., 1904).

The virtue of "seizin," of course, was that it was obvious who is "seized" of a particular piece of property--the person living on it. "Title," conversely, was the source of considerable dispute, since there then existed no reliable, centralized recording system to resolve conflicting claims of "title." As a result:

In an era of comparatively scarce land, decentralized records and crude surveying techniques, lengthy possession may have been the best possible proof of ownership.

^{3/} Thus, while possession no longer equated with ownership, possession remained the best evidence of "title," and so the doctrine of adverse possession continued to serve some worthwhile purpose. "Ultimately, the 1623 Statute of Limitations required that suits to recover possession of land be brought within twenty years. The Statute recited that this limit was necessary for 'quieting men's estates, and avoiding of suits...'" ^{4/}

3. The New American Purpose--Social Engineering

In James I's England, if a person owned land, he probably lived on it. ^{5/} Even by the 16th century, there was precious little wild land in England that a person might own, but not make productive use of. ^{6/}

This was not true in North America, where vast tracts of wilderness might lie in private ownership. Here, the assumption that ownership was reliably proven by physical possession did not hold true:

Transplanted to the abundant, sparsely populated wild lands of North America, however, the assumptions of the [doctrine of adverse possession] ...failed. The terrain was too hostile, the

^{3/} Sprankling, *An Environmental Critique of Adverse Possession*, 79 Cornell Law Rev. 816, 822 ("Critique") (1994).

^{4/} *Critique*, *supra* at 823.

^{5/} James I promulgated the 1623 statute just quoted.

^{6/} By 1696, only 16% of England's land were uncultivated forest lands. *Critique*, *supra* at 822, n. 25.

forests too impenetrable and the distances too vast for most owners to reside upon or even to inspect their properties regularly. More importantly, possession of land in the English sense, characterized by residence, cultivation or improvement, was often impractical. The minor acts, greatly separated in time, that characterized land use in wilderness areas were unlikely to afford constructive notice to the owner who did inspect occasionally.

Critique, supra at 823. "Adverse possession," then, needed a new purpose, and found one in our 19th century urge to settle the West. The modern doctrine "was developed when much of the continental United States was unsurveyed wilderness," and our courts and legislatures resultantly "adopted a public policy that as much land should be put to use as possible." ^{7/} Under the new theory of adverse possession, the squatter was to be rewarded for making use of wild land, even at the expense of the person who owned it:

Beginning in the nineteenth century, American courts serving the ideology of economic expansion reformulated adverse possession in the pursuit of national productivity. These courts transformed the doctrine from a mechanism designed to protect the title of the true owner against false claims into a tool designed to transfer title to wild lands from the idle true owner to the industrious adverse possessor.

Critique, supra at 821 (emphasis original).

The American justification for the doctrine also took on something of a Marxist flavor. Vast expanses of public lands were conveyed to large, absentee landlords--principally, the railroads. As pioneers struck west and inadvertently (or otherwise) homesteaded then-or-future railroad land, Western state legislators, and courts, concluded that disputed land should belong to the worker rather than the absentee capitalist. *Critique, supra* at 843. For this reason, the periods necessary to establish title by "adverse possession" tend to shrink as one proceeds westward--from the old 20-year

English rule still prevalent in the original colonies, to as little as five years in many western states.

C. Adverse Possession in 20th Century Alaska--A Doctrine Without a Reason

To this day, some courts, including the Alaska Supreme Court, maintain that the doctrine of adverse possession serves a useful public purpose because "society will benefit from someone's making use of land the owner leaves idle." ^{8/}

One might argue that there is considerable "idle" land in Alaska's *public* domain. However, in Alaska as elsewhere, neither the state nor federal government can be divested of title through adverse possession. AS 09.45.052(a). And Alaska has precious little "idle" private land.

The largest private landowners in Alaska are the Native corporations established under the Alaska Native Claims Settlement Act. Those lands were conveyed both in settlement of Alaska Natives' aboriginal claims, and to meet the "real economic and social needs of Natives." ANCSA, §1. ANCSA lands, then, and every acre of them, serve an important legal, social and economic purpose. They are not, any of them, "idle" in that sense.

Congress, in fact, has recognized that fact, and has accordingly extended ANCSA lands some protection from adverse possession claims as long as they remain undeveloped. 43 U.S.C. §1636(d). But ANCSA corporations often acquire other remote lands for future resource development purposes, as will other private landowners as time goes by. To the extent that these lands are not developed, it is because development now

^{7/} *Seddon v. Harpster*, 403 So. 2nd 409, 413 (Florida 1981).

^{8/} *Tenala, Ltd. v. Fowler*, 921 P.2nd 1114 (Alaska 1996).

would be an economic waste, and there is no sound public policy that should prevent a private landowner from investing those lands for future generations.

The last remaining modern justification for adverse possession is that it "keep[s] stale causes out of court." *Tenala, Ltd. v. Fowler, supra*. But, in fact, it does just the opposite. Adverse possession cases involve untrustworthy testimony about who possessed-what 10 or 20 years ago; conversely, and "considering current methods of record storage on microfiche, computer disks and data tapes," claims based on record ownership will never grow stale. ^{9/}

Similarly, allowing adverse possession claims promote litigation, while limiting them discourages it. This because:

[b]right line standards generally deter litigation...The record title standard draws an exceedingly bright line: the holder of record title always prevails. In contrast, adverse possession as applied to wild lands is an indeterminate, murky standard under which results can rarely be predicted with certainty.

Critique, supra at 878. The fact of the matter, as Florida's Supreme Court observed, is that "[w]ith modern technology and computerized transactions our society is now more capable of accurately establishing legal interest to property through paper title than through possession." *Seddon v. Harpster*, 493 So.2nd at 414.

Continued recognition of "squatters' rights" serves no useful public purpose in Alaska today, and it disserves others. Apart from its impact on private property ownership generally, and implementation of ANCSA in particular, "[a]dverse

^{9/} "Outlaws of the Past: A Western Perspective on Prescription and Adverse Possession," 31 Land and Water Law Review 79, 104 (1996) ("Outlaws").

possession...erode[s] the effectiveness and utility of both recording and marketable title statutes by creating uncertainty." *Outlaws, supra* at 97.

The doctrine ought to be limited to those few situations where some equity might lie in the adverse possessor's favor, and SB 93 attempts to do just that by amending only AS 09.10.030, which currently allows land to be taken by bad faith trespassers, while leaving untouched AS 09.45.052, which allows adverse possession claims by persons with a good faith claim to the property based on color of title.

AS 09.10.030 is the squatters' statute. The adverse possessor need not occupy the property under "color of title"--that is, a deed or other conveyance. And the squatter need not even occupy the property in good faith. ^{10/} As one commentator puts it, this statute "gives title not only to one who because of good faith error occupies the land of another but also to a person who knowingly sought to appropriate another's land." ^{11/}

Under this statute, the squatter must adversely possess the property for 10 years. After that, the statute, which is framed as a statute of limitations, bars the property's owner from bringing any action against the squatter to recover his property.

Section 1 of SB 93 would amend this statute to provide that the owner of record could recover his or her land--by a quiet title or ejectment action--at any time. ^{12/} Because of computerized land records, the record owner's claim will never, as a practical matter, grow stale.

AS 09.45.052 is Alaska's second adverse possession statute, and it deals with adverse possession that is based on "color of title." In other words, the adverse

^{10/} *Hubbard v. Curtiss*, 684 P.2nd 842, 848 (Alaska 1984).

^{11/} 7 Richard R. Powell, *Powell on Real Property*, ¶1012(3) (1993).

possessor has some deed or other document purporting (but for some reason failing) to convey title to the property being possessed. Unlike the statute amended by Section 1, this statute requires good faith on the part of the possessor--in other words, an honest and reasonable belief that the possessor really owns the land. *Ault v. State*, 688 P.2nd 951, 956 (Alaska 1984). The legislation leaves this section untouched.

Finally, Section 2 of the legislation would make the new legislation applicable to any adverse possession claim that has not "vested" by the effective date of the legislation. Adverse possession claims "vest" when the adverse possessor has met the statutory requirements for the requisite number of years--under current Alaska law, 10 years (or seven years for claims under color of title).^{13/} Serious constitutional questions would arise if the legislation purported to extinguish already-vested adverse possession claims; conversely, there would appear to be no constitutional difficulty in affecting unvested claims, since an adverse possessor has no protected right in the mere expectation that, eventually, he or she may possess the land for a sufficient period of time.^{14/}

^{12/} To the extent that this statute governs other types of real property claims, the 10-year statute of limitations would be retained.

^{13/} *Markovich v. Chambers*, 857 P.2nd 906, 908 (Or. App. 1993).

^{14/} See *Lovell v. Magnet Cove School District No. 8*, 782 S.W.2nd 41, 42 (Ark. 1990) (change in Arkansas adverse possession statutes applicable to unvested adverse possession claims).

SB

95

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE COMMITTEE REPORT

DATE: 3/26/03

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Labor and Commerce Committee considered SENATE BILL NO. 95

SB 95 72-HOUR NOTICE OF TEACHER STRIKE

"An Act relating to strikes by employees of a municipal school district, a regional educational attendance area, or a state boarding school, and requiring notice of at least 72 hours of a strike by those employees."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | DO NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Bettye Davis</i> | | | X | |
| <i>[Signature]</i> | X | | | |
| <i>Ralph Seekin</i> | X | | | |
| <i>[Signature]</i> | X | | | |
| CHAIR: <i>A. Blendo</i> | ✓ | | | |

Senate HEALTH, EDUCATION & SOCIAL SERVICES Minute



Mar 17, 2003

SB 95-72-HOUR NOTICE OF TEACHER STRIKE

CHAIR DYSON announced SB 75 to be up for consideration.

SENATOR GREEN, sponsor of SB 95, said that it was requested by some people who were having a hard time during the period between the time a strike is noticed and the time it began. SB 95 would require public school employees to provide a school district with written notice of an impending strike 72 hours prior to any labor action. Current labor regulations allow public school employees to strike without prior warning to the school district or the community. Without a provision mandating proper notice, student safety is severely compromised. Seventy-two hours would give parents sufficient time to make alternative arrangements for their children if schools are actually going to be closed. The primary purpose of SB 95 is to allow time for a school district to make the best decisions and inform students, parents, and the community of that decision.

CHAIR DYSON asked how much notice is required now. Senator Green said she would try to find that information.

MR. BRUCE JOHNSON, Association of Alaska School Boards, said the board supported SB 95. Student safety is the primary reason with the many working families needing some advance notice to make arrangements for their children. However, he said they needed clarification of what the 72-hour notice actually includes. For instance, does it mean they have to strike within that time or do they give notice and then strike one week out.

SENATOR GREEN pointed out that language on page 2, line 26, says, "If advisory arbitration fails, a strike may not begin until at least 72-hours after notice of the strike." It's not mandatory that a strike occur, however.

MR. JOHNSON responded that was one interpretation, but did it also mean that a strike can't begin until 72 hours, but could also begin 200 hours after the notification has been given.

SENATOR GREEN asked if "advisory arbitration" has a definition.

MR. JOHNSON replied that it is one of the steps that must be taken before taking action towards a work stoppage.

MR. PETE FULLER, Southeast Regional Manager, Alaska Public Employees Association, said that the Public Employee Relations Act already provides for a relatively complicated and somewhat detailed procedure as the collective bargaining process reaches culmination. There is also a process whereby the parties are permitted to voluntarily participate in advisory arbitration, which might bring about mandatory binding result to those negotiations.

It seems to him that imposing, particularly a one-sided, notice period for the union begins to unbalance the process and might stimulate unnecessary saber-rattling and posturing. "At least if there's going to be notice, there ought to be notice imposed on

both parties rather than having a no-notice lockout and a requirement of notice for strike action."

MR. FULLER said he had been in Alaska for only two years and hadn't heard of any school district strikes; employees had been able to negotiate settlements. He thought this rule might bring too much structure and unbalance to the negotiating process when it's at its most delicate point.

CHAIR DYSON asked if by school district strike he meant a walk out.

MR. FULLER replied no, he meant a strike is an action instigated by employees.

CHAIR DYSON said Senator Green's primary interest is not to unbalance the bargaining process, but the protection of kids and giving families time to adapt to a situation. He asked Mr. Fuller if he thought there was already a requirement in federal law for adequate notification.

MR. FULLER replied that he wasn't aware of notification in federal law, but there are federal laws requiring notification as far as a strike that takes place in a health care facility. He thought as a situation like a strike approaches, the parties would have some mutual concern about the children and take that into consideration.

If the legislature feels the need to insure against the wayward party that wouldn't do that, then we would like to see that protection balanced so that the protection doesn't create an unfair advantage to one party or the other in the bargaining process.

SENATOR GREEN said this is not meant to be a bargaining issue, but in the winter, when children show up at school and no one is there. "It has happened...."

CHAIR DYSON said he knows that making the public uncomfortable or angry helps your bargaining position.

