

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 23, 2004

3:25 p.m.

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Carl Gatto, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Norman Rokeberg  
Representative David Guttenberg

**MEMBERS ABSENT**

Representative Harry Crawford

**COMMITTEE CALENDAR**

HOUSE BILL NO. 389

"An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date; and providing for an effective date."

- MOVED CSHB 389(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 418

"An Act extending the termination date of the Real Estate Commission; and providing for an effective date."

- MOVED CSHB 418(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 509

"An Act relating to establishing the Alaska Gaming Commission."

- MOVED CSHB 509 (L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 389

SHORT TITLE: DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)

SPONSOR(S): LABOR & COMMERCE

01/20/04	(H)	READ THE FIRST TIME - REFERRALS
01/20/04	(H)	L&C, FIN
01/23/04	(H)	L&C AT 3:15 PM CAPITOL 17

01/23/04 (H) <Bill Hearing Postponed 1/28/04>  
 01/28/04 (H) L&C AT 3:30 PM SENATE FINANCE 532  
 01/28/04 (H) Heard & Held  
 01/28/04 (H) MINUTE(L&C)  
 01/30/04 (H) L&C AT 3:15 PM CAPITOL 17  
 01/30/04 (H) <Bill Hearing Postponed to 2/4/04>  
 02/04/04 (H) L&C AT 3:15 PM CAPITOL 17  
 02/04/04 (H) Scheduled But Not Heard  
 02/18/04 (H) L&C AT 3:15 PM CAPITOL 17  
 02/18/04 (H) Scheduled But Not Heard  
 02/23/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 418

SHORT TITLE: EXTEND REAL ESTATE COMMISSION  
 SPONSOR(S): LABOR & COMMERCE

02/02/04 (H) READ THE FIRST TIME - REFERRALS  
 02/02/04 (H) L&C  
 02/16/04 (H) L&C AT 3:15 PM CAPITOL 17  
 02/16/04 (H) Scheduled But Not Heard  
 02/23/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 509

SHORT TITLE: ALASKA GAMING COMMISSION  
 SPONSOR(S): REPRESENTATIVE(S) KOTT

02/16/04 (H) READ THE FIRST TIME - REFERRALS  
 02/16/04 (H) L&C, FIN  
 02/23/04 (H) L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General  
 Fair Business Practices Section  
 Civil Division (Anchorage)  
 Department of Law  
 Anchorage, Alaska

POSITION STATEMENT: Addressed changes in the proposed committee substitute for HB 389 and expressed concern relating to the commerce clause.

STEVE CLEARY, Executive Director  
 Alaska Public Interest Research Group (AkPIRG)  
 Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 389.

GORIUNE DUDUKGIAN, Staff Attorney

Alaska Legal Services Corporation  
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 389.

ANGELA LISTON, Director  
Office of Justice and Peace  
Archdiocese of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 389; spoke on behalf of the Alaska Catholic Conference with recommendations to lower the rate of interest or the fees.

MARIE DARLIN, Coordinator  
AARP Capital City Task Force  
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HB 389 as introduced and recommended changes.

DEBRA FINK, Owner  
Cash Alaska  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 389.

KATHRYN CLARK, President  
Alaska Association of Realtors  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the portion of HB 418 that extends the real estate commission to June 30, 2008, but noted concern about changes to the surety fund proposed in the audit.

DAVE FEEKEN, Legislative Chair  
Alaska Association of Realtors  
Kenai, Alaska

POSITION STATEMENT: Testified in favor of CSHB 418, Version D.

SUE STANCLIFF  
House Majority Office  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented CSHB 509, Version I, on behalf of Representative Kott, sponsor.

DARWIN BIWER  
Cabaret Hotel Restaurant & Retailers Association (CHARR) for  
Alaska and for Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Testified in favor of HB 509.

