

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 31, 2003

3:17 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Bob Lynn, Vice Chair
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Nancy Dahlstrom

OTHER LEGISLATORS PRESENT

Representative Vic Kohring

COMMITTEE CALENDAR

HOUSE BILL NO. 148

"An Act instructing the State Board of Registration for Architects, Engineers, and Land Surveyors to adopt minimum technical standards relating to the practice of surveying."

- HEARD AND HELD

HOUSE BILL NO. 164

"An Act relating to the state's sovereign immunity for certain actions regarding injury, illness, or death of state-employed seamen and to workers' compensation coverage for those seamen; and providing for an effective date."

- MOVED HB 164 OUT OF COMMITTEE

HOUSE BILL NO. 169

"An Act increasing the amount of revenue received by the state from charitable gaming activities; and providing for an effective date."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 148

SHORT TITLE:LAND SURVEY STANDARDS

SPONSOR(S): REPRESENTATIVE(S)HARRIS

Jrn-Date	Jrn-Page		Action
03/04/03	0377	(H)	READ THE FIRST TIME - REFERRALS
03/04/03	0377	(H)	L&C
03/04/03	0377	(H)	REFERRED TO LABOR & COMMERCE
03/31/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 164

SHORT TITLE:CLAIMS BY STATE-EMPLOYED SEAMEN

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0435	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0435	(H)	L&C, JUD, FIN
03/05/03	0435	(H)	FN1: ZERO(ADM)
03/05/03	0435	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/05/03	0435	(H)	REFERRED TO LABOR & COMMERCE
03/14/03		(H)	L&C AT 3:15 PM CAPITOL 17
03/14/03		(H)	<Bill Hearing Postponed>
03/31/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 169

SHORT TITLE:CHARITABLE GAMING REVENUE

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0442	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0442	(H)	L&C, FIN
03/05/03	0442	(H)	FN1: (REV)
03/05/03	0442	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/05/03	0442	(H)	REFERRED TO LABOR & COMMERCE
03/31/03		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

PETE FELLMAN, Staff
to Representative John Harris
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 148 on behalf of the sponsor and answered questions.

SUSAN COX, Chief Assistant Attorney General
Civil Division (Juneau)
Department Of Law
Juneau, Alaska

POSITION STATEMENT: Presented HB 164 for the administration, explaining how the injuries of state-employed seamen have been handled under the workers' compensation and maritime law systems.

BRAD THOMPSON, Director
Division of Risk Management
Department of Administration
Juneau, Alaska

POSITION STATEMENT: Testified on HB 164, describing the numbers and costs of state ferry crew claims under maritime law as compared to the claims of other state employees covered by Workers' Compensation.

DARRYL TSEU, Regional Director
Inland Boatmen's Union of the Pacific, Alaska Region
Juneau, Alaska

POSITION STATEMENT: Addressed concerns about HB 164 and described the hazardous work conditions on board a ferry that cause higher rates of accidents.

PAUL GROSSI, Director
Division of Workers' Compensation,
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered workers' compensation questions on HB 164.

LARRY PERSILY, Deputy Commissioner
Office of the Commissioner
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Presented HB 169 and proposed amendments on behalf of the administration.

JAMES REID, Administrator
Juneau Moose Lodge
Juneau, Alaska

POSITION STATEMENT: Testified against HB 169, explaining how charities that sell their own pull-tabs will be impacted.

DAVID SANDEN, General Manager
Multiple-beneficiary permittee (MBP)
Juneau Montessori Center
Southeast Alaska Friends of Montessori
Juneau Dance Unlimited
Juneau, Alaska

POSITION STATEMENT: Testified against HB 169 but proposed an alternative sustainable gaming tax that would be split with the municipalities where the money is raised.

BOB LOESCHER, President
Juneau Tlingit & Haida Community Council;
Advisor
Alaska Native Brother Grand Camp
Juneau, Alaska

POSITION STATEMENT: Opposed HB 169 and stated that local governments should not be taxing pull-tabs.

TED BROWN
Alaska Indoor Sports
Anchorage, Alaska

POSITION STATEMENT: Testified against HB 169, noting that increasing state revenues on charitable gaming from \$2 million to \$12.5 million won't work.

DWIGHT McBRIDE, Operator
Ketchikan

POSITION STATEMENT: Opposed HB 169, stating that the pull-tab market will not bear a lower gross income.

LEONARD WELLS
Homer

POSITION STATEMENT: Testified against HB 169, explaining that people who are heavy pull-tab players will definitely notice a lower payout rate.

TIM SMITH
Nome Fisherman's Association
Nome, Alaska

POSITION STATEMENT: Spoke in opposition to HB 169 and suggested that the legislature remove the prohibition on electronic gambling machines.

DAVID LAMBERT
Fairbanks, Alaska

POSITION STATEMENT: Opposed HB 169 and stated that few manufacturers make 72 percent payout games.

JESSE VANDERZANDER
Alaska Outdoor Council;
Alaska Fish & Wildlife Conservation Fund
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 169 and cautioned that decreasing the vendor and operator's shares could close down their operations.

WAYNE STEVENS, Executive Director
Kodiak Chamber of Commerce
Kodiak, Alaska

POSITION STATEMENT: Spoke against HB 169, noting that the reduced payout will reduce player participation, thereby cutting revenue to charities.

DEBBIE BUSSDIEKER
Alaska Indoor Sports Distributing;
Kenai Peninsula Aerie 3525 Auxiliary
Kenai, Alaska

POSITION STATEMENT: Opposed HB 169, warning that the bill will dramatically decrease pull-tab sales.

RICKY GEASE, Executive Director
Kenai Convention and Visitors Bureau
Kenai, Alaska

POSITION STATEMENT: Testified against HB 169, stating that the state should not be setting price limits on the free market of pull-tab payouts.

JOHN LOPEZ
Denali Gaming Supply
Anchorage, Alaska

POSITION STATEMENT: Opposed HB 169, explaining that it will increase annual taxes from \$3,000 to \$30,000.

JIM PEOT, General Manager
Whaler Casino Supply
Anchorage, Alaska

POSITION STATEMENT: Testified against HB 169, noting that players dictate the pull-tab market.

GENE HANSEN
Alaska State Fraternal Order of Eagles;
Aerie 1037 Far North Eagles

Fairbanks, Alaska

POSITION STATEMENT: Spoke in opposition to HB 169 and predicted that the Eagles' single permit income of \$15,000 will be halved as a result of the bill.