MS. BARBARA HUFF-TUCKNESS, Director, Legislative and Governmental Affairs, Local 959, opposed SB 95. She actually negotiates collective bargaining agreements within the Anchorage School District and believes this bill is a direct assault on the collective bargaining process. If passed, SB 95 would have a significant impact on both parties' positions at a bargaining table. If the parties reach a deadlock or impasse, there is an advisory arbitration prior to ever conducting a strike vote. Both parties look at the advisory opinion and sometime it is another opportunity to bring the parties together and other times it lies the groundwork on where the parties are as they go through the negotiations. There is the ability to declare impasse or deadlock even after the advisory opinion if the parties have not reached any conclusion to the process. At that time, they have the right as representatives of their employees to make notice. Once it reaches the advisory opinion, often something makes the headlines in the newspaper. She added that she makes an effort to educate her people prior to a strike.

If you've never been at the table, it is somewhat difficult to find that level playing field, but in this day and age with the employers right to hire striker replacements, when you're attempting to define how much notice an employee has to get, where it ties

in - and as the Senator asked earlier - my intent is not to impact the process....

She gave an example of a bus driver strike that the teamsters were involved in in 1999. She gave public notice with written paid ads in the newspaper prior to taking official strike action. Since 1999, she has negotiated three collective bargaining agreements that have been successful she hadn't heard if any strikes since then. She encouraged the legislature to let negotiations take place at the table and not attempt to legislate that process.

CHAIR DYSON asked her if she was saying the 72-hour notice should be part of negotiated bargaining.

MS. TUCKNESS replied yes and that was her suggestion when the bill was introduced in 1999 as well. She had another alternative.

If there was such a public concern about employees within the school districts going out on strike instead of requiring them to go out and strike, why not make it mandatory that they can't strike and give them binding arbitration instead?

SENATOR GREEN asked if she would support binding arbitration.

MS. TUCKNESS said she mentioned it as an alternative. Additionally, she was concerned that language on page 2, line 20, (b) was very limiting and restrictive and could potentially create an inherent conflict with a selected arbitrator.

SENATOR GREEN said that language is currently in statute, but it had been moved from page 1, line 10 to a new section on page 2, line 11 and might look a little different. The only actual new language is the underlined sections on page 1 and section 2 on page 2.

MS. TUCKNESS concluded that they are very concerned about the bill and hope that it doesn't move out of committee.

MR. CARL ROSE, Association of Alaska School Boards, said this issue was resolved in the early '90s when the discussion was binding arbitration. The legislature placed school employees in classification A3, providing them the right to strike. He thought school districts understand the economic and political pressure that's brought to bear by a strike and the bill simply is asking to not compromise student safety. That is the extent of their concern.

CHAIR DYSON asked if it was impractical to have an agreement of the amount of hours of pre-notification per day as part of the contracts.

MR. ROSE replied that he didn't think it was impractical and that it could be a negotiable point unless it conflicts with law.

CHAIR DYSON thanked everyone for their comments and closed the discussion on SB 95.

ALASKA STATE LEGISLATURE



(907) 376-3157 Fax

SENATOR LYDA GREEN
SENATE DISTRICT G

Sponsor Statement **Senate Bill 95**

"An Act relating to mandatory 72 hours written notice by public school employees of the date and time when a strike will begin."

Senate Bill 95 would require public school employees to provide a school district with written notice of an impending strike at least 72 hours prior to any labor action. This bill would protect students and give parents adequate time to be notified of a change in the school schedule.

Current labor regulations allow public school employees to strike without prior warning to the school district or the community. Without a provision mandating proper notice, student safety is severely compromised. School districts would be unable to alert parents to the possible closure of schools. Students could possibly arrive to near-empty school buildings, buses may not arrive to pick up waiting students, and parents may not have been informed of these circumstances.

Seventy-two hours gives parents sufficient time to make alternative arrangements if schools are actually going to be closed. In order for school district personnel to assure the safety and well being of students during a change of work status, there must be adequate time to prepare for changes to the school day.

The primary purpose of Senate Bill 95 is to allow time for a school district to make the best decision and to inform students, parents and the community of that decision. I urge your support of the legislation.

SPONSOR STATEMENT

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 95
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
Title: 72-Hour Notice of Teacher Strike BRU: Office of the Commissioner
Component: Alaska Labor Relations Agency
Sponsor: Senator Green
Requester: Senate HES Component Number: 1200

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2003) cost: None

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill would amend AS 23.40.200(d) and add new subsection (g) to the Public Employment Relations Act (PERA) by requiring labor organizations who represent school district employees to provide school districts with at least 72 hours advance notice before a strike may begin. The bill's intent is to give school districts at least three days to prepare for the effects that a strike would have on schools, students, and parents, and to prepare contingency plans.

Prepared by: Mark Torgerson, Hearing Examiner Phone: 269-4895
Division: Office of the Commissioner Date/Time: 3/14/03 1:53 PM
Approved by: Greg O'Claray, Commissioner Date: 03/14/03
Agency: Department of Labor and Workforce Development

For distribution information, call the Governor's Legislative Office

School strike

Few days' grace would have helped

Anchorage parents of public-school children woke up to an ambush Friday morning. School district office workers and teacher aides voted 788-102 Thursday night to strike.

Parents who have paid attention knew a strike and school closing were possible. They didn't expect to learn of a strike at the school doors or the bus stop, or while they were getting their children ready for school.

then on a voice vote called the strike for Friday. The decision came too late for the evening news, and the Anchorage School District, which had warned that a strike would close schools, didn't get the word until 10:40 Thursday night that the strike would begin Friday.

Many parents and students didn't get the word until Friday morning. That left them scrambling for child care and disrupted work and transportation schedules.

Parents who have paid attention knew a strike and school closing were possible. They didn't expect to learn of a strike at the school doors or the bus stop, or while they were getting their children ready for school.

While the union's timing got the community's attention, it's no way to win community support.

Ellen Gamel, president of Totem Association, apologized Friday afternoon for the disruption. She said union members are tired and frustrated at the district's stand in their contract dispute. The decision to walk out Friday reflects the depth of that frustration.

But the union would have served its own cause and the community better by giving Anchorage parents a weekend's warning and time to make child care, work and transportation arrangements. The strike could have begun Tuesday, after the King holiday. Blindsiding thousands of families Friday morning served no one's interests.

1-16-99 DB

ANCHORAGE DAILY NEWS EDITORIAL
JANUARY 16, 1999

We put out a request for other states to provide us with their laws regarding strike notice. Here are the replies we have received so far. Additionally, we received some replies from Canadian provinces.

| NAME | STRIKING ALLOWED | "COOLING OFF PERIOD" | NOTICE REQUIRED |
|------------------|-------------------------|-----------------------------|--------------------------------|
| MAINE | NO STRIKING ALLOWED | N/A | N/A |
| MISSOURI | NO STRIKING ALLOWED | N/A | N/A |
| NEBRASKA | NO STRIKING ALLOWED | N/A | N/A |
| PUERTO RICO | NO STRIKING ALLOWED | N/A | N/A |
| WASHINGTON STATE | NO STRIKING ALLOWED | N/A | N/A |
| OREGON | YES | 30 DAYS | 10 DAY NOTICE REQUIRED |
| OHIO | YES | NONE | 10 DAY NOTICE REQUIRED |
| ILLINOIS | YES | NONE | 5 DAY NOTICE REQUIRED |
| PENNSYLVANIA | YES | NONE | 48 HOUR NOTICE REQUIRED |
| NOVA SCOTIA | YES | 14 DAYS | 44 DAYS FOR TEACHERS(INCLUDING |
| QUFBEK | YES | NONE | 7 DAY NOTICE REQUIRED |
| OTTAWA | YES | NONE | 72 HOUR NOTICE REQUIRED |
| NEW BRUNSWICK | YES | 7 DAYS | NONE AFTER 7 DAY COOL OFF |

SB

102

State of Alaska

Department of Revenue
Tax Division
Gaming Group



ANNUAL REPORT

Calendar Year 2001

Issued December 2002

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Introduction

Under Alaska law, municipalities and qualified non-profit organizations may conduct certain charitable gaming activities. The purpose of these activities is to derive public benefit in the form of money for the charities and revenues for the state. The Tax Division is responsible for ensuring that the appropriate level of public benefit is derived for the charities and the state.

To ensure that the appropriate level of public benefit is derived, the division does the following: 1) issues permits to charities; 2) licenses all operators, distributors and manufacturers; 3) collects fees and taxes; 4) audits various permittees and licensees; 5) inspects gaming locations; and 6) investigates complaints.

This report summarizes charitable gaming financial activity for 2001, as reported by permittees and operators and filed as of July 30, 2002. Charitable gaming in Alaska has many variations in the types of gaming businesses and nonprofit organizations which conduct gaming activities. Below are key terms used throughout this report.

- A multiple-beneficiary permit (MBP) allows two to six municipalities or qualified organizations or a combination of two to six municipalities and qualified organizations to conduct joint gaming activities.
- An operator is a person, a municipality or qualified organization that has obtained a license to conduct gaming activities on behalf of a permittee.
- A permittee is a municipality or a qualified organization that holds a valid permit to conduct gaming activities.
- A vendor is a business that holds a qualifying beverage dispensary or package store license that sells pull-tabs on behalf of a permittee.

In reviewing the financial information presented in this report, it is important to be aware of the various classifications and to interpret the information accordingly.

For comparison purposes, 2000 financial data are included on certain schedules in this report.

Gaming Overview

Gaming in Alaska is big business. In calendar year 2001, the total amount gamed by the public exceeded \$351,000,000. Gambling in Alaska is illegal, however the legislature created an exception for what is commonly, though somewhat inaccurately, referred to as "Charitable Gaming". The use of the word "charity" is really a misnomer. An organization does not have to have any charitable purpose in order to have a permit to game in Alaska. The department may only issue a permit to a municipality or qualified organization, and charities represent only one of the fifteen kinds of "qualified organizations" eligible to game in Alaska.

The authority to conduct the gaming activity is contingent upon the dedication of the net proceeds of the gaming activity for specific purposes. The only expenses that may be incurred or paid in connection with the operation of a gaming activity are bona fide expenses that are reasonable and necessary. To ensure that expenses would not get out of hand, the statutes provide for caps on expenses, not to exceed 70% of adjusted gross income from pull-tab activity and 90% of adjusted gross income from gaming activities other than pull-tabs.

Organizations that participate in gaming are trustees that have a legal duty to ensure that all gaming proceeds go toward intended uses within the state and are not used to pay unnecessary expenses connected with gaming. Board members of these organizations are not at liberty to ignore the law or waste gaming receipts. This responsibility was spelled out in Botelho v. Griffin, 25 P3d at 693. "By requiring a portion of the money spent on charitable gaming to benefit the public generally, Alaska's gaming laws create the effective equivalent of a charitable trust."

The responsibility to oversee the gaming laws rests with the Department of Revenue. The Tax Division and specifically the Gaming Group handles administration and enforcement duties. Through its staff of seven, the group is responsible for approximately 1,200 organizations involved in gaming. In addition to issuing licenses and permits, and collecting the various filing fees and taxes, the group is involved in efforts to see that the proper amount of net proceeds is collected and distributed pursuant to the statutes and regulations.

Listed under 2001 Current Events and Regulatory Actions are actions taken by the department in 2001 and actions that are ongoing at this time. Responsibility for proper gaming activity occurs at the board member level of the qualified organizations. These enforcement actions came about in a large part as a result of inquiries and complaints made by the public.