ROBERT LOESCHER, Chair  
Legislative Committee  
Alaska Native Brotherhood, Camp 2;  
President, Juneau Tlingit-Haida Community Council  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 509, with some suggestions for changes.

REPRESENTATIVE PETE KOTT  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 509.

ED MOEGLEIN  
Alaska Nonprofit Charitable Organization  
Soldotna, Alaska

POSITION STATEMENT: Testified in support of HB 509 and sought representation on the proposed commission for his organization.

GREG PETERSON  
Allied Charities  
Ketchikan, Alaska

POSITION STATEMENT: Testified against HB 509 and questioned the reason for the proposed gaming commission.

LARRY MEYERS, Deputy Director  
Tax Division  
Department of Revenue  
Anchorage, Alaska

POSITION STATEMENT: Offered background on investigations of the gaming industry in Alaska.

#### **ACTION NARRATIVE**

#### **TAPE 04-16, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Representatives Anderson, Gatto, Dahlstrom, Lynn, Rokeberg, and Guttenberg were present at the call to order.

HB 389-DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 389, "An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date; and providing for an effective date." [HB 389 was sponsored by the House Labor and Commerce Standing Committee.]

CHAIR ANDERSON explained that he hadn't received a proposed committee substitute (CS) from Legislative Legal and Research Services because of last-minute changes from governmental entities including the Department of Law. Therefore, he asked that the draft proposed CS from the Office of the Attorney General be adopted instead.

Number 0098

REPRESENTATIVE ROKEBERG moved to adopt the undated, unnumbered draft version in packets labeled "House Bill No. 389" as a conceptual CS.

CHAIR ANDERSON, hearing no objection, announced that the proposed CS was before the committee.

Number 0170

CHAIR ANDERSON reminded members that the bill has to do with deposits and monetary advances; that there was previous discussion of caps and rollovers; and that changes had been worked out by those who pressed for this legislation from the Division of Banking and Securities and the Office of the Attorney General, who had come to some consensus. The \$1,000 cap originally in the bill on the amount for which a person could negotiate an advance was believed to be too high by AARP and others; Chair Anderson said he agreed and it was lowered to \$500 in the proposed CS. There also had been a fear about rollovers resulting to when a customer could not repay the loan in a timely manner. Thus this proposed CS has two rollovers, rather than the original four in the bill.

CHAIR ANDERSON explained that the proposed CS also requires the lender to post a bond to get a license; there was no bond in the original bill. The lender will be subject to closer scrutiny by the Division of Banking and Securities, which he suggested Mr. Sniffen could address. The lender also must offer the consumer a payment-plan option before initiating legal action to collect against a consumer in default; this payment plan includes sending a certified letter offering to assist the consumer. He

suggested this stays within the spirit of consumer protection, enhances communication, and affords the consumer additional latitude if there's a potential inability to repay.

CHAIR ANDERSON said proposed changes include a \$700 cap, down from \$1,000 in the original bill, on total damages the lender can recover in addition to the face value of the check for collection efforts. The lender can only charge \$15 per \$100 loan and no other fees, charges, or interest of any kind. The original bill allowed for additional interest, which AARP and the Alaska Public Interest Research Group (AkPIRG) had testified was exorbitant. Furthermore, there are now specific disclosure requirements concerning fees, charges, penalties, and so forth that weren't in the original bill. He remarked that he's somewhat satisfied at this stage.

Number 0414

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department of Law, testified in support of HB 389. He said Chair Anderson had accurately summarized the major changes in the proposed CS; he opined that these are positive changes to protect consumers against some practices that have resulted in the most harm. In particular, he mentioned the payment-plan provision that has been implemented and that requires payday lenders to give consumers extra options to repay these debts before collection actions are initiated. Mr. Sniffen said he hadn't seen this provision in other states' legislation, thinks it's a good direction, and is glad the payday lenders were agreeable to those provisions.