GREG PETERSON, Employee
Alaska Indoor Sports Distributing
Ketchikan, Alaska

POSITION STATEMENT: Testified against HB 169, criticizing those who dismiss the genuine public outcry against this bill.

ACTION NARRATIVE

TAPE 03-25, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:17 p.m. Representatives Anderson, Lynn, Gatto, Crawford, and Guttenberg were present at the call to order. Representative Rokeberg arrived as the meeting was in progress. Representative Kohring was also in attendance.

HB 148-LAND SURVEY STANDARDS

Number 0055

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 148, "An Act instructing the State Board of Registration for Architects, Engineers, and Land Surveyors to adopt minimum technical standards relating to the practice of surveying."

Number 0070

PETE FELLMAN, Staff to Representative John Harris, Alaska State Legislature, presented HB 148 on behalf of the sponsor. He noted that HB 148 is an effort to address problems with land surveys. He testified that various types of surveys are done for banks, title companies, and real estate companies. He said that people who know what they want [in a survey] are generally happy with the results. However, for people who are not well versed in land surveying, they may overpay or they get surveys that aren't accurate or don't satisfy the bank or real estate company. Mr. Fellman noted that the surveying industry as a whole maintains very high standards through organizations such as the Alaska Society of Professional Land Surveyors, which is affiliated with the American Congress on Surveying and Mapping.

He gave several examples of how the industry is concerned about doing a professional job.

Number 0276

MR. FELLMAN noted that in Alaska, the governor appoints the members of the Board of Registration for Architects, Engineers and Land Surveyors. The board sets the minimum standards for surveyor testing, required schooling, and experience. Housed in the Division of Occupational Licensing [in the Department of Community and Economic Development], the board adopts regulations, makes licensing decisions, and takes disciplinary action against surveyors who violate the law.

MR. FELLMAN, noted, however, that the board has not set minimum standards for an actual survey, and that is the intent of HB 148. He said he researched [survey laws in] 26 states, and only one state did not have minimum standards for surveys. He said he is working with Patrick Kalen, director of legislative affairs for the Alaska Society of Professional Land Surveyors, who is presently in Colorado at a convention addressing national minimum standards. Mr. Fellman conveyed Mr. Kalen's interest in incorporating these national standards into HB 148.

Number 0484

REPRESENTATIVE GATTO asked Mr. Fellman about [March 29, 2003] correspondence in the members' bill packets from [Jim Colver, Surveyor] who wrote that the American Land Title Association already has standards for surveys that must be followed for title insurance.

MR. FELLMAN replied that there are standards for title insurance, but the standards are not in statute. The industry has a very good system in place, but Alaska's board has not adopted any standards. He stated that the industry tries to present itself in a professional manner, but that doesn't mean [every surveyor acts professionally].

REPRESENTATIVE GATTO asked if each title company makes up its own standards.

Number 0565

MR. FELLMAN said in practice there are important variations between types of surveys. Sometimes title companies and banks specify what should be included in a survey report; other times,

they depend on the surveyor to decide what to cover in the work product. Some surveys locate corner posts, section lines, and easements; other surveys show septic tanks, buildings, and other improvements.

REPRESENTATIVE GATTO asked why a surveyor might object to this bill.

MR. FELLMAN replied that if he were a surveyor, he would not object to promoting high standards for the industry.

Number 0662

REPRESENTATIVE GUTTENBERG asked for examples of problems with surveyors' work.

MR. FELLMAN said he did not personally know of any problems. He said Mr. Kalen had told him that the lack of formalized norms for surveying in Alaska leads to undesired results, and he supported the sponsor taking this action. Mr. Fellman said he doesn't want people paying for [elements of] a survey they don't need or want.

REPRESENTATIVE GUTTENBERG asked if there might be different kinds of surveys approved rather than a uniform survey.

MR. FELLMAN replied that Mr. Kalen said that if HB 148 states a minimum standard for surveys, he may not be able to provide a simple section line survey. By allowing the board to adopt a standard, then professionals are making the determination [about what type of survey is appropriate].

Number 0817

REPRESENTATIVE CRAWFORD asked what this bill does about bad surveys. He asked if current state law makes a surveyor liable for a bad survey. He described his experience of buying into the Rabbit Creek Heights and Rabbit Creek View subdivisions where the original survey was flawed. The municipality platted the subdivision, he bought title insurance, then several years later learned that the surveys were all bad. The landowners cannot sell the property because they cannot acquire title insurance on it. He asked if HB 148 does anything about double-checking a surveyor's work.

MR. FELLMAN said a citizen can complain to the board, which can take a surveyor's license. Mr. Fellman said he was only familiar with this recourse.

REPRESENTATIVE CRAWFORD replied that the surveyor did lose his license in Alaska, but that didn't help any of the homeowners. He said the bills for new surveys are running into the hundreds of thousands of dollars for each property owner. He said he wondered how frequently this happens. The surveyor should be liable for these costs--not the homeowners.

Number 0983

MR. FELLMAN said perhaps the board should consider requiring surveyors to have liability insurance and bonding.

REPRESENTATIVE CRAWFORD said he would like the bill's sponsor to address the problem of faulty surveys.

Number 1014

REPRESENTATIVE ROKEBERG asked why there is no testimony from the board or from the Alaska Society of Professional Land Surveyors.

MR. FELLMAN said that Mr. Kalen [who is a member of the board] is out-of-state at a surveyor's convention.

CHAIR ANDERSON noted that Mr. Colver, the surveyor who sent an urgent email opposing HB 148, is not present to testify today.

MR. FELLMAN, responding to a question from Representative Rokeberg, noted that Representative Harris wishes to have the committee hold the bill.

REPRESENTATIVE ROKEBERG noted that it's important to hear from board members about the bill.

Number 1123

CHAIR ANDERSON said that public hearing on HB 148 will be kept open and that the bill will be held over.

HB 164-CLAIMS BY STATE-EMPLOYED SEAMEN

Number 1125

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 164, "An Act relating to the state's sovereign immunity for certain actions regarding injury, illness, or death of state-employed seamen and to workers' compensation coverage for those seamen; and providing for an effective date."

Number 1154

SUSAN COX, Chief Assistant Attorney General, Civil Division (Juneau), Department Of Law, gave a brief overview of HB 164, which was introduced at the request of the governor. This legislation seeks to amend AS 09.50.250 [Actionable claims against the state] by which the legislature has waived the state's immunity from law suits. She said the specific purpose of this bill is to withdraw the state's waiver of immunity, or its consent to suit, and instead provide workers' compensation coverage for state-employed seamen in the case of injury, illness, or death.