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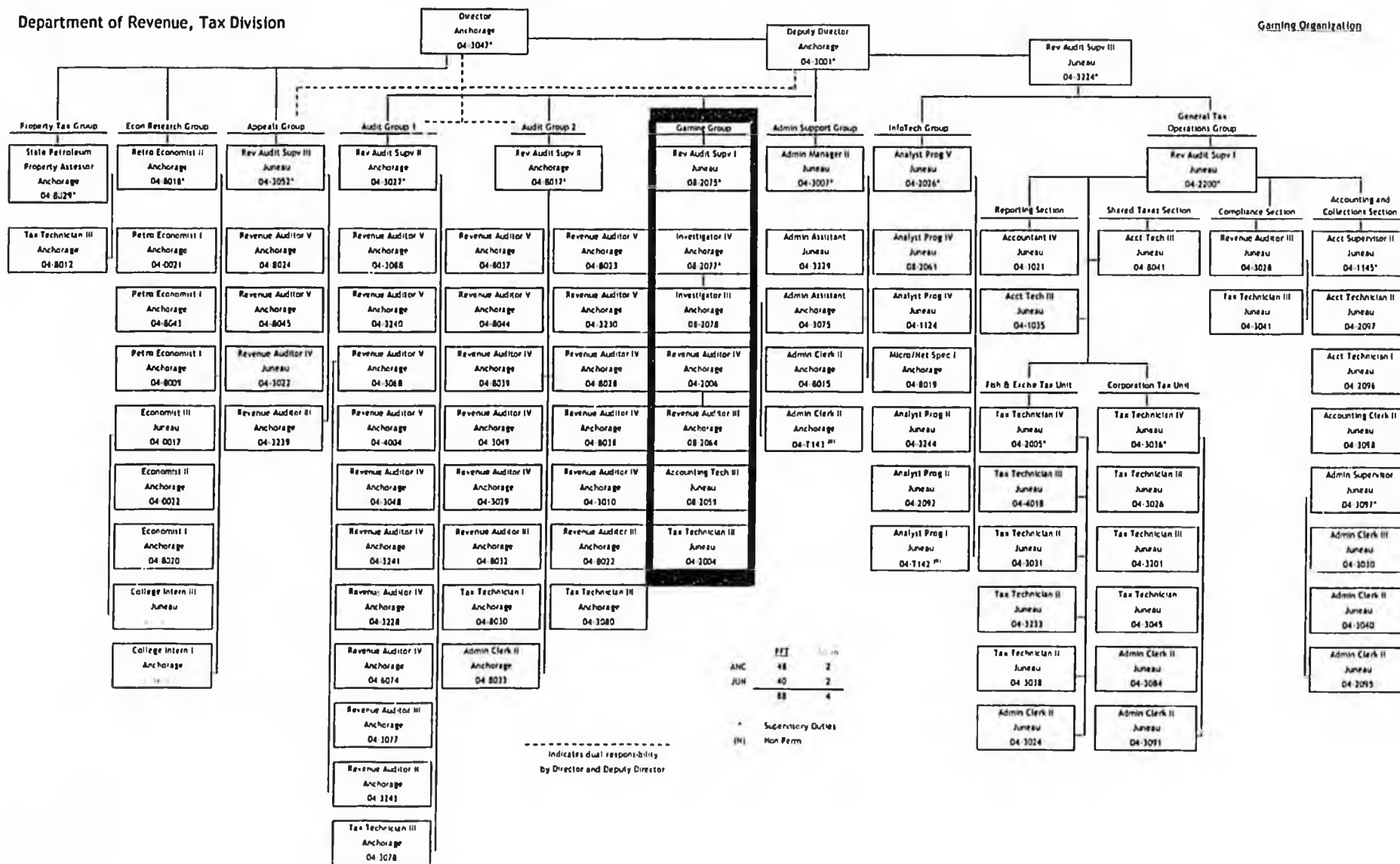
Web Site

<http://www.tax.state.ak.us/divisions/gaming.htm>

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

Department of Revenue, Tax Division

Gaming Organization

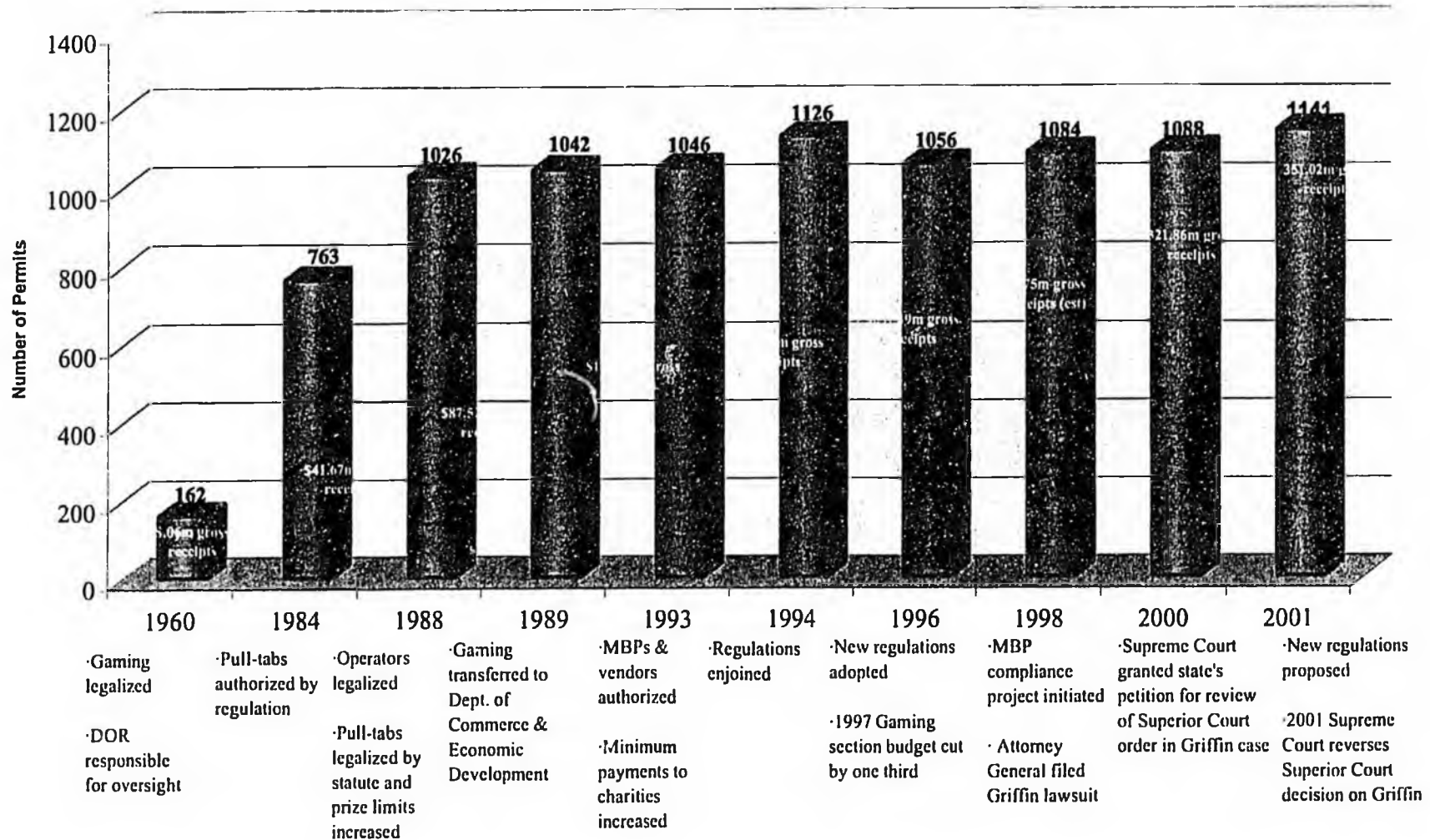


| | ANCH | JUNEAU |
|-----|------|--------|
| REG | 48 | 2 |
| ADM | 40 | 2 |
| TOT | 88 | 4 |

* Supervisory Duties
 (H) Non Perm

--- Indicates dual responsibility by Director and Deputy Director

Gaming History and Background



2001 Gaming Industry Facts and Trends

The data presented in this report have been compiled from annual reports filed with the division as of July 30, 2002. When reading this report, you should note the following:

- 2001 permittee calendar year data are based on the reports of 1,141 organizations that filed 2001 annual financial statements as of July 30, 2002. There are 84 annual reports outstanding as of the date of this report. Three reports are not included due to incompleteness or errors.
- The division issued 14 MBP permits in 2001. The data are based on the annual reports of 14 MBPs.
- The division issued 26 operator licenses in 2001. The data are based on annual reports of 26 operators.
- 2000 permittee calendar year data were revised to include 57 additional permittee reports received between the date of the original annual report and July 30, 2002, for a total of 1,088 permittees. Additionally, organization types as reported were reviewed and, when necessary, reclassified to the correct category.
- The division issued 12 MBP permits in 2000. The data are based on the annual reports of 11 MBPs.
- The division issued 25 operator licenses in 2000. The data are based on the annual reports of 25 operators.
- Gross receipts compiled in this report include the dollar value of play-backs (winning pull-tabs which the player has returned to the seller in exchange for additional pull-tabs in lieu of receiving his or her prize in cash).
- Net proceeds, as reported by operators and MBPs, represent gross receipts, less prizes, less taxes, less expenses, and do not necessarily represent the actual amount of cash paid by operators and MBPs to permittees. This is generally because the statutory minimum payment requirements are greater than calculated net proceeds.

| • Fees and taxes collected by the division: | <u>FY-00</u> | <u>FY-01</u> | <u>FY-02</u> |
|--|--------------------|--------------------|--------------------|
| 3% Tax on Pull-Tabs: | \$1,916,124 | \$1,920,753 | \$2,045,124 |
| 1% Annual Tax on Permittees' Gaming Profits: | 288,519 | 320,428 | 325,218 |
| Permit and License Fees: | 130,636 | 139,130 | 141,863 |
| | <u>\$2,335,279</u> | <u>\$2,380,311</u> | <u>\$2,512,205</u> |

Division Concerns and Focus

Alaska's gaming laws limit the amount of expenses that may be incurred under a gaming permit to ensure that permit holders receive at least a minimum financial benefit from their gaming activities. Beginning in 1998 the Division's focus has been on compliance with the expense limitations and minimum profit distributions.

The Department of Revenue, with the assistance of the Department of Law, has committed substantial resources to bring into compliance the activities of Multiple-Beneficiary Permit holders (MBPs). The first step in this process was to ensure that MBPs complied with minimum distribution requirements. In 1997, MBPs failed to meet their statutorily required payment distributions by \$850,000. With a concerted effort, the Division was able to increase compliance on payment so that there were no MBP deficits in 2001.

The second step in the process focused on ensuring that MBPs not only met the minimum distributions, but also adhered to authorized expense limitations provided by statute. With the increased enforcement, one MBP ceased operations and two others agreed to suspend operations for a year as a result of being out of compliance in 1999.

MBP gaming activities in 2000 and 2001 appeared to meet the minimum requirements as set out in the statutes, with one exception. The MBP that did not meet the minimums later agreed to dedicate a certain percentage of its net proceeds over a period of two years to the Alaska Children's Trust. The Division still remains concerned whether the amount of proceeds received by some qualified organizations is sufficient. The Division, along with the Department of Law, is working to ensure that only bona fide expenses reasonably necessary to conduct gaming activities are allowed. The focus has been, and will continue to be, directed toward excessive rents, compensation and fees charged in conjunction with running or managing gaming operations.

In 2001, the Division proposed regulations and held public hearings in an effort to address various issues including unlicensed operators, conflicts of interest, methods of accounting, capital contributions, loans and gifts, and rules for MBPs. The comments received during the public hearing process indicated unhappiness with the process and confusion with the proposed regulations. As a result, the Department of Revenue decided to go forward with a process known as negotiated rule-making in an effort to garner input and suggestions about how to present the best possible regulations to deal with the issues at hand.

Division Concerns and Focus

The rule-making committee, appointed by the Commissioner of Revenue, consisted of eleven members, who represented the interest of permittees, operators, MBPs, distributors, vendors, the public and the Department. Using the Department's 2001 proposed regulations as a working document, the committee held nine meetings over five months in Anchorage, Fairbanks and Kenai to take public testimony, review, discuss and draft new proposed regulations. The committee issued its final report on July 31, 2002. The report reflected consensus on every provision of its proposed regulations, except the issue of whether a person who manages more than one permittee must become an operator, and the provision that a distributor cannot be a lessor of property used to conduct gaming activity. The vote on the affected provisions was nine for and two against.

Public hearings on the rule-making committee's proposed regulations were held in Fairbanks, Anchorage, Soldotna and Juneau, August 26, through August 29, 2002. The department used the consensus of the committee, public testimony and written comments as a basis for the regulations it adopted on November 19, 2002. These regulations will be effective January 1, 2003.

2001 Current Events and Regulatory Actions

The Tax Division took the following regulatory actions against permittees, licensees and registered vendors to ensure that the gaming activities provide the required benefits and that those conducting the gaming activities are compliant with gaming laws.

Court Proceedings

- **Botelho vs. Griffin:** The Attorney General brought this action in 1998 for a court order to require the defendants to give up charitable gaming proceeds that they received through alleged violations of gaming laws. The defendants were Mark and Sue Griffin and business entities that they either owned or controlled. Prior to trial, the case settled under terms that required Mark and Sue Griffin to pay \$400,000 in cash for distribution to charities. The Griffins settled without acknowledging any wrongdoing.

The suit was originally brought on behalf of 13 charities that relied upon Sue Griffin to manage their gaming operations. The following seven organizations told the court that they didn't want to be part of the case: Bartlett High School Boy's Basketball Club, Chugiak High School Boy's Basketball Booster Club, Triam Sports Association, Alaska Laborer's Training School, Alaska Center for the Environment, Barrier Free Recreation, and Mabel T. Caverly Center. Another charity, West High Alumni, opted out by filing a notice of dismissal with prejudice and at a latter date settled its dispute for an unspecified amount of money.

After the charities opted out, the Griffins obtained an order from the Superior Court that prevented the Attorney General from seeking reimbursement of money owed to beneficiaries of the opted-out charities. The Attorney General petitioned the Supreme Court to overturn the Superior Court. The Supreme Court reversed the lower court after finding that the boards of any organizations with gaming permits have a fiduciary duty to ensure that their managers or operators pay them all the gaming proceeds to which they are entitled under the law and then use those proceeds on behalf of the beneficiaries of their organizations. If the organization leaders fail to meet this fiduciary duty, the Attorney General may pursue damage claims against the Griffins without the consent of the affected charities.