MR. SNIFFEN pointed out that the Department of Law had included language to address catalog sales and coupon sales practices. [Under the proposed CS] lenders cannot use those forms of payment to satisfy a transaction, either by offering a consumer coupons or merchandise out of a catalog or by using other ways to get around the limitations on fees in this legislation; he said this is positive as well.

MR. SNIFFEN said the regulatory provisions of this bill are fairly extensive and give the Division of Banking and Securities fairly onerous powers to investigate and audit payday lenders to ensure compliance. He indicated the Department of Law worked with the division and the bank examiners on the language in this draft to ensure they have tools to gather information for review and take action that they deem necessary to correct violations.

MR. SNIFFEN noted that the regulatory scheme of this legislation has much stronger language in the proposed CS than in the original bill. Mentioning collaboration on some of the language with Cash Alaska, one of the payday lenders, he expressed satisfaction with the result. He indicated there are numerous other requirements, but said he wanted to focus on one area that might require a conceptual amendment.

Number 0614

MR. SNIFFEN began discussion of what became Conceptual Amendment 1. He referred to the requirement that a payday lender have a physical location in the state. He reported that he'd looked at this issue with Cynthia Drinkwater [assistant attorney general with the department] and believes there might be a question regarding whether an entity could be required to have a physical location in Alaska and not run afoul of prohibitions on interstate commerce activities.

MR. SNIFFEN explained that [the Department of Law], with the help of the Division of Banking and Securities examiners, had arrived at some language used in Washington that could address this problem; it would require that anyone who conducts business with an Alaska resident from an out-of-state location must comply with all the terms of the Act, including licensing requirements, bonding requirements, the cap on the amount, the rollover cap, and disclosure requirements. Lenders with out-of-state locations would also be subject to investigation by Alaska's Division of Banking and Securities. But this would allow them to conduct business from an out-of-state location.

MR. SNIFFEN, in response to Representative Rokeberg, specified that the proposed change is in Sec. 06.50.010, "License required", page 1. The first sentence starts, "A person may not engage in the business of making deferred deposit advances". It would be changed to say, "A person, including persons who conduct business with Alaska residents from out-of-state locations," and then continue with the rest of the sentence as written. Also, on page 2, deleted would be subsection (a)(3), "have a physical business location in the state that is accessible and convenient to the public."

Number 0850

REPRESENTATIVE ROKEBERG asked Mr. Sniffen if, instead of deleting subsection [(a)(3)], his "out-of-state" clause could be added to the end as an "or".

MR. SNIFFEN agreed that's one way to approach it, but said he wasn't sure it would be more effective than deleting that requirement.

REPRESENTATIVE ROKEBERG suggested it makes a difference substantively because by leaving the subsection (a)(3) language, the physical business location would have to be accessible and convenient to the public. He asked whether it would work to add the "or" within subsection (a)(3) along with Mr. Sniffen's language about the "out-of-state".

MR. SNIFFEN said he believed that would work.

CHAIR ANDERSON noted that this would be in addition to the suggested change in Sec. 06.50.010. He referred to page 2, line 4, and asked that Mr. Sniffen read what he would add [in subsection (a)(3)].

Number 0915

MR. SNIFFEN specified:

We would have at the end of that sentence, "have a physical business location in the state that is accessible and convenient to the public, or, if conducting business with Alaska residents from out-of-state locations, comply with the conditions of this chapter.

CHAIR ANDERSON asked Mr. Sniffen whether those were the only substantive changes he believed should be added to this draft.

MR. SNIFFEN affirmed that.

Number 0969

REPRESENTATIVE ROKEBERG moved to adopt the foregoing as Conceptual Amendment 1. He specified that it would include the language on page 1, the first sentence of Sec. 06.50.010 [adding ", including persons who conduct business with Alaska residents from out-of-state locations,"]. Also, on page 2, fourth line, subsection (a)(3), after "public", the semicolon would be deleted, and added would be [", or, if conducting business with

Alaska residents from out-of-state locations, comply with conditions of this chapter"].