MS. COX explained that state-employed seamen, who work mostly aboard the Alaska Marine Highway System ("Marine Highways") [Department of Transportation & Public Facilities], have remedies today under federal provisions of maritime law and the Jones Act [46 U.S.C. 688], as do other seamen employed in the private sector. For eight years, the state had collective bargaining agreements with the unions representing the ferry workers and provided workers' compensation coverage in lieu of those maritime remedies. Then, a court decision in 1991 ruled that the state could not by contract or collective bargaining agreement waive the employee's individual rights to those remedies. However, in an earlier case, the Alaska Supreme Court wrote that if the state wished to provide workers' compensation coverage instead of subjecting itself to litigation by its seamen employees, the state could do so by changing the statute.

Number 1263

MS. COX said the purpose of the bill is to get out of the business of litigating over injuries that occur when the employee is a seaman. The state would instead provide workers' compensation coverage. This would create a uniform system of workers compensation for all state employees; there would [no longer be] a separate scenario for state-employed seamen. This legislation would not affect the rights of seamen who are not state employees nor would it impose state law on federal maritime law. The bill withdraws the state's consent to be sued under federal maritime law.

Number 1323

REPRESENTATIVE GATTO asked why the fiscal note is zero despite the cost savings to the state.

MS. COX explained that the statute of limitations for a claim under the Jones Act is three years. The effective date of this bill is July 1, [2003]. She said this means that for any injury or illness that occurs prior to July 1, the seaman would still have up to three years to file a lawsuit, and the state would continue litigating these cases for several years.

Number 1376

MS. COX explained that she is employed by the Attorney General's office to defend personal injury litigation; her position is funded by the Division of Risk Management ("Risk Management") [Department of Administration]. In the long term, the state expects to stop litigating seamen's claims, but she said she can't predict when there will be cost savings. She does expect a legal challenge to this bill by a seaman or by a group that prefers the old system under maritime law. She predicted the case will go to the Alaska Supreme Court before it is settled.

Number 1412

REPRESENTATIVE CRAWFORD asked why the state was subject to the Jones Act instead of covering employees with workers' compensation. He questioned if seamen receive less benefits under workers' compensation.

MS. COX provided background on HB 164. Before 1983, state-employed seamen were covered by federal maritime law. In 1963, the attorney general was asked whether Alaska ferry employees were covered by this federal law or whether the state's worker compensation law applied. The opinion of the attorney general at that time was that because the state had agreed in statute to be sued in personal injury actions, it had opened the door to maritime law jurisdiction, and so the federal law would apply unless the state closed that door. She said the purpose of HB 164 is to close the door a little. For a period of years, the state had Jones Act coverage for these employees, but in 1983, the ferry worker unions and the state decided through collective bargaining to use the workers compensation system. She said that system worked quite well for a period of eight years until it was invalidated by the Alaska Supreme Court.

Number 1436

MS. COX explained the difference between workers compensation and the current remedies under the Jones Act and maritime law. Under maritime law, if workers are injured on the job, leave the vessel, and cannot return to work for weeks or months, they receive their wages to the end of the voyage, without the deduction of any sick leave; they also get a \$45 dollar a day stipend until they have recovered sufficiently to return to work. They can use sick leave or vacation leave to add onto the \$45 a day maintenance payment to get the equivalent of a regular check until they return to work.

Number 1523

MS. COX noted that under workers compensation, if the workers were going to be off work for a period of weeks or months, they would receive a regular payment of 80% of their average net wage, tax free, at no cost to their sick leave or annual leave accounts. She said that for the employee who is not interested in suing anyone, the wage replacement of workers' compensation is a better deal than a \$45 a day stipend. In both circumstances, the injured workers' medical bills are paid.

MS. COX commented that under the Jones Act, employees who have more serious injuries can hire an attorney. They have to prove in court that the employer was somehow at fault for the injury. They can file a lawsuit within three years, and they can seek types of damages that are not recoverable under workers' compensation. Those damages are pain and suffering, as well as more money for their loss of earnings, and [repayment for] the use of their leave accounts.

Number 1636

MS. COX testified that the other significant difference between the two systems is that workers' compensation does not cover an illness unless it's an occupational disease. Under the maritime law maintenance and cure system, if workers get sick aboard a vessel, regardless of whether it's related to working conditions, they're entitled to all of the benefits they'd receive for a work-related injury.

MS. COX concluded that the two systems are not mirror images, but the administration thinks it's a fair trade [for state-employed seamen].

Number 1688

REPRESENTATIVE ROKEBERG asked if the seamen employees are going to consider this a fair trade.

MS. COX said all state employees, except the seamen, are covered by the [Alaska Workers Compensation Act] and receive the same benefits. The seamen have the traditional maritime remedies as well as leave usage, retirement and benefits, occupational disability, and a variety of other state benefits. She said the litigation is costly and consumes a lot of resources which would not be consumed in a no-fault system like workers' compensation.

Number 1746

REPRESENTATIVE GUTTENBERG asked if the savings are achieved by the seamen losing their procedural rights under the maritime law.

MS. COX replied that the workers' compensation is a no-fault system. Under workers' compensation, there is a presumption that when there is an injury in the workplace it is work-related, so benefits flow in most cases without much dispute. If there is an issue, the employee is entitled to the full administrative hearing process as well as rights to appeal to the superior court. Under HB 164, the employee would no longer have the right to sue the State of Alaska for pain and suffering, emotional distress, the value of the used leave, attorneys fees, or interest. She summarized that the value of the claim under the Jones Act is completely different under workers compensation. The latter is an economic formula based on the employee's earning history and the degree to which the person is impaired.

Number 1850

BRAD THOMPSON, Director, Division of Risk Management, Department of Administration, explained that his agency administers self-insurance programs for state agencies, including the maritime liability program. He explained the information contained in the members' bill packet, which analyzes the claims for the Marine Highways employees [under the Jones Act] compared to the claims from state employees covered by workers' compensation. The frequency of claims per 100 FTEs [full-time equivalents] was based on five years experience for all state employees. For the Marine Highways employees, the rate of claim was 41 per 100

FTEs, whereas the overall injury rate for other state employees was 8 claims per 100 FTEs. In contrast, the five state agencies with the highest number of claims had a rate of claim of 10 per 100 FTEs. The average cost per 100 claims was \$197,000 for ferry employees compared to \$64,000 for other state employees.