- **James Stewart vs. Department of Revenue:** James Stewart, while a charitable gaming operator in 1995, passed on the purchase cost of pull-tab games to the charities for whom he was conducting gaming. He also failed to report those costs to the department as gaming expenses. If it had not violated the gaming laws, this tactic would have allowed him to increase the amount he charged charities for his operating fee. The Department conducted an audit and found that, when the costs of pull-tabs were included, Stewart exceeded the expense cap by \$186,021. He was ordered to refund this amount, with interest, to the charities. Mr. Stewart unsuccessfully appealed this order to the Superior Court and then to the Alaska Supreme Court, where a decision is expected in the fall of 2003.

2001 Current Events and Regulatory Actions

- **UMPCO, MCAC, & UCA vs Department of Revenue:** In August of 2002, three multiple-beneficiary permittees, United Multiple Permittees Company (UMPC), Multiple Charities Association Co-op (MCAC), and United Charities Association, filed a civil action in Superior Court to prevent the Department from continuing its ongoing MBP compliance project for 2002. The court granted a summary judgment motion and found that the Department must adopt regulations before continuing with its 2002 MBP compliance project.
- **Downtown Bicycle Rental, Inc. and Peter Roberts vs. State of Alaska:** Downtown Bicycle Rental Inc., (DBRI) filed suit in Superior Court on October 3, 2002, alleging the state negligently approved a charitable gaming permit for a tax-exempt corporation called Earth which used money gained from the permit to operate a free bike program in downtown Anchorage. DBRI contends that Earth's free bike program interfered with its property rights because it lured affluent pedestrian tourists away from existing tax-paying bike businesses. The attorney general filed a motion to dismiss, which the Superior Court granted without prejudice on December 2, 2002.

Other Regulatory Actions

- **BPO Elks Lodge #1351, located in Anchorage, has a gaming permit.** In October, 2000, while conducting an inspection of the fraternal organization, gaming investigators discovered six illegal gambling machines. During the inspection, five years of records pertaining to the illegal machines were obtained. These records showed that the lodge made profits of \$486,519 from the illegal machines. In January of 2001, the Department issued the lodge a Notice of Violation and a Notice of Revocation and referred the results of its investigation to the Office of Special Prosecutions and Appeals.
- **In July of 2001, the Gaming Group received information that a large number of slot machines was being shipped into the state.** The investigation revealed that 20 video poker machines arrived at the Port of Anchorage. Federal, state and local law enforcement agencies were notified of the shipment.
- **Cecelia M. Derosé (Beierly) was convicted of forgery in the second degree in Juneau Superior Court for writing checks in the amount of \$17,197 from the gaming account of Tlingit-Haida Community Council, Juneau.** Ms. Derosé (Beierly) was ordered to make restitution of \$16,214, sentenced to four years in prison, with two suspended, and placed on probation for ten years.
- **American Legion Post #17, in Kodiak, contacted the gaming group concerning shortages of gaming proceeds from 1997 to 2000.** A joint investigation with the Kodiak Police Department (KPD) revealed a \$49,000 discrepancy between the ideal net of all pull-tabs sold during this period and the actual bank deposits. The investigation focused around the club manager who admitted he was the person who counted and secured gaming proceeds, made deposits, and provided deposit slips to clerical staff. The club manager admitted performing these duties at the direction of the adjutant/finance officer. KPD submitted the case to the district attorney, who declined prosecution of the club manager and adjutant/finance officer. American Legion Post #17 has filed a civil suit against the adjutant/finance manager.

2001 Current Events and Regulatory Actions

- In separate incidents at pull-tab stores in Anchorage and Wasilla, Inna and Leonid Danilenko presented counterfeit pull-tabs to collect winnings of \$500 and \$1,000 respectively. The Danilenkos were interviewed and admitted to counterfeiting the winning pull-tabs. Through the assistance of the Wasilla Police Department, the matter was forwarded to the district attorney's office. Action taken by the district attorney resulted in restitution of \$1,500 to affected permittees.
- The Pit Bar in Seward received a three-day suspension of its vendor registration to sell pull-tabs when an investigation revealed that the bar was selling squares on four sports boards. Sports boards are not an authorized activity under state statute.
- Last Chance Co-op, a multiple-beneficiary permittee, and its four member permittees entered into a settlement agreement with the state and agreed not to engage in the sale of pull-tabs in any capacity during calendar year 2001. The agreement followed an audit of their 1999 gaming report after which the Department alleged excess expenses for the sale of pull-tabs, various prohibited financial interests and questionable financial dealings with another multiple-beneficiary permittee, Multiple Charities Association Co-op.
- Multiple Charities Association Co-op, a multiple-beneficiary permittee, and its six member permittees entered into a settlement agreement with the state after an audit of their 1999 gaming report and agreed to cease all bingo operations from February 1, 2001, through January 31, 2002. The organization accumulated bingo losses of approximately \$1,000,000 over the five-year period ending with 1999. Other issues raised during the audit are pending.
- Lindsay Reese, an operator, appealed the Department's revocation of her 2000 operator license and denial of her 2001 operator license application, which were based on an audit of her 1999 and 2000 gaming activity showing that Ms. Reese failed to pay permittees proceeds in excess of \$140,000. She continued gaming while the matter was under appeal. In related action, the District Court entered a judgment against Ms. Reese for theft in the fourth degree and ordered restitution to the permittees.
- West High Alumni Gaming Co-op, dba Players Choice Bingo & Pull-Tabs, and its four member permittees agreed to three days suspension of all West High Alumni Gaming gaming. The agreement followed an appeal of Notices of Violation and Suspension resulting from an investigation that determined the bingo hall conducted bingo sessions in excess of the maximum allowed. Closure took place on pre-approved dates between September and December 2001.

2001 Current Events and Regulatory Actions

- Boniface Bingo, a multiple-beneficiary permittee, and its four member permittees were suspended from gaming for one day during July 2001. The suspension resulted from an investigation for exceeding door prize limitations. The suspension was appealed and later withdrawn.
- AMVETS Post #4, a permittee, was suspended from conducting gaming activities for 30 days starting on February 19, 2001. The suspension resulted from an investigation and subsequent Notice of Violation for allowing the canteen manager, who had inside information on the status of pull-tab games, to play pull-tabs at its location. The suspension was not appealed.
- Children of the World, a permittee, was denied renewal of its permit in 2001 because an investigation revealed that it was not a legitimate organization.
- Elbow Room Bar, a registered vendor, was suspended from conducting gaming activities for fourteen days starting on August 8, 2001. The suspension resulted from an investigation and subsequent Notice of Violation for failure to pay the contracting permittee the required 70% of ideal net upon delivery of pull-tab games to the bar and for interfering with an inspection. The suspension was not appealed.
- The Pipeline Club, a registered vendor, was suspended from conducting gaming activities for 90 days starting on January 4, 2001. The suspension resulted from an investigation and subsequent Notice of Violation for purchasing pull-tabs directly from a distributor and for failing to pay 70% of ideal net to the permittee upon delivery of the game in violation of Alaska statutes. The suspension was not appealed.
- Horizons Unlimited, a permittee, was suspended from all gaming activities for 90 days starting on January 4, 2001. The suspension resulted from an investigation and subsequent Notice of Violation for failure to purchase and deliver pull-tabs to its registered vendor and for failure to collect 70% of ideal net from the registered vendor upon delivery of a game, which are violations of Alaska statutes. The suspension was appealed and then withdrawn.

Schedule of Charitable Gaming Activity

| | 2001 (1) | | 2000 (2) | |
|---------------------|----------------------|------------------|----------------------|------------------|
| | Amount | % Gross Receipts | Amount | % Gross Receipts |
| Gross Receipts | \$ 351,016,581 | | \$ 321,868,077 | |
| Less: Taxes | 1,100,996 | 0.31% | 1,070,162 | 0.33% |
| Prizes | 267,705,284 | 76.27% | 244,105,393 | 75.84% |
| Expenses | 51,597,386 | 14.70% | 47,246,858 | 14.68% |
| Net Proceeds | \$ 30,612,915 | 8.72% | \$ 29,445,664 | 9.15% |

Breakdown of Expenses (3)

| | 2001 | 2000 |
|--------------------------|----------------------|----------------------|
| Rental of Facility | \$ 5,110,751 | \$ 4,961,607 |
| Other Facility Costs | 1,137,766 | 1,235,794 |
| Contract / Pro. Services | 1,289,031 | 1,319,019 |
| Accounting | 1,553,736 | 1,226,427 |
| Wages | 15,192,816 | 14,851,820 |
| Payroll Taxes | 1,964,758 | 1,901,755 |
| Operator Fee | 4,707,890 | 3,190,886 |
| Vendor Compensation | 2,429,440 | 1,954,332 |
| Cost of Pull-tab Games | 7,157,048 | 6,531,319 |
| Pull-Tab Tax Paid | 1,879,242 | 1,716,699 |
| Cost of Bingo Cards | 1,838,753 | 1,744,099 |
| Advertising | 483,162 | 484,777 |
| Equipment Purchases | 518,358 | 283,513 |
| Other Expenses | 5,114,093 | 4,374,870 |
| Door Prizes | 1,220,542 | 1,469,941 |
| Total Expenses | \$ 51,597,386 | \$ 47,246,858 |

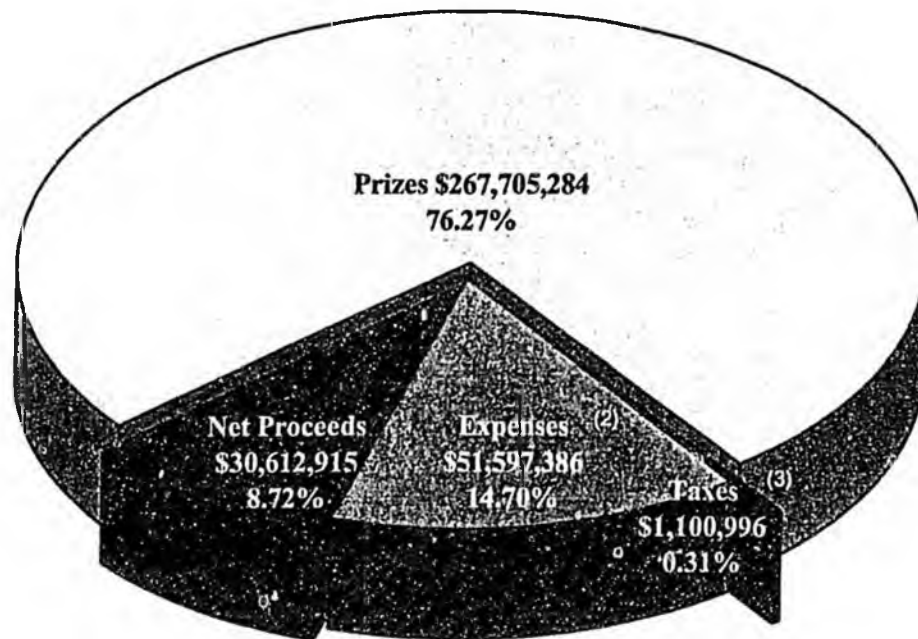
(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

(2) Based on 1,088 Permittee annual reports, 25 Operator annual reports, 11 MBP annual report filed with the division as of 7/30/2002.

(3) Total Expenses reported on Schedule C, prior to any limitations.

2001 Gross Receipts Distribution ⁽¹⁾

as a percentage of Gross Receipts



Total Gross Receipts: \$351,016,581

(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

(2) Total Expense reported on Schedule C, prior to any limitations.

(3) Taxes represent Federal Excise and Local Sales Taxes.

2001 Activity by Business Classification ⁽¹⁾

| | Permittees | | Vendors | | Operators | | MBPs | | Total | |
|-------------------|----------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|----------------------|-------------------------|
| | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> |
| Gross Receipts | \$ 169,404,373 | | \$ 35,544,504 | | \$ 68,844,875 | | \$ 77,222,870 | | \$ 351,016,581 | |
| Taxes | 505,627 | 0.30% | 139,165 | 0.39% | 298,866 | 0.43% | 157,338 | 0.20% | 1,100,996 | 0.31% |
| Prizes | 127,578,886 | 75.31% | 27,665,783 | 77.83% | 53,308,472 | 77.43% | 59,152,143 | 76.60% | 267,705,284 | 76.27% |
| Expenses | <u>23,218,286</u> | 13.70% | <u>3,624,040</u> | 10.20% | <u>12,768,474</u> | 18.55% | <u>11,986,586</u> | 15.52% | <u>51,597,386</u> | 14.70% |
| Net Proceeds | <u>\$ 18,101,574</u> | 10.69% | <u>\$ 4,115,516</u> | 11.58% | <u>\$ 2,469,063</u> | 3.59% | <u>\$ 5,926,762</u> | 7.68% | <u>\$ 30,612,915</u> | 8.72% |
| Net Proceeds Paid | | | | | <u>\$ 4,314,716</u> | | <u>\$ 5,875,277</u> | | | |

2000 Activity by Business Classification ⁽²⁾

| | Permittees | | Vendors | | Operators | | MBPs | | Total | |
|-------------------|----------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|---------------------|-------------------------|----------------------|-------------------------|
| | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> | <u>Amount</u> | <u>% Gross Receipts</u> |
| Gross Receipts | \$ 165,736,735 | | \$ 29,187,801 | | \$ 59,237,937 | | \$ 67,705,604 | | \$ 321,868,077 | |
| Taxes | 489,371 | 0.30% | 125,899 | 0.43% | 275,297 | 0.47% | 179,595 | 0.27% | 1,070,162 | 0.33% |
| Prizes | 123,046,176 | 74.24% | 22,627,549 | 77.52% | 45,768,477 | 77.26% | 52,669,191 | 77.79% | 244,105,393 | 75.84% |
| Expenses | <u>22,825,698</u> | 13.77% | <u>3,040,241</u> | 10.42% | <u>10,549,603</u> | 17.81% | <u>10,831,316</u> | 16.00% | <u>47,246,858</u> | 14.68% |
| Net Proceeds | <u>\$ 19,381,490</u> | 11.69% | <u>\$ 3,394,112</u> | 11.63% | <u>\$ 2,644,560</u> | 4.46% | <u>\$ 4,025,502</u> | 5.94% | <u>\$ 29,445,664</u> | 9.15% |
| Net Proceeds Paid | | | | | <u>\$ 3,521,495</u> | | <u>\$ 4,070,097</u> | | | |

(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

(2) Based on 1,088 permittee annual reports, 25 operator annual reports, 11 MBP annual reports filed with the division as of 7/30/2002.

2001 Breakdown of Expenses by Business Classification (1)

| | <u>Permittees</u> | <u>Vendors</u> | <u>Operators</u> | <u>MBPs</u> | <u>Totals</u> |
|--------------------------|----------------------|---------------------|----------------------|----------------------|----------------------|
| Rental of Facility | \$ 1,856,452 | \$ - | \$ 1,317,639 | \$ 1,936,660 | \$ 5,110,751 |
| Other Facility Costs | 307,631 | - | 311,858 | 518,277 | 1,137,766 |
| Contract / Pro. Services | 659,442 | - | 346,134 | 283,455 | 1,289,031 |
| Accounting | 962,698 | - | 406,985 | 184,053 | 1,553,736 |
| Wages | 8,668,922 | - | 2,745,379 | 3,778,515 | 15,192,816 |
| Payroll Taxes | 1,281,045 | - | 342,134 | 341,579 | 1,964,758 |
| Operator Fee | - | - | 4,707,890 | - | 4,707,890 |
| Vendor Compensation | - | 2,322,932 | - | 106,508 | 2,429,440 |
| Cost of Pull-tab Games | 3,512,441 | 931,622 | 1,341,622 | 1,371,363 | 7,157,048 |
| Pull-Tab Tax Paid | 851,922 | 223,547 | 408,492 | 395,281 | 1,879,242 |
| Cost of Bingo Cards | 559,804 | - | 353,540 | 925,409 | 1,838,753 |
| Advertising | 238,453 | - | 45,649 | 199,060 | 483,162 |
| Equipment Purchases | 225,521 | - | 3,987 | 288,849 | 518,357 |
| Other Expenses | 3,630,493 | 145,939 | 287,679 | 1,049,982 | 5,114,093 |
| Door Prizes | 463,462 | - | 149,486 | 607,595 | 1,220,543 |
| | <u>\$ 23,218,286</u> | <u>\$ 3,624,040</u> | <u>\$ 12,768,474</u> | <u>\$ 11,986,586</u> | <u>\$ 51,597,386</u> |

(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

2001 Activity by Game Type (1)

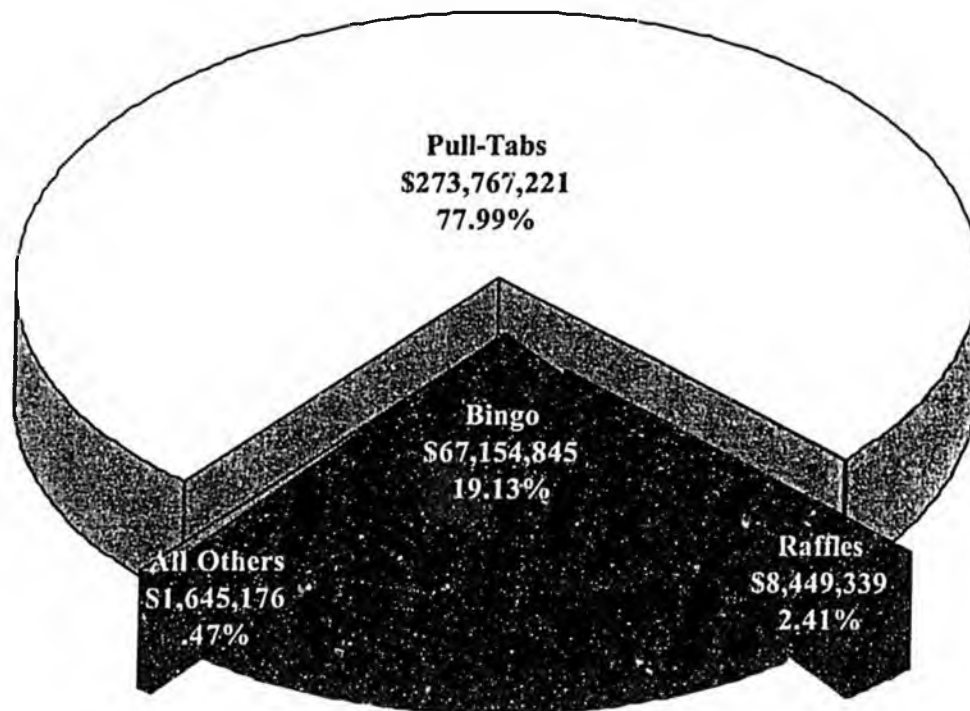
| <u>Game Type</u> | <u>Gross Receipts</u> | <u>Taxes</u> | <u>Prizes</u> | <u>Expenses</u> | <u>Net Proceeds</u> |
|------------------------|-----------------------|---------------------|-----------------------|----------------------|----------------------|
| Pull tabs | \$ 273,767,221 | \$ 954,644 | \$ 213,589,995 | \$ 35,945,939 | \$ 23,276,643 |
| Bingo | 67,154,845 | 128,692 | 49,026,087 | 13,534,131 | 4,465,935 |
| Raffle or Lottery | 8,449,339 | 13,263 | 3,457,792 | 1,014,925 | 3,963,359 |
| Fish Derby | 688,591 | 374 | 369,474 | 173,911 | 144,832 |
| Ice Classic | 598,694 | 300 | 313,000 | 228,792 | 56,602 |
| Contest of Skill | 168,665 | -0- | 60,316 | 65,491 | 42,858 |
| Dog Musher Contest (2) | 185,722 | 3,723 | 885,920 | 631,511 | (1,335,432) |
| Miscellaneous | 2,029 | -0- | 700 | 1,475 | (146) |
| Snow Machine Classic | -0- | -0- | -0- | -0- | -0- |
| Rain Classic | -0- | -0- | -0- | -0- | -0- |
| Salmon Classic | -0- | -0- | -0- | -0- | -0- |
| Goose Classic | -0- | -0- | -0- | -0- | -0- |
| Deep Freeze Classic | 1,475 | -0- | 2,000 | 1,211 | (1,736) |
| Canned Salmon Classic | -0- | -0- | -0- | -0- | -0- |
| Total | \$ 351,016,581 | \$ 1,100,996 | \$ 267,705,284 | \$ 51,597,386 | \$ 30,612,915 |

(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

(2) Includes Dog Mushing Sweepstakes.

2001 Gross Receipts by Game Type ⁽¹⁾

as a percentage of Gross Receipts



Total Gross Receipts: \$351,016,581

(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

2001 Permittee Self-Directed Activity by Game Type ⁽¹⁾

| <u>Game Type</u> | <u>Gross Receipts</u> | <u>Taxes</u> | <u>Prizes</u> | <u>Expenses</u> ⁽²⁾ | <u>Net Proceeds</u> |
|-----------------------------------|-----------------------|-------------------|----------------------|--------------------------------|---------------------|
| Pull-Tab | \$ 126,424,232 | \$ 359,275 | \$ 98,448,541 | \$14,825,186 | \$12,791,230 |
| Bingo | 33,789,644 | 128,692 | 24,657,313 | 6,471,334 | 2,532,305 |
| Raffle or Lottery | 7,627,400 | 13,263 | 2,909,807 | 831,261 | 3,873,069 |
| Fish Derby | 606,791 | 374 | 301,290 | 162,025 | 143,102 |
| Ice Classic | 598,694 | 300 | 313,000 | 228,792 | 56,602 |
| Contest of Skill | 168,665 | -0- | 60,316 | 65,491 | 42,858 |
| Dog Musher Contest ⁽³⁾ | 185,722 | 3,723 | 885,919 | 631,511 | (1,335,431) |
| Snow Machine Classic | -0- | -0- | -0- | -0- | -0- |
| Miscellaneous | 1,750 | -0- | 700 | 1,475 | (425) |
| Rain Classic | -0- | -0- | -0- | -0- | -0- |
| Salmon Classic | -0- | -0- | -0- | -0- | -0- |
| Goose Classic | -0- | -0- | -0- | -0- | -0- |
| Deep Freeze Classic | -0- | -0- | -0- | -0- | -0- |
| Canned Salmon Classic | 1,475 | -0- | 2,000 | 1,211 | (1,736) |
| Total | \$ 169,404,373 | \$ 505,627 | \$127,578,886 | \$23,218,286 | \$18,101,574 |

2001 Vendor Activity by Game Type

| <u>Game Type</u> | <u>Gross Receipts</u> | <u>Taxes</u> | <u>Prizes</u> | <u>Expenses</u> ⁽⁴⁾ | <u>Net Proceeds</u> |
|------------------|------------------------|--------------|---------------|--------------------------------|---------------------|
| Pull-Tab | \$ 35,544,504 | \$ 139,165 | \$ 27,665,783 | \$ 3,624,040 | \$ 4,115,516 |
| | As % of Gross Receipts | 0.39% | 77.83% | 10.20% | 11.58% |

(1) Based on 1,141 permittee annual reports filed with the division as of 7/30/2002.

There are 84 permittee annual reports outstanding as of the date of this report.

(2) Total Expense reported on Schedule C, prior to any limitations.

(3) Includes Dog Mushing Sweepstakes.

(4) Total Expenses reported on Schedule AV, prior to any limitations.

2001 Operator Activity by Game Type ⁽¹⁾

| | <u>Pull-Tab</u> | <u>Bingo</u> | <u>Fish Derby</u> | <u>Raffle</u> | <u>Total</u> |
|--------------------------|----------------------------|--------------------------|------------------------|-------------------------|----------------------------|
| Gross Receipts | \$ 57,493,363 | \$ 10,637,433 | \$ 81,800 | \$ 632,279 | \$ 68,844,875 |
| Taxes | 298,866 | - o - | - o - | - o - | 298,866 |
| Prizes | 44,924,974 | 7,880,021 | 68,184 | 435,293 | 53,308,472 |
| Expenses | <u>10,125,969</u> | <u>2,492,729</u> | <u>11,886</u> | <u>137,890</u> | <u>12,768,474</u> |
| Net Proceeds | <u>\$ 2,143,554</u> | <u>\$ 264,683</u> | <u>\$ 1,730</u> | <u>\$ 59,096</u> | <u>\$ 2,469,063</u> |
| Net Proceeds Paid | | | | | <u>\$ 4,314,716</u> |

Breakdown of Expenses ⁽²⁾

| | <u>Pull-Tab</u> | <u>Bingo</u> | <u>Fish Derby</u> | <u>Raffle</u> | <u>Total</u> |
|--------------------------|-----------------------------|----------------------------|-------------------------|--------------------------|-----------------------------|
| Rental of Facility | \$ 1,009,406 | \$ 296,504 | \$ 4,500 | \$ 7,232 | \$ 1,317,642 |
| Other Facility Costs | 235,245 | 70,668 | - o - | 5,944 | 311,857 |
| Contract / Pro. Services | 285,427 | 55,047 | - o - | 5,660 | 346,134 |
| Accounting | 268,776 | 136,925 | 1,145 | 138 | 406,984 |
| Wages | 2,010,705 | 691,852 | - o - | 42,822 | 2,745,379 |
| Payroll Taxes | 271,650 | 67,115 | - o - | 3,370 | 342,135 |
| Operator Fee | 4,072,164 | 561,537 | 6,000 | 68,189 | 4,707,890 |
| Cost of Pull-tab Games | 1,341,622 | - o - | - o - | - o - | 1,341,622 |
| Pull-Tab Tax Paid | 408,492 | - o - | - o - | - o - | 408,492 |
| Cost of Bingo Cards | - o - | 353,539 | - o - | - o - | 353,539 |
| Advertising | 27,376 | 16,827 | - o - | 1,446 | 45,649 |
| Equipment Purchases | 3,762 | 225 | - o - | - o - | 3,987 |
| Other Expenses | 170,247 | 114,101 | 241 | 3,089 | 287,678 |
| Door Prizes | <u>21,097</u> | <u>128,389</u> | <u>- o -</u> | <u>- o -</u> | <u>149,486</u> |
| Total Expenses | <u>\$ 10,125,969</u> | <u>\$ 2,492,729</u> | <u>\$ 11,886</u> | <u>\$ 137,890</u> | <u>\$ 12,768,474</u> |

(1) Based on 26 operator annual reports filed with the division as of 7/30/2002.