MR. THOMPSON explained why his agency's fiscal note did not show a savings. He said the fiscal note reflects the agency's actual funding. Each year the agency receives an appropriation for the claims they expect to come due, a pay-as-you-go plan. The agency covers many other state programs besides the maritime unit and has unfunded liabilities of approximately \$100 million.

Number 2001

MR. THOMPSON estimated a significant savings from HB 164. Under workers' compensation coverage, he said he expects the average cost for 100 FTE seamen to drop from the \$197,000 figure to \$64,000 - typical for the other employees - or a reduction of \$133,000 per 100 FTEs. He estimated that applying that savings to the 650 employees in the maritime unit would result in about \$865,000 in direct expense reduction. He said he can't show that in a fiscal note because his agency is still dealing with the ongoing, outstanding liabilities. He said there will be significant savings down the road.

Number 2049

REPRESENTATIVE GUTTENBERG said that he and Representative Crawford come from the construction industry which has a really high accident rate. He described these numbers as amazing. He asked how worker safety programs affect the equation.

MR. THOMPSON replied that the Alaska Marine Highway System does have an active safety program with follow-up investigations of accidents onboard the vessels. His financial information shows the Risk Management dollars expended in claims, for the attorneys for both sides, as well as the remedies paid to the employee. He said there are other state costs that are not part of the Risk Management budget. For example, the Marine Highways budget must cover the unearned wages that are paid to the employees who are not able to finish their sailing, he said.

Number 2107

REPRESENTATIVE ROKEBERG asked several questions about the comparative data on the frequency and cost of state-employed seaman claims.

MR. THOMPSON replied that these numbers - on a per 100 FTE basis and a five year average - reflect the expected average savings, based on the injury rate for the top five departments. He said the average annual savings is based on a 100 FTE analysis, applied to the roughly 655 positions in Marine Highways.

REPRESENTATIVE ROKEBERG asked Mr. Thompson whether he had researched the rates of injury by employment for other states.

Number 2160

MR. THOMPSON said he has not seen comparisons of maritime units for other states. To a follow-up question from Representative Rokeberg, Mr. Thompson replied that the Department of Labor & Workforce Development, Division of Workers Compensation, analyzes the claims by job category. He recalled that those numbers are similar to the ones he presented today, about 8 injuries per 100 FTEs. He said the Division of Workers' Compensation would not have claim information on the maritime unit.

Number 2193

REPRESENTATIVE CRAWFORD said he was dumbfounded as to why the legislature didn't hear about these potential savings last year.

MR. THOMPSON replied that this [approach to saving money] has been thought of before but not presented [to the legislature].

CHAIR ANDERSON noted that there are two fiscal notes, one from the Division of Risk Management and the other from the Division of Workers' Compensation.

Number 2252

DARRYL TSEU, Regional Director, Inland Boatmen's Union of the Pacific, Alaska Region, explained that he represents union members in both private and public employment. He said that union attorneys are reviewing HB 164.

Number 2296

MR. TSEU said that his concerns involve the workers' claims for the more serious injuries. He said he has personally witnessed traumatic maritime accidents, for example, a fellow worker who was permanently disabled with broken legs and a skull fracture when a line separated. He said this worker was compensated for the work he was no longer able to do. He said the accident rates of ferry workers and other state workers are not easily compared. An office injury doesn't compare with falling down a stairway on a vessel. For example, on the MV Bartlett, the crew carries all food from the car deck to the galley up a 20 - 30 foot ladder with an angle of 60 degrees and six-inch wide steps.

MR. TSEU noted that he is also concerned about the [lack of savings in] the fiscal note.

MR. TSEU mentioned the problem of treating public employees in the union differently from the workers with private employers.

TAPE 03-25, SIDE B

Number 2378

MR. TSEU said private and public employers should have to follow the same rules in caring for their employees. As a merchant mariner employed by the state since 1991, he said he has personally seen the problems of getting medical bills paid through [Risk Management's agent]. He said it is not necessarily true that the state covers medical bills when there is a injury or accident on board the vessel. He said his union has been aggressively looking for health care outside the state but has had trouble getting key figures about costs and accidents from the state. He questioned whether there will be significant savings [by changing to the workers' compensation system]. He said the Marine Highways has become more active in lowering the injuries and costs through on-board safety programs. But, he said, maritime work, like construction, has a higher percentage of injuries on the job. On the ferries, things move around on the ships, and ships must navigate 20- and 30-foot seas. That movement of a vessel presents more occasions for injuries.

Number 2271

REPRESENTATIVE GATTO said he understands that a job on a moving ship is more dangerous, but he asked how that related to insurance. He asked why one insurance plan is better than the other for [seamen].

MR. TSEU replied that the Jones Act set out more protection for sailors. The difference in compensation between vessel employees and other employees are significant. Vessel employees do not have the pay scales of the normal state worker, for example, merit increases. People with 20 years experience are often paid the same as those with 2 or 3 years experience. And he said that training requirements and costs are steep. He said no other state employee has to invest \$500 in training just to get a job as a dishwasher.

REPRESENTATIVE GATTO asked again why a person with a dangerous job needs to have different insurance. He said he understands that there will be more claims and the claims will be more expensive.

Number 2164

MR. TSEU said that he could not answer that question because he's not an insurance expert. He said that workers' compensation limits what an individual may rightly deserve. Currently, the legal system helps determine how much an injury is worth.

MR. TSEU, in responding to a question from Representative Gatto, said he didn't think merchant mariners deserve anything special; he said he's here to protect the existing rights of his fellow workers.

Number 2097

REPRESENTATIVE CRAWFORD described his experience when he fell during construction work on the Sullivan Sports Arena. His workers' compensation benefit was divided by 52 weeks, so it amounted to about one-fifth of his weekly wage, and he missed the entire work season that year. He asked how such an accident would be treated for a seasonal employee of the Marine Highways.

MR. TSEU replied that about 40 percent of the employees are seasonal, which means that in the seniority system, a person may work only two or three months in the first several years. Therefore, it takes three to five years of seasonal work to earn any benefits such as sick leave or vacation time. Under the Jones Act, a person receives maintenance and cure stipends of \$45 a day. He said ferry workers don't tend to misuse their leave; they use it because it's easier to use than filing claims with Risk Management's insurer, Pacific Claims, Inc. He

described problems with the company, such as checks being late and the figures not matching.