(2) Total Expense reported on Schedule C, prior to any limitations.

2001 Multiple-Beneficiary Permittee Activity by Game Type ⁽¹⁾

| | <u>Pull-Tab</u> | <u>Bingo</u> | <u>Raffle</u> | <u>Misc</u> | <u>Total</u> |
|-------------------|---------------------|---------------------|------------------|---------------|---------------------|
| Gross Receipts | \$ 54,305,122 | \$ 22,727,768 | \$ 189,660 | \$ 279 | \$ 77,222,829 |
| Taxes | 157,338 | - 0 - | - 0 - | - 0 - | 157,338 |
| Prizes | 42,550,696 | 16,488,755 | 112,692 | - 0 - | 59,152,143 |
| Expenses | <u>7,370,745</u> | <u>4,570,067</u> | <u>45,774</u> | <u>- 0 -</u> | <u>11,986,586</u> |
| Net Proceeds | <u>\$ 4,226,343</u> | <u>\$ 1,668,946</u> | <u>\$ 31,194</u> | <u>\$ 279</u> | <u>\$ 5,926,762</u> |
| Net Proceeds Paid | | | | | <u>\$5,875,277</u> |

Breakdown of Expenses ⁽²⁾

| | <u>Pull-Tab</u> | <u>Bingo</u> | <u>Raffle</u> | <u>Misc</u> | <u>Total</u> |
|--------------------------|---------------------|---------------------|------------------|-----------------|----------------------|
| Rental of Facility | \$ 1,215,625 | \$ 621,034 | \$ - 0 - | \$ - 0 - | \$ 1,936,659 |
| Other Facility Costs | 9,079 | 279,199 | - 0 - | - 0 - | 518,278 |
| Contract / Pro. Services | 182,530 | 97,949 | 2,976 | - 0 - | 283,455 |
| Accounting | 92,002 | 92,051 | - 0 - | - 0 - | 184,053 |
| Wages | 2,434,465 | 1,344,050 | - 0 - | - 0 - | 3,778,515 |
| Payroll Taxes | 234,894 | 106,685 | - 0 - | - 0 - | 341,579 |
| Vendor Compensation | 106,508 | - 0 - | - 0 - | - 0 - | 106,508 |
| Cost of Pull-tab Games | 1,371,364 | - 0 - | - 0 - | - 0 - | 1,371,364 |
| Pull-Tab Tax Paid | 395,281 | - 0 - | - 0 - | - 0 - | 395,281 |
| Cost of Bingo Cards | - 0 - | 925,408 | - 0 - | - 0 - | 925,408 |
| Advertising | 85,790 | 81,567 | 31,704 | - 0 - | 199,061 |
| Equipment Purchases | 62,586 | 226,263 | - 0 - | - 0 - | 288,849 |
| Other Expenses | 573,254 | 465,634 | 11,094 | - 0 - | 1,049,982 |
| Door Prizes | <u>277,367</u> | <u>330,227</u> | <u>- 0 -</u> | <u>- 0 -</u> | <u>607,594</u> |
| Total | <u>\$ 7,370,745</u> | <u>\$ 4,570,067</u> | <u>\$ 45,774</u> | <u>\$ - 0 -</u> | <u>\$ 11,986,586</u> |

(1) Based on 14 MBP annual reports filed with the division as of 7/30/2002. Includes MBP Vendor Activity.

(2) Total Expense reported on Schedule C, prior to any limitations.

2001 Permittee Self-Directed Activity ⁽¹⁾

| | <u>Amount</u> | <u>% Gross Receipts</u> |
|---------------------|-----------------------------|-------------------------|
| Gross Receipts | \$ 169,404,373 | |
| Taxes | 505,627 | 0.30% |
| Prizes | 127,578,886 | 75.31% |
| Expenses | <u>23,218,286</u> | 13.70% |
| Net Proceeds | <u>\$ 18,101,574</u> | 10.69% |

Breakdown of Expenses ⁽²⁾

| | <u>Amount</u> | <u>% Expenses</u> |
|--------------------------|-----------------------------|-------------------|
| Rental of Facility | \$ 1,856,452 | 8.00% |
| Other Facility Costs | 307,631 | 1.30% |
| Contract / Pro. Services | 659,442 | 2.84% |
| Accounting | 962,698 | 4.15% |
| Wages | 8,668,922 | 37.34% |
| Payroll Taxes | 1,281,045 | 5.52% |
| Cost of Pull-tab Games | 3,512,441 | 15.13% |
| Pull-Tab Tax Paid | 851,922 | 3.67% |
| Cost of Bingo Cards | 559,804 | 2.41% |
| Advertising | 238,453 | 1.03% |
| Equipment Purchases | 225,521 | 0.97% |
| Other Expenses | 3,630,493 | 15.64% |
| Door Prizes | <u>463,462</u> | 2.00% |
| Total Expenses | <u>\$ 23,218,286</u> | |

(1) Based on 1,141 permittee annual reports filed with the division as of 7/30/2002.

There are 84 permittee annual reports outstanding as of the date of this report.

(2) Total Expense reported on Schedule C, prior to any limitations.

2001 Operator Activity ⁽¹⁾

| | <u>Amount</u> | <u>% Gross Receipts</u> |
|--------------------------|----------------------------|-----------------------------|
| Gross Receipts | \$68,844,875 | |
| Taxes | 298,866 | 0.43% |
| Prizes | 53,308,472 | 77.43% |
| Expenses | <u>12,768,474</u> | 18.55% |
| Net Proceeds | <u>\$ 2,469,063</u> | 3.59% |
| Net Proceeds Paid | <u>\$ 4,314,716</u> | |

Breakdown of Expenses ⁽²⁾

| | <u>Amount</u> | <u>% Expenses</u> |
|--------------------------|----------------------------|-----------------------|
| Rental of Facility | \$ 1,317,642 | 10.32% |
| Other Facility Costs | 311,857 | 2.44% |
| Contract / Pro. Services | 346,134 | 2.71% |
| Accounting | 406,984 | 3.19% |
| Wages | 2,745,379 | 21.50% |
| Payroll Taxes | 342,135 | 2.68% |
| Operator Fee | 4,707,890 | 36.87% |
| Cost of Pull-tab Games | 1,341,622 | 10.51% |
| Pull-Tab Tax Paid | 408,492 | 3.20% |
| Cost of Bingo Cards | 353,539 | 2.77% |
| Advertising | 45,649 | 0.36% |
| Equipment Purchases | 3,987 | 0.03% |
| Other Expenses | 287,678 | 2.25% |
| Door Prizes | <u>149,486</u> | 1.17% |
| Total Expenses | <u>\$12,768,474</u> | |

(1) Based on 26 operator annual reports filed with the division as of 7/30/2002.

(2) Total Expense reported on Schedule C, prior to any limitations.

2001 Multiple-Beneficiary Permittee Activity ⁽¹⁾

| | <u>Amount</u> | <u>% Gross Receipts</u> |
|-------------------|---------------------|-----------------------------|
| Gross Receipts | \$ 77,222,829 | |
| Taxes | 157,338 | 0.20% |
| Prizes | 59,152,143 | 76.60% |
| Expenses | <u>11,986,586</u> | 15.52% |
| Net Proceeds | <u>\$ 5,926,762</u> | 7.68% |
| Net Proceeds Paid | <u>\$ 5,875,277</u> | |

Breakdown of Expenses ⁽²⁾

| | <u>Amount</u> | <u>% Expenses</u> |
|--------------------------|----------------------|-----------------------|
| Rental of Facility | \$ 1,936,659 | 16.16% |
| Other Facility Costs | 518,278 | 4.32% |
| Contract / Pro. Services | 283,455 | 2.36% |
| Accounting | 184,053 | 1.54% |
| Wages | 3,778,515 | 31.52% |
| Payroll Taxes | 341,579 | 2.85% |
| Vendor Compensation | 106,508 | 0.89% |
| Cost of Pull-tab Games | 1,371,364 | 11.44% |
| Pull-Tab Tax Paid | 395,281 | 3.30% |
| Cost of Bingo Cards | 925,408 | 7.72% |
| Advertising | 199,061 | 1.66% |
| Equipment Purchases | 288,849 | 2.41% |
| Other Expenses | 1,049,982 | 8.76% |
| Door Prizes | <u>607,594</u> | 5.07% |
| Total Expenses | <u>\$ 11,986,586</u> | |

(1) Based on 14 MBP annual reports filed with the division as of 7/30/2002. Includes MBP Vendor Activity.

(2) Total Expense reported on Schedule C, prior to any limitations.

2001 Activity by Organization Type ⁽¹⁾

| <u>Organization Type</u> | <u>Gross Receipts</u> | <u>Taxes</u> | <u>Prizes</u> | <u>Expenses</u> | <u>Net Proceeds</u> |
|--------------------------|-----------------------|---------------------|-----------------------|----------------------|----------------------|
| Charitable | \$ 71,723,881 | \$ 238,913 | \$ 54,293,136 | \$ 12,071,242 | \$ 5,120,590 |
| Civic or Service | 69,339,165 | 168,078 | 52,338,712 | 10,141,429 | 6,690,946 |
| Educational | 49,204,844 | 198,979 | 37,464,247 | 7,009,478 | 4,532,140 |
| Fraternal | 35,968,968 | 138,913 | 27,885,392 | 4,627,924 | 3,316,739 |
| IRA/Native Village | 32,066,172 | 44,725 | 24,495,404 | 4,577,803 | 2,948,240 |
| Municipality | 30,051,719 | 42,715 | 22,606,334 | 3,724,607 | 3,678,063 |
| Veterans | 28,029,400 | 89,061 | 21,819,517 | 3,814,632 | 2,306,190 |
| Nonprofit Trade Assn | 12,787,940 | 4,078 | 9,741,269 | 1,760,187 | 1,282,406 |
| Dog Musers' Assn | 9,300,613 | 108,488 | 7,529,440 | 1,794,896 | (132,211) |
| Police or Fire Dept | 6,364,344 | 46,173 | 4,982,048 | 841,694 | 494,429 |
| Religious | 3,396,772 | 17,159 | 2,553,024 | 759,472 | 67,117 |
| Political | 2,177,664 | 2,759 | 1,598,079 | 360,342 | 216,484 |
| Labor | 522,369 | 955 | 356,758 | 71,368 | 93,288 |
| Fishing Derby Assn | 82,730 | 0 | 41,924 | 42,312 | (1,506) |
| Total | \$ 351,016,581 | \$ 1,100,996 | \$ 267,705,284 | \$ 51,597,386 | \$ 30,612,915 |

(1) Based on 1,141 permittee annual reports, 26 operator annual reports, 14 MBP annual reports filed with the division as of 7/30/2002.

Gross Receipts from Gaming by Organization Type

| <u>Organization Type</u> | <u>2001</u> ⁽¹⁾ Gross Receipts | <u>2000</u> ⁽²⁾ Gross Receipts |
|--------------------------|---|---|
| Charitable | \$71,723,881 | \$65,216,784 |
| Civic or Service | 69,339,165 | 63,895,846 |
| Educational | 49,204,844 | 42,895,393 |
| Fraternal | 35,968,968 | 30,018,992 |
| IRA/Native Village | 32,066,172 | 31,606,766 |
| Municipality | 30,051,719 | 29,504,296 |
| Veterans | 28,029,400 | 25,628,943 |
| Nonprofit Trade Assn | 12,787,940 | 14,566,803 |
| Dog Musers' Assn | 9,300,613 | 7,535,947 |
| Police or Fire Dept | 6,364,344 | 4,537,081 |
| Religious | 3,396,772 | 4,141,246 |
| Political | 2,177,664 | 1,678,432 |
| Labor | 522,369 | 556,202 |
| Fishing Derby Assn | <u>82,730</u> | <u>85,346</u> |
| Total | <u>\$ 351,016,581</u> | <u>\$ 321,868,077</u> |