Number 1949

REPRESENTATIVE ROKEBERG asked Mr. Tseu to clarify whether he's a business agent or a member of the union's professional staff.

MR. TSEU replied that he's the regional director and a union member; he's an employee with the State of Alaska on leave without pay.

REPRESENTATIVE ROKEBERG reminded Mr. Tseu that his union and 12 other bargaining units groups opted out of the state health insurance system several years ago.

Number 1897

MR. TSEU explained that this change occurred before his time [as regional director]. He said the Division of Retirement and Benefits [Department of Administration] has had trouble providing the information the union needs to select another health care insurer. He said his union officials signed a letter of agreement with the previous administration, saying they would try to find other alternatives for health care.

REPRESENTATIVE ROKEBERG noted that the prior governor forced several collective bargaining units out of the state [health insurance] pool. He asked if the union currently has health insurance.

MR. TSEU said that whenever there is an injury on the vessel, it's the responsibility of the employer to pay for all expenses related to work injuries. He said that the insurance that is provided to all state employees should not have to be used to cover any accident or illness; the employer should pay these expenses.

Number 1773

REPRESENTATIVE ROKEBERG asked Mr. Tseu to clarify whether the union supports or opposes the bill.

MR. TSEU said the union neither supports nor opposes the bill but is looking at it carefully. The union is waiting for a response from the Attorney General's Office [Department of Law]. He expressed concern that there may be a savings of \$850,000

[through Risk Management] but [increased] expenses of \$2 million [in workers' compensation]. These numbers need to be examined, he said, whether it's here or in the House Judiciary Standing Committee [the next committee of referral].

CHAIR ANDERSON noted that the judiciary committee can look at the legal issues associated with coverage under the Jones Act.

Number 1695

PAUL GROSSI, Director, Division of Workers' Compensation, Department of Labor & Workforce Development, appeared before the committee to answer questions.

REPRESENTATIVE ROKEBERG asked Mr. Grossi about the incidents of injury per employment type as presented by Mr. Thompson.

MR. GROSSI replied that there are no incidents of accidents for state employees as high as ferry workers at the rate of 41 per 100 FTEs, as noted by Mr. Thompson. The highest rates would be in the construction and timber industry, he said. He explained that the fishing industry, which is not covered under workers' compensation, also has a very high incident rate. He does not have accurate statistics on seamen [because they are currently covered by the federal maritime laws]. Upon questioning by Representative Rokeberg, he said that he has not researched national statistics for seaman claims.

Number 1615

REPRESENTATIVE ROKEBERG noted that such statistics would be very interesting because there is such a large discrepancy between ferry workers and other state employees.

MR. GROSSI said he will research the requested information.

REPRESENTATIVE ROKEBERG asked if an employee's primary health insurance carrier is reimbursed when an employee wins a workers' compensation claim.

MR. GROSSI said the private insurance carrier would be reimbursed by the workers compensation carrier. However, the state is self-insured for workers' compensation.

MR. ROKEBERG said he was concerned to hear from Mr. Tseu that seamen's claims [through Risk Management's carrier] were not being properly reimbursed.

Number 1559

MR. THOMPSON said the average loss rate of [41] per 100 FTEs comprises both injuries and illnesses. Workers' compensation typically only responds to an occupational illness, an illness that arises out of the scope of duties. A seaman has the ability to file a claim for any life illness, such as the flu or a toothache, for example. He said that's the real reason the frequency rate for seamen is significantly different than other occupational statistics.

REPRESENTATIVE ROKEBERG asked about sick days in addition to the maintenance and cure stipends, whether this is an instance of double-dipping.

MR. THOMPSON said that if a person becomes ill during the one- or two-week voyage, the person leaves the vessel and receives wages for the voyage plus the maintenance rate of \$45 a dollar until reaching maximum medical cure. An employee can actually benefit [financially] for time away from work for an illness not occupationally caused.

Number 1461

REPRESENTATIVE GUTTENBERG asked if the \$45 a day was a type of per diem while stranded in a "foreign" port after getting ill or injured.

MS. COX clarified that the system flies the worker back home to the duty port if the person leaves the ship sick. At home the person collects \$45 a day until fit for duty. The person also collects a full paycheck for the voyage, and no sick leave is used. A person in that circumstance can get more money from the wages and the \$45 a day than working a normal shift. After the end of the voyage, the person who is still out ill or injured collects the \$45 a day and can file leave slips to bring the amount up to a normal pay check.

MS. COX, answering a question from Representative Gatto, said that wages earned through workers' compensation are not taxable; it's a percentage of the average net paycheck.

REPRESENTATIVE ROKEBERG asked Ms. Cox about the likelihood of lawsuits if the bill passes.

Number 1321

MS. COX replied that the Office of the Attorney General has been contacted by the law firm that handles the claims for the injured and ill Marine Highways employees. The attorneys have raised legal issues and submitted a memo to the Senate Labor and Commerce Standing Committee, and her office is preparing a response. She said she expects if the bill passes, a seaman unhappy with the workers' compensation remedy would file a lawsuit; then the state would file a motion saying seamen no longer have the right to file lawsuits. Then, she said, there would be a legal challenge about whether this bill works, and it would probably end up in the Alaska Supreme Court.

REPRESENTATIVE ROKEBERG said he supports the bill in terms of reducing the state budget.

Number 1251

REPRESENTATIVE ROKEBERG moved to report HB 164 out of committee with individual recommendations and the accompanying two fiscal notes.

Number 1234

REPRESENTATIVE GUTTENBERG objected. He said he would like to see concrete values for the [maritime law and workers' compensation] systems; he would like to see a side-by-side comparison of the benefits available.

CHAIR ANDERSON said he will try to get that information from the Department of Law and suggested that Representative Guttenberg vote no recommendation on the bill. The bill could then move on to the judiciary committee where the legal issues would be reviewed. He said the House Labor and Commerce Standing Committee could forward the requested information.

REPRESENTATIVE GUTTENBERG also requested information on other maritime industries to compare with Alaska's accident rates.

Number 1150

REPRESENTATIVE GUTTENBERG said he maintained his objection.

REPRESENTATIVE ROKEBERG suggested that this means of saving money might be preferable to grounding some ferries.

REPRESENTATIVE CRAWFORD said he is troubled by the bill. He said if there's \$890,000 to be saved, he wants to save it, but not at the expense of workers' protection. He said he does not favor moving the bill until the committee gets more information.

Number 1064

A roll call vote was taken. Representatives Gatto, Rokeberg, Lynn, and Anderson voted in favor of moving HB 164 out of committee. Representatives Guttenberg and Crawford voted against it. Therefore, by a vote of 4-2, HB 164 was reported out of the House Labor and Commerce Standing Committee.

HB 169-CHARITABLE GAMING REVENUE

Number 1051

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 169, "An Act increasing the amount of revenue received by the state from charitable gaming activities; and providing for an effective date."

Number 0987

LARRY PERSILY, Deputy Commissioner, Office of the Commissioner, Department of Revenue, presented HB 169 on behalf of the administration. He noted that the committee members' packets contain amendments proposed by the administration. The amendments insure that the bill fulfills its intent - to hold the charities harmless from the additional tax. The amendment limits the payout on pull-tabs to no more than 72 percent; currently pull-tabs in Alaska are limited to a 78 percent payout. By reducing the prize payout, additional revenue is available to flow through to charities so they can pay the increased tax and be held harmless. In most cases, according to the department's calculations, the charities would receive more revenue for their charitable purposes than they do now under the existing law.

Number 0885

MR. PERSILY testified that the bill, with the proposed amendments, increases the amount that goes to charities from operators. Currently 30 percent of adjusted gross income goes to charities; under this amended bill, it would be 35 percent. In an operator-run game, 35 percent of the adjusted gross income would go to charities, minus prizes and federal taxes. The

amended bill would also change the amount that goes to charities from vendor-operated games. Right now, vendors can retain 30 percent of the ideal gross, which is the amount of money that would come from selling all the pull-tabs in the box minus the prizes. Under this legislation, vendors could retain 25 percent, thereby increasing the money going to charities.

MR. PERSILY noted that there is opposition to HB 169, as there is to any change in charitable gaming and to any increase in the tax that goes to the state. There is concern in the industry that if the prize payout is reduced, people will game less, and there will be less revenue. He testified that if this legislation is adopted with a prize payout limit of 72 percent, Alaska would be competitive with the national average.

Number 0786

REPRESENTATIVE GUTTENBERG asked whether there's a fixed payout with any box of pull-tabs.

MR. PERSILY replied that all boxes of pull-tabs are sold with a fixed return. The buyer specifies the desired return: 70 percent, 72 percent, 75 percent or 80 percent payout. Its up to the purchaser to identify the desired rate of payout.

CHAIR ANDERSON noted that he and many committee members sit on the boards of charities that rely on charitable gaming to partially fund their organizations. He said he didn't think that a person playing pull-tabs would notice that the payout was lower or would chose not to play for that reason. He asked whether the amendments to HB 169 would give more money to charity and raise state revenues.

Number 0650

MR. PERSILY responded that by lowering the prize payout, it's the players who are picking up the tab for the tax. He said out of a \$1,000 worth of pull-tabs, instead of \$780 in prizes, there would be \$720 in prizes. In one sense, it's a user fee - the player is the one paying the tax, he said. The charity writes the check, but it's the player receiving the lower prize payout that allows the money to flow through to the charity to cover the tax. This assumes that the amount of gaming activity stays the same, and all other revenue stays the same.

CHAIR ANDERSON disclosed that he is on the board of the {Anchorage} Big Brothers, Big Sisters organization, which

depends on charitable gaming. He said he is a strong advocate for charities getting a good return.

Number 579

MR. PERSILY, replying to a question from Representative Crawford, noted that a 2001 report from the National Association of Fundraising Ticket Manufacturers showed 73 percent as the average payout for prizes on charitable gaming.

REPRESENTATIVE CRAWFORD mentioned that casino slot machines in Las Vegas typically pay out 89 percent, and that if that payout is lowered, people don't play it nearly as much. He said that there's a point [in gaming, in general] where if people don't get that return, they stop playing. He asked why casinos aren't lowering their payout rates if they could do it.

CHAIR ANDERSON noted that casinos have a higher payout rate because they are for-profit operations, as opposed to the gaming in Alaska, which benefits charities.

MR. PERSILY responded that in Las Vegas, it's a matter of competition. In Alaska, there are no casinos and no competition. He said the administration believes that if the law says the maximum prize payout is 72 percent, the games are not going to lose business to a competitor down the street.

Number 0311

JAMES REID, Administrator, Juneau Moose Lodge, said HB 169 is a bad bill. Charity organizations of all kinds rely on revenue from the gaming industry, although it's not sufficient to completely support the charities. He described the lodge's three most popular games out of the five games they carry: Criss-Cross with a gross profit of \$514, Razzle with \$464 gross profit and payout of 84 percent; and Mumbo with a gross profit of \$439 and an 82 percent payout. If the payout on a game is reduced by 14 percent to 72 percent, he questioned whether patrons are going to continue to play it. Of the \$514 received from the [Criss-Cross] game, he said, \$141.06 goes to the charity after he pays sales tax, the cost of the game, mortgage, utilities, supplies, and payroll.

MR. REID explained that the Moose Lodge supports numerous charities in Juneau including Moose Heart, Moose Haven, Big Brothers, Big Sisters, Glacier Swim Club, youth football, baseball, and others. He said that if the state wants to take 5

percent, he will therefore pay the state an additional \$124.45 in taxes, leaving \$16.61 for charities. He said as a charity, the Moose Lodge will not be making more money under this bill.

TAPE 03-26, SIDE A

Number 0012

MR. REID testified that he favored the bill not passing, thereby avoiding a flood of requests from charities to the state for lost revenue. He explained how his money is tied up from several days to a month while he sells his boxes of games. He noted that the bill addresses pull-tab operators [for-profit businesses that contract with charities to sell their pull-tabs] but it doesn't address permit-holders [charities that sell their own pull-tabs].

MR. REID explained at the request of Chair Anderson that an operator sells pull-tabs out of a pull-tab parlor for various charities. The Juneau Moose Lodge, the Eagles, the VFW, and the American Legion are all fraternal organizations that sell pull-tabs out of their own establishments and can only sell to their members. Anyone can go into a pull-tab parlor or bar and buy pull-tabs, he said. Therefore, the revenue for a fraternal organization [called a permit-holder or a permittee] is limited to gaming by its members. If the state doesn't [send] back to the charities the [money] they will be losing under this bill, HB 169 is not a good [idea], he said.