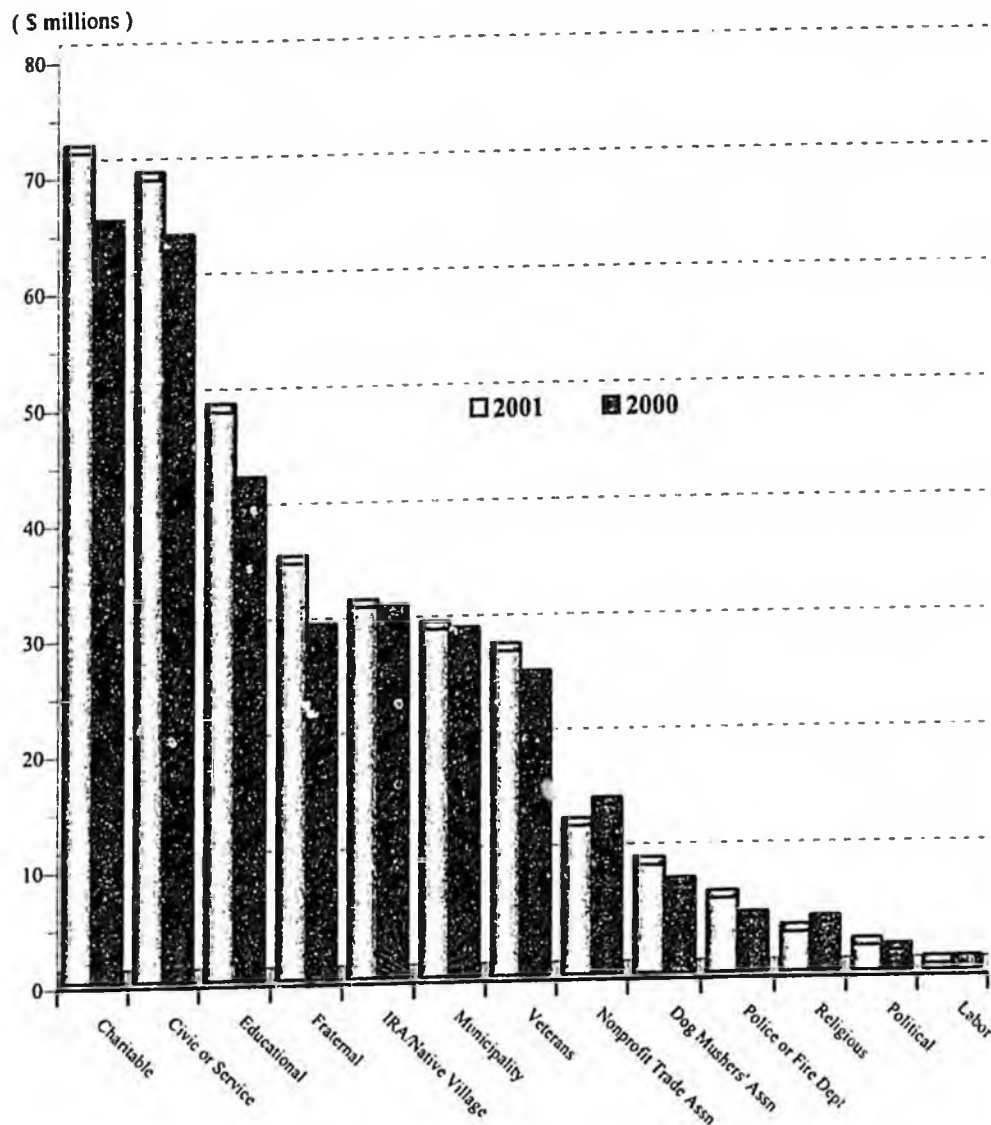
(1) Based on 1,141 permittee annual reports, 26 operator annual reports, and 14 MBP annual reports filed with the division as of 7/30/2002.

(2) Based on 1,088 permittee annual reports, 25 operator annual reports, 11 MBP annual reports filed with the division as of 7/30/2002.

Organization types as reported were reviewed and, when necessary, reclassified to the correct category.

Gross Receipts by Organization Type ⁽¹⁾

Gross Receipts
 2001 - \$351,016,581
 2000 - 321,868,077



(1) Fishing Derby Associations do not appear in this chart.

Licensed Operators and Locations

| City | <u>2001</u> | <u>2000</u> | <u>1999</u> | <u>1998</u> | <u>1997</u> | <u>1996</u> | <u>1995</u> | <u>1994</u> | <u>1993</u> | <u>1992</u> | <u>1991</u> | <u>1990</u> |
|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Anchorage | 7 | 8 | 6 | 6 | 4 | 6 | 12 | 12 | 13 | 13 | 13 | 11 |
| Barrow | - | - | - | - | - | - | - | - | - | 1 | - | - |
| Bethel | 1 | 1 | 2 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - |
| Craig | 3 | 3 | 3 | 3 | 3 | 2 | 2 | 2 | 1 | - | - | - |
| Fairbanks | 6 | 4 | 4 | 4 | 4 | 5 | 5 | 7 | 7 | 8 | 6 | 6 |
| Haines | - | - | - | - | - | - | - | - | 1 | - | - | - |
| Juneau | 1 | 1 | 1 | - | - | 1 | 1 | 3 | 5 | 5 | 3 | 1 |
| Ketchikan | 5 | 4 | 3 | 3 | 3 | 3 | 2 | 3 | 3 | 5 | 5 | 5 |
| Nome | 2 | 2 | 2 | 2 | 2 | 2 | 1 | 2 | 2 | 3 | 2 | 1 |
| North Pole | - | 1 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 2 | - | - |
| Palmer | - | - | - | - | - | 1 | - | - | - | 1 | 1 | - |
| Petersburg | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - |
| Valdez | - | - | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - |
| Wasilla | - | - | - | - | - | - | - | 1 | 1 | - | - | - |
| Total | <u>26</u> | <u>25</u> | <u>24</u> | <u>22</u> | <u>21</u> | <u>25</u> | <u>28</u> | <u>35</u> | <u>38</u> | <u>39</u> | <u>30</u> | <u>24</u> |

Licensed Distributors and Locations

| City | <u>2001</u> | <u>2000</u> | <u>1999</u> | <u>1998</u> | <u>1997</u> | <u>1996</u> | <u>1995</u> | <u>1994</u> | <u>1993</u> | <u>1992</u> | <u>1991</u> | <u>1990</u> |
|--------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Anchorage | 3 | 5 | 5 | 5 | 5 | 6 | 5 | 5 | 7 | 9 | 10 | 12 |
| Cordova | - | - | - | - | - | - | - | - | - | 1 | 1 | 1 |
| Eagle River | - | - | - | - | - | - | - | - | - | 1 | 1 | - |
| Fairbanks | 4 | 2 | 2 | 3 | 3 | 3 | 3 | 4 | 2 | 2 | 3 | 5 |
| Juneau | 2 | 2 | 2 | 2 | 2 | 3 | 3 | 4 | 3 | 2 | 2 | 1 |
| Kenai | - | - | 1 | - | - | - | - | - | - | - | - | - |
| Ketchikan | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 3 | 2 | 1 |
| Nome | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Sitka | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Soldotna | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - |
| Wasilla | - | - | - | - | - | - | - | 1 | 1 | 1 | 1 | 1 |
| Total | <u>13</u> | <u>13</u> | <u>14</u> | <u>14</u> | <u>14</u> | <u>16</u> | <u>15</u> | <u>19</u> | <u>18</u> | <u>21</u> | <u>22</u> | <u>23</u> |

2001 Registered Vendors and Locations

| <u>City</u> | <u>Vendors</u> | <u>City</u> | <u>Vendors</u> |
|----------------|----------------|--------------------|----------------|
| Anchor Point | 1 | Ketchikan | 6 |
| Anchorage | 54 | King Cove | 2 |
| Auke Bay | 1 | King Salmon | 1 |
| Big Lake | 4 | Kodiak | 4 |
| Cantwell | 1 | Manley Hot Springs | 2 |
| Chiniak | - | Moose Creek | 1 |
| Chitina | 1 | Naknek | 3 |
| Chugiak | 2 | Nenana | 4 |
| Clear | 1 | Nikiski | 2 |
| Cooper Landing | 2 | Ninilchik | 3 |
| Copper Center | 4 | Nome | 6 |
| Cordova | 3 | North Pole | 5 |
| Delta Jct | 2 | Palmer | 6 |
| Denali | 1 | Salcha | 2 |
| Dutch Harbor | 2 | Seldovia | 2 |
| Eagle River | 3 | Seward | 6 |
| Fairbanks | 46 | Sitka | 6 |
| Gakona | 2 | Soldotna | 12 |
| Galena | 1 | Sterling | 2 |
| Glennallen | 3 | Talkeetna | 4 |
| Haines | 3 | Tok | 2 |
| Healy | 1 | Trapper Creek | 1 |
| Homer | 9 | Tyonek | - |
| Hoonah | - | Unalaska | 3 |
| Houston | - | Valdez | 4 |
| Hyder | - | Wasilla | 13 |
| Juneau | 10 | Willow | 6 |
| Kasilof | 3 | Wrangell | 4 |
| Kenai | 8 | Yakutat | 2 |

Total Vendors in 2001 282

Total Vendors in 2000 260

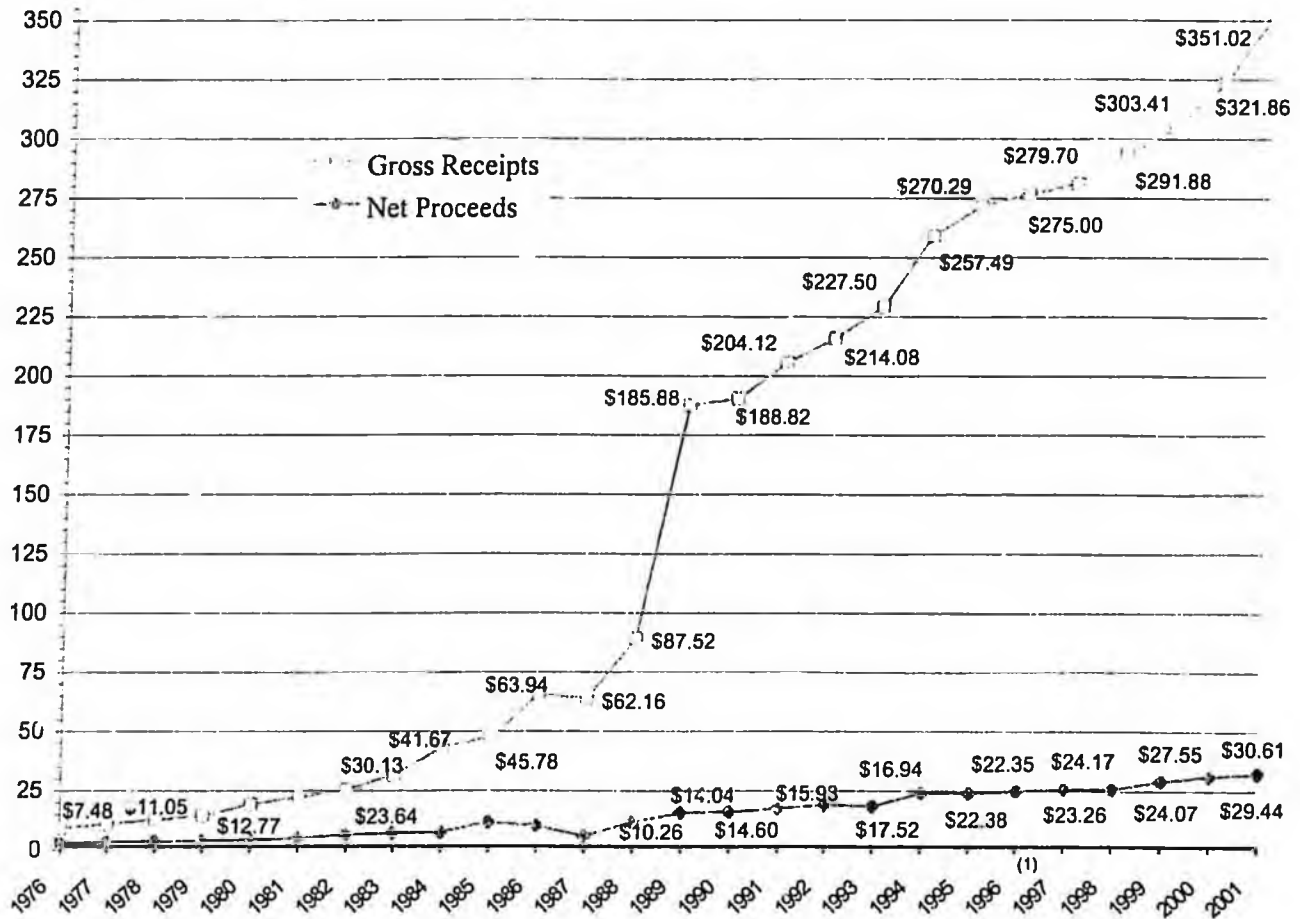
Multiple-Beneficiary Permittees (MBP) and Locations

| <u>City</u> | <u>2001</u> | <u>2000</u> | <u>1999</u> | <u>1998</u> | <u>1997</u> |
|-------------------|-------------|-------------|-------------|-------------|-------------|
| Anchorage | 6 | 6 | 9 | 8 | 7 |
| Fairbanks | 2 | 2 | 2 | 2 | 3 |
| Juneau | 4 | 3 | 3 | 5 | 5 |
| Kenai | 1 | 1 | 1 | 1 | 2 |
| Kodiak | 1 | - | - | - | - |
| Total MBPs | <u>14</u> | <u>12</u> | <u>15</u> | <u>16</u> | <u>17</u> |