Number 0339

DAVID SANDEN, General Manager, Multiple-beneficiary permittee (MBP), Juneau Montessori Center, Southeast Alaska Friends of Montessori, and Juneau Dance Unlimited, said the governor made a mistake by not consulting the gaming industry when developing HB 169. He said the governor should raise the \$12.5 million by using a different approach. He described the three types of gaming operations in Alaska. Operators post a bond with the state and sell pull-tabs; their objective is profit, and the state forces them to give money to charity. An MBP consists of several nonprofits who get together and hire a manager who reports directly to the charities' boards. The third type is the self-directed permittee like the Moose Lodge in Juneau; it sells its own pull-tabs and is accountable to its members. The other party is the vendor, for example, a bar owner or liquor license owner, who buys a box of pull-tabs from a nonprofit group, and then sells the pull-tabs and takes all the risk of theft.

MR. SANDEN said he believes there can be a sustainable gaming tax. The governor's proposed 5 percent tax sounds like a small number, but it's a huge increase. He suggested staying with the current 3 percent tax on the ideal net that is paid up front when buying pull-tab games. He proposed increasing that 3 percent tax to 20 percent, having the state collect it and then distribute back 50 percent to the municipalities where it is raised [instead of having local governments collect their own sales tax on pull-tabs]. He did support strengthening the regulations about who can participate in charitable gaming. He said some legal permittees are really ghost charities.

Number 0678

REPRESENTATIVE CRAWFORD recalled that last year the committee defeated a bill which was a gross receipts tax on all businesses. He said HB 169 looks like another gross receipts tax bill rather than a tax on the profits of gaming.

Number 0695

BOB LOESCHER, President, Juneau Tlingit & Haida Community Council; Advisor, Alaska Native Brotherhood [ANB] Grand Camp, explained that these organizations are self-directed social organizations that have permits for pull-tabs and some raffles. He described the bill as ill conceived. He said there's a difference between social organizations and commercial operators [for-profit businesses that contract with a charity], especially in motivation. He said his organization uses the funds to operate the community council buildings, to pay death benefits, and to fund youth and cultural programs. Many of these projects involve no state funding, and there is a real need for this money.

MR. LOESCHER said he believes that gaming is a state concern, and that municipalities should not be collecting a sales tax. He said his groups could handle the [increase in the] proposed state tax if there was not already a Juneau sales tax of 5 percent. If the state caps the winnings at 72 percent, the market will be substantially depressed, he predicted. He warned that his groups will be driven out of business, having to pay the city sales tax, an increased state tax, and losing customers because of the 72 percent cap on prize payout. He explained that they use the pull-tabs as draw for their bingo games, which doesn't make much money either. He urged the committee to kill this bill.

Number 943

TED BROWN, Alaska Indoor Sports, explained that his company is a pull-tab distributor. He said he sells pull-tab games around the state at different payout rates, and he does not believe the 72 percent payout will work. Such a dramatic change [dropping the payout rate] at once will cause a downturn in playing, he predicted. He noted that people get used to a particular game, for example, Criss Cross, and they will notice [if there's a different rate or a different game being offered]. He suggested that players be taxed on their winnings rather than the gross for all the cards they play.

MR. BROWN said there's no room to increase taxes on charitable gaming. After expenses are backed out, what's left goes to charities; an [increased] tax depletes that even further. To increase gaming revenues to the state from \$2 million to \$12.5 million won't work, he predicted. The current formula is 3 percent of the ideal net or adjusted gross. He described that as fair and equitable and asked the point of changing a formula that works. The change from 3 percent of the ideal net to 5 percent of the gross on the average game represents 37 percent of the profit dollars generated, and he questioned how anyone can take a 37 percent hit and survive. Charities are not well organized, but they are starting to respond to problems raised by this bill, he added.

Number 1190

MR. BROWN, responding to a question from Chair Anderson, explained that the eight most popular games being played in Juneau, for example, will have to be replaced with new games that have a lower payout of 72 percent. He said players will notice the change [in their favorite games] and will not participate.

1275

CHAIR ANDERSON noted that he will hold the bill in committee and will keep public testimony open.

Number 1300

DWIGHT McBRIDE, Operator, testified that he has been in business since 1989 and currently operates 13 permits. He noted that people are trying to grasp what HB 169 will do to the charities.

He predicted that he would have to close three of his four stores. He said this bill will ruin gaming.

Number 1488

LEONARD WELLS introduced himself as a pull-tab vendor at a bar and also as an employee who sells pull-tabs for the American Legion. He said that the majority of the [witnesses] at the Senate hearing [on a similar bill] could not testify because there also was not enough time. Regarding HB 169, he pointed out that the 72 versus the 78 percent [payout] is very important to the [serious] players [who take some of their winnings as more pull-tabs or buy-backs]. He said for the people who only buy a few pull-tabs, the payoff doesn't make much difference. He opposed HB 169 as written.

Number 1584

TIM SMITH, Nome Fisherman's Association, explained that there is [already] a 4 percent city sales tax on gross receipts for pull-tabs; an additional 5 percent state tax on the gross would take nearly half (indisc.). With this [proposed] ideal net, the cost of the games, accounting, equipment, supplies, and postage doesn't leave a lot for the charities. The state can't take [an additional] \$12 million out of charitable gaming without it impacting the charities, he reasoned. There's only so much discretionary [money available for charitable games]. In rural Alaska, many villages use pull-tab sales to fund their government operations because they don't have a big tax base. This is a painless tax that provides for rural governance. The state will have to make that up somehow if the [villages] lose the pull-tab revenue.

MR. SMITH said that currently, some vendors are working for 30 percent. If it is cut back to 25 percent, that's not a very good deal for the vendors, he said, and it's [already] difficult to talk some of these vendors into running pull-tabs now. Their share of the ideal net is 30 percent. They pay for the pull-tabs up front. They're responsible for the any losses from fraud, theft, or errors, and those losses come out of their share. If you reduce their share to 25 percent of the ideal net, a lot of them won't vend pull-tabs.

MR. SMITH commented that everyone appreciates the need to raise more revenues for the state. He proposed removing the prohibition on electronic gaming machines; they would provide

more revenue for the state as well as more revenue for the charities. His organization opposes HB 169 as written.

Number 1744

DAVID LAMBERT testified that he runs a fundraising business that represents 17 nonprofits. He said that this business put about \$1 million into the Fairbanks economy last year. With a five percent [increase, his business] would have lost \$88,500 dollars, 28 [of his employees] would have lost their jobs and 17 nonprofits would have received \$0. He said that it's getting tougher to operate a business. Rent and payroll costs are going up every year; there's no room for a 5 percent increase. Most manufacturers make 72 percent payoff games. The Department of Revenue is giving out false information. The players are very aware of the percentage [of payout]. His fastest moving games are the ones that pay out at 85 percent; there's entertainment value in them. He asked how many people [actually] support this bill. He said it would be good to have hearings where everyone who wanted to testify could testify.

Number 1867

JESSE VANDERZANDER, Alaska Outdoor Council; Alaska Fish & Wildlife Conservation Fund, explained that about 12,000 people are members of the two groups. The two organizations fund college scholarships for fish and wildlife management and for women in outdoor management, the collection of oral histories of hunting and trapping tales, and hunter education, all programs that rely on gaming. He said HB 169 would cripple their operations. Their groups have two sources of these funds -- through vendors and operators. If HB 169 passes, the groups' vendor said he would not run any more games if his margin was reduced; it's just barely worth it to him now. Mr. Vanderzander said he has to plead with this vendor to run the games. Regarding the operator, if he was cut 50 percent, 5 of his 10 stores would shut down. When one store shuts down, an entire charity could shut down because that charity receives 100 percent of its cut from that one store. If the groups' operator goes out of business, their gaming is totally gone. He said his organizations have very serious concerns about this legislation. Last year their vendor paid \$933 in taxes; this bill would increase it to \$7,200. His organizations oppose HB 169.

Number 2001

WAYNE STEVENS, Executive Director, Kodiak Chamber of Commerce, stated that the governor proposes to hold harmless the nonprofits in [changes to the] charitable gaming [statute]. The transmittal letter for HB 169 describes problems with operators and references placing the same restrictions on vendors. The City of Kodiak disallowed pull-tab operators many years ago, therefore only nonprofits and vendors are allowed to run charitable gaming in Kodiak. Reducing payout to players will reduce participation. While the bill's [proponents] claim to offset increases in taxes by raising the amounts paid to nonprofits, less [playing] will mean less money for the nonprofits. Mr. Stevens predicted that players will move to on-line computer gaming, a serious competitor to pull-tabs in Alaska. The drafters of this bill failed to understand the psychology of gaming; passage of this bill will drive players away. He urged the committee not to pass HB 169.

Number 2025

DEBBIE BUSSDIEKER, Alaska Indoor Sports Distributing; Kenai Peninsula Aerie 3525 Auxiliary, noted that of the \$274 million generated by pull-tab gaming [last year], \$214 million was paid out in prizes, leaving \$60 million. She asked committee members to consider what portion of the \$274 million currently generated by pull-tab gaming was generated by 28 percent profit games. She testified that she has repeatedly heard from many players that they won't be able to play 28 percent profit games. She noted that the players are intelligent people; they play for the odds. The number one game currently sold is a 15 percent profit game. This bill will decrease [pull-tab] sales dramatically, she warned.

Number 2165

RICKY GEASE, Executive Director, Kenai Convention and Visitors Bureau, testified that his group runs a multiple-beneficiary permittee with the Peninsula Oilers. He sits on the board of directors of the Kenai Chamber of Commerce and the Kenai Tourism Marketing Council, all of which depend on charitable gaming to run their operations. He said nonprofits exist and are not taxed for a good reason -- they fill a vital void between government and business. He said it's horrible to solve a budget crisis on the backs of nonprofits; it takes valuable money out of [Alaskan] communities. He said he doesn't believe the state should set price limits on the free market [of pull-tab payouts]. He described a payout of 72 percent as an inane idea. The 'ideal gross' in this bill is monopoly money, he

said. He doesn't agree that by changing the current gaming, another \$17 million will flow into the state. He said it's a matter of putting out an inferior product and expecting people to pay more for it. The bill is calculated on the assumption that gaming expenses will drop 13 percent. Last year, his organizations paid \$3,000 in taxes, calculated on the net; if HB 169 passes, they will pay \$30,000 more taxes based on the ideal net. He said that \$30,000 will come out of his facilities and out of scholarships. His groups are adamantly opposed to HB 169.

Number 2296

JOHN LOPEZ, Denali Gaming Supply, stated that the governor has received erroneous advice on HB 169. He said he believes there will be economic consequences. He said it's not true that gaming operates in a vacuum; players will not continue to play with the same frequency when the prizes are reduced. He believes the economic burden will be higher than the tax benefits gained: loss of jobs, real estate vacancies, and loss of services to the community by nonprofits. There are no provisions [in HB 169] for rising expenses in gaming operations and the mandated net proceeds associated with compliance. In a gaming environment where overhead is heavily regulated, HB 169 will make certain gaming operations noncompliant or insolvent. He cited the Department of Revenue's information from the National Association of Fundraising Ticket Manufacturers; the total national average prize payout of 73 percent includes pull-tabs as well as bingo, raffles, and state lotteries.

TAPE 03-26, SIDE B

Number 2375

MR. LOPEZ continued that Alaska has donated large sums of money to charities by using high percentage payout games. He said that charitable gaming is shrinking nationwide. This bill gives no consideration to the amount of prizes that a player gives back.

Number 2275

JIM PEOT, General Manager, Whaler Casino Supply, stated that he distributes pull-tab supplies to people who vend them throughout the state. He said he is vehemently opposed to HB 169. He agreed with earlier comments that the market is dictated by the players. The average profit on pull-tabs is far less than 28 percent. He disagreed with earlier testimony that proposed a 20

percent tax on ideal net tax instead of a 5 percent gross; that would be the equivalent of a 650 percent tax increase for the charities. If HB 169 passes, Mr. Peot predicted that there will be a lot less money for charities and for operators. He said that players are not going to pay more money for the pull-tabs. Players have a fixed amount of money that is either gone in 20 minutes or an hour; they won't be coming in with more money. The whole premise of [HB 169] that players will come up with extra money for the [lower payout] games is way off the mark.

Number 2157

GENE HANSEN, Alaska State Fraternal Order of Eagles; Aerie 1037 Far North Eagles, noted that the state Eagles have one permit with one vendor, which produces \$11,000 to \$15,000 gross income per year. He listed the numerous causes that would receive less money [if HB 169 passes]. Many people, such as families whose houses burn down, have no other source of assistance. He asked the committee not to pass HB 169.

Number 2080

GREG PETERSON, employee, Alaska Indoor Sports Distributing, commented that he is offended that the administration so quickly dismisses the grass roots, genuine public outcry against this bill. He said [opponents of HB 169] are people who know what harm this legislation will bring on their communities and on their charities. He urged the committee to hold the bill.

[HB 169 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:50 p.m.