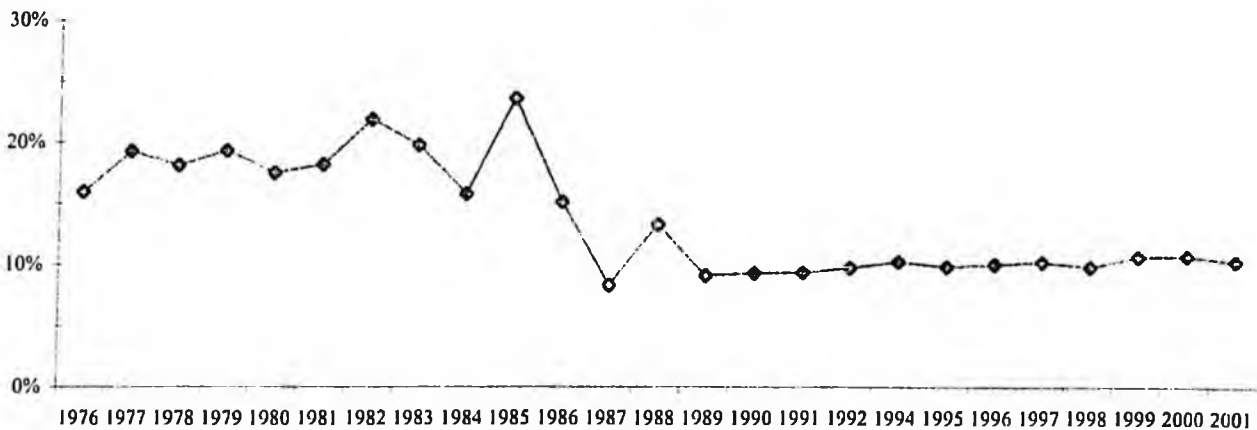
**Annual Gross Receipts and Net Proceeds
1976 - 2001**

Total Gaming Activity

(\$ millions)

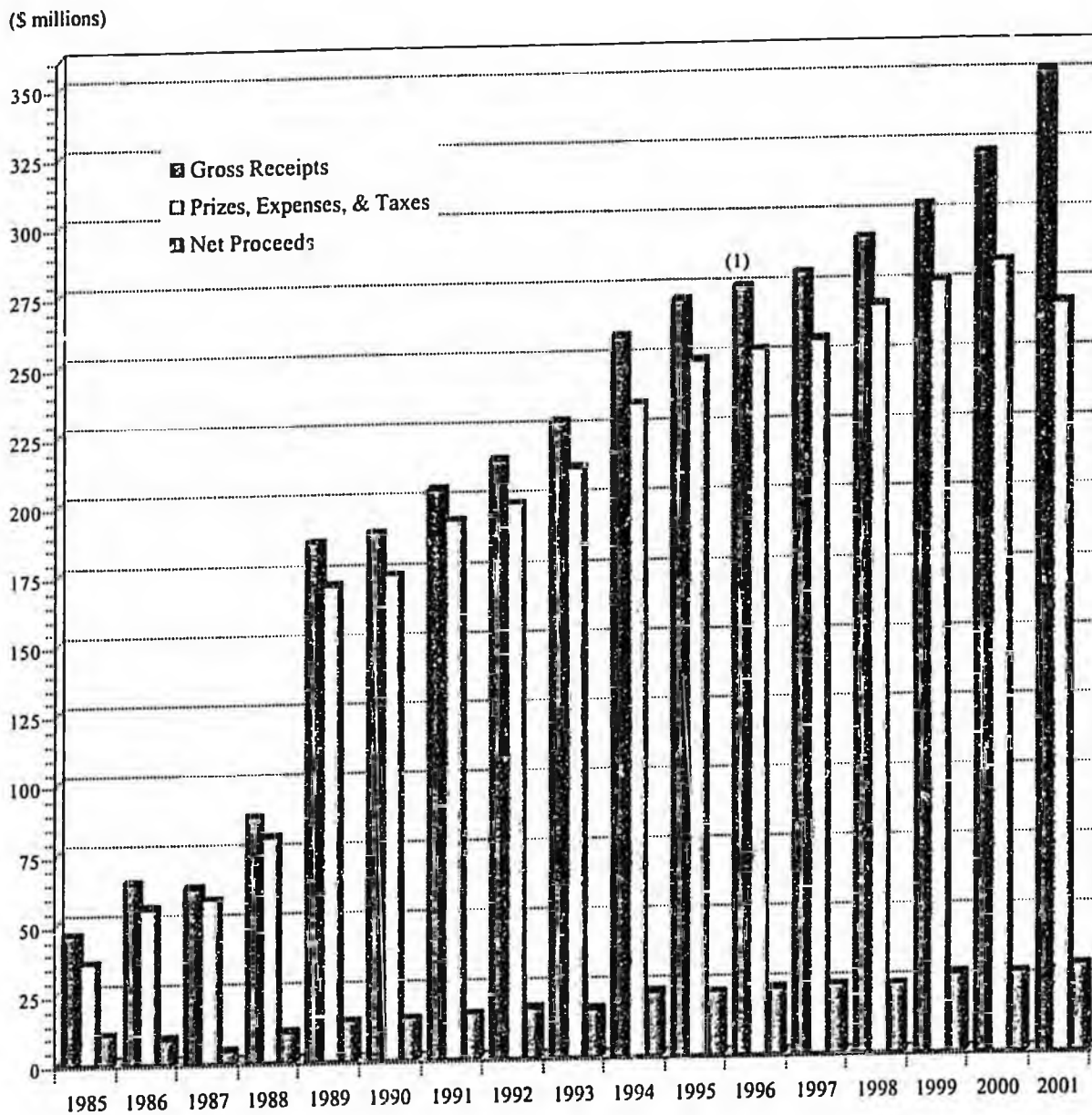


**Net Proceeds as a Percentage of Gross Receipts
1976 - 2001**



(1) Estimated. A combination of a new computer system and the merger of the Gaming Division into the old Income and Excise Audit Division resulted in incomplete information for the year.

Annual Gross Receipts, Prizes, Expenses, Taxes, and Net Proceeds



(1) Estimated. A combination of a new computer system and the merger of the Gaming Division into the old Income and Excise Audit Division resulted in incomplete information for the year.

03/13/03

Labor and Commerce Committee

Members of the Committee,

The proposed tax in HB169/SB102 if adopted in its current form will force the self-directed gaming operations of the organizations I represent before you today into bankruptcy.

Bellow is or our **current situation** for each pull-tab we sell:

\$ 1.00 = one pull tab
\$.80 = our prize paid out (the winning pull tabs)
= \$.20 = our adjusted gross income

Revenue taken from that \$.20 (our adjusted gross income)

30.5% = \$.061 = charitable proceeds*
25% = \$.05 = our sales tax liability to the local municipality
18.5 % = \$.037 = our payroll cost (2 positions full time, 2 positions ¾ time)
13% = \$.026 = our cost for that single pull tab
10% = \$.02 = our fixed costs rent utilities permit fees etc.
3% = \$.006 = our current 3% State ideal net tax
= 100% = \$.20 = our total adjusted gross income

***Note:** Current state law requires that at least 30 % of the adjusted gross income be used for charitable proceeds and no more than 70% of the adjusted gross income be used for gaming expenses.

Bellow is our **situation if HB169/SB102 are passed**

\$ 1.00 = one pull tab
\$.80 = our prize paid out (the winning pull tabs)
= \$.20 = our adjusted gross income

Revenue taken from that \$.20 (our adjusted gross income)

8.5% = \$.017 = charitable proceeds*
25% = \$.05 = **Proposed 5% gross Tax (fee) under HB169/SB102**
25% = \$.05 = our sales tax liability to the local municipality
18.5 % = \$.037 = our payroll cost (2 positions full time, 2 positions ¾ time)
13% = \$.026 = our cost for that single pull tab
10% = \$.02 = our fixed costs rent utilities permit fees etc.
= 100% = \$.20 = our total adjusted gross income

***This scenario will put us out of compliance with state law**

You may ask yourselves several questions;

Q: Why don't you pass the sales tax along to the customer?

A: This was tried with disastrous results, as the pace and of gaming was frustrated and as a result gross revenues dropped 60% and we had no choice but to absorb the tax. Imagine if you will every time someone exchanges a playback the oil that runs all gaming (the small winning tickets \$ 1, \$2, \$5, \$10 winners) they had to reach for small change in their pocket or receive change. These transactions take place in seconds. This logistical senero of passing along a tax to the consumer is frankly impossible. Believe me if we could pass the sales tax along we would have been doing so since its inception.

Q: Are your expenses higher than other types of business?

A: No in fact I challenge you to find another business in the State that that returns 30.5% profit while absorbing a 28% tax burden. (25% sales tax 3% state ideal net tax)

Q: How can we create an equitable tax structure on gaming State wide, while making sure we have proper regulation and no profiteering? Thus insuring the permit holders receive the maximum possible return.

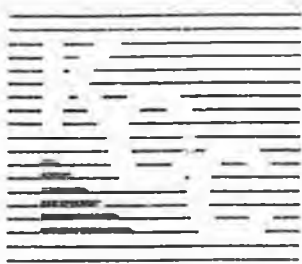
- A: 1. Outlaw local sales taxation on charitable gaming. (***This plan will only work with the passage of legislation that would outlaw local taxation***)
2. Increase the current 3% ideal net tax to 20% on pull-tabs.
 3. Create an ideal net tax on bingo paper
 3. Split that revenue generated with the local municipalities 50%/50%
 4. Use 1% of the additional revenue the state will be receiving to step up enforcement of gaming regulations. Deposit the rest not split with the local municipalities in the general fund.
 5. License all management (not just operators) involved in gaming and revoke those licenses if the permits they manage do not return the state mandated minimums.
 6. Increase the mandated minimums on operators to prevent profiteering.
 7. Make the distributors confidentially reveal their net yearly profit to the State and tax any percentage profit exceeding 40%.
 8. Prevent "ghost charities" those charities that only exist on paper from being allowed gamming permits by strengthening the requirements for qualification.

I would like to extend a detailed inspection of our books to you or your staff. Please also feel free to talk with the current regulators, members of our community, or anyone else you may think has input regarding our past performance and ethics in the endeavor of charitable gaming. HB169/SB102 in their current form will without question bankrupt the gamming operations of the organizations I represent. This will force them out on the

streets or to the public trough to make up for that lost revenue. I am certain this is not the Governor's intention with this proposed legislation.

Sincerely,

David. D. Sanden
Primary Member in Charge of Gaming
Juneau Montessori Center
Southeast Alaska Friends Of the Montessori
Juneau Dance Unlimited
I can be reached @ 364-2890 790-2198 or paged @ 463-7654
750 St. Ann's Ave
Douglas, AK 99824



**KODIAK
CHAMBER
OF COMMERCE**

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March 31, 2003

Senator Con Bunde
Chair, Senate Labor & Commerce Committee
Alaska State Legislature
State Capitol, Room 506
Juneau, AK 99801-1182

Senator Bunde,

The Kodiak Chamber of Commerce wishes to voice its opposition to the passage of Senate Bill 102, "An act increasing the amount of revenue received by the state from charitable gaming." While we can appreciate the need for the State of Alaska to increase revenues as it tries to balance its budget, we don't believe that the passage of SB 102 will accomplish that goal.

The budget documents presented by Governor Murkowski indicate that increasing the tax on pull tab operations from 3% of the ideal net to 5% of the gross revenue would raise \$11.5 million dollars of additional revenue while holding harmless the non-profits who conduct charitable gaming. The proposal in SB102 suggests that to accomplish this, the payout to players would be lowered from an average of 78% to a maximum of 72%. While a laudable goal, the plan as presented in SB 102 is unachievable. The only thing that this change will accomplish is to drive players away from the pull-tab game. Reducing payouts to players will only reduce participation, thereby harming the very non-profits that were to be held harmless by the proposed changes.

The transmittal letter submitted with the legislation by Governor Murkowski brings attention to problems with operators and references placing the same restrictions on vendors, but it fails to address the impact the proposed changes will have on organizations like the Kodiak Chamber of Commerce that run their own gaming operations. The Kodiak community has prohibited the use of operators to ensure that non-profits involved in charitable gaming had better control of their charitable gaming operations. All charitable gaming is accomplished using vendors or as directed gaming by the non-profits. The changes in SB 102 penalize non-profits who run directed gaming operations.

While the bill claims to offset increases in taxes by raising the amounts paid to non-profits, the reduction of payouts to players will mean less play of the games. Less play will mean less money to the non-profits. Players will quickly shift their gaming activities to on-line computer gaming and neither the non-profit nor the State of Alaska will realize and benefit as a result of these changes. The assumptions used to write this bill fail to take into consideration or to understand the psychology of gaming. Passage of this bill will simply drive players away.

Dedicated to Kodiak's Future

The Board of Directors of the Kodiak Chamber of Commerce urges you to defeat passage of this bill. We genuinely appreciate your careful consideration and thoughtful attention to these concerns as you and the committee, continue your deliberations.

Yours in economic prosperity,

A handwritten signature in dark ink, appearing to read "Deborah M. Milam". The signature is fluid and cursive, with a large initial "D" and "M".

Deborah M. Milam
President