Number 1035

CHAIR ANDERSON, hearing no objection, announced that Conceptual Amendment 1 was adopted.

MR. SNIFFEN said he'd been working with Terry Bannister, legislative drafter, on some technical procedural language in the bill. He said none of the changes were substantive, but the [final] CS might not look exactly like the draft version before the committee now.

REPRESENTATIVE ROKEBERG read from the proposed CS, page 2, which stated the following in part under Sec. 06.50.030, Application, duration, and renewal of license:

(1), the legal name, residence, and business address of the applicant and, if the applicant is not a natural person, of each member, partner, director, senior officer, or owner of 10 percent or more of the equity of the applicant;

REPRESENTATIVE ROKEBERG remarked:

I don't think we need an amendment here, but I'd just like to put on the record that the way this bill is drafted, you could have either an individual as a natural person or a person, which under our drafting manual means any business or any other entity. So, therefore, you could have a license by an individual and/or a business entity. Is that correct?

MR. SNIFFEN replied, "That is correct and that was our intent. I think this language actually came from either the small loan Act or another provision, the banking code, and is consistent with how other financial institutions regulate it."

Number 1136

REPRESENTATIVE ROKEBERG said it's an important distinction because most occupational licensing and other licenses in the state under Title 8 apply to an individual and not a business, with the exception of architectural and engineering firms, for example. He said he wanted on the record that an individual or business could be an applicant.

CHAIR ANDERSON pointed out that there wasn't a fiscal note from the Division of Banking and Securities, and said his staff had prepared a committee zero fiscal note in its place in order to move the bill forward. He asked Mr. Sniffen if he could speculate what other fiscal notes might be forthcoming from the Division of Banking and Securities, and when.

MR. SNIFFEN responded that the Department of Law doesn't anticipate a fiscal impact. He pointed out that the Division of Banking and Securities [within the Department of Community & Economic Development] would have to address whether it has come up with a prospective fiscal note relating to the hiring of additional examiners.

Number 1196

REPRESENTATIVE GUTTENBERG referred to page 1, Qualifications for license, paragraph (2), which read in part, "demonstrate the financial responsibility, financial condition, business experience, character, and general fitness that reasonably warrant". He asked Mr. Sniffen how the foregoing are defined.

MR. SNIFFEN replied that he didn't know of a definition for any one of those, but they're terms he believes the Division of Banking and Securities understands and knows how to interpret when conducting these audits. He said he believes that language is consistent with other language in the banking code that the division uses to audit other financial institutions; furthermore, he believes the terms are fairly broad, which is intentional to some extent, to give the division some latitude to determine whether a business not only is able financially, but also has the experience to comply with the terms of this chapter.

Number 1257

REPRESENTATIVE GUTTENBERG directed attention to [page 7, Sec. 06.50.130, Requirements, terms and procedures], subsection (e), which reads, "A licensee with multiple licensed offices shall not extend advances to the same recipient in excess of an aggregated principal balance of \$500." He asked how that will be determined and how a record will be kept of that.

MR. SNIFFEN said that's a good question, one [the department] had discussed with the Cash Alaska representatives on how they would identify individuals who are "hopping" from one business

to another to take out multiple \$500 loans. Admitting it would be difficult to monitor to some extent, he mentioned the Division of Banking and Securities' audits and examinations as one route to track a person using multiple lenders. He suggested Mr. Wilson, owner of Cash Alaska, could speak to how they plan to ensure that multiple locations can track lenders from one location to another. He did not know if they had the technical ability to do this tracking through their computer system so that all their locations know that a customer has received an advance, and the amount of the advance.

MR. SNIFFEN pointed out that they've been unable to devise a system to track customers that "hop" from one payday lender to another payday lender. He commented, "If consumers are going to want to do that, I think there's only so much you can do to stop that."

[Bud Wilson, owner of Cash Alaska, offered to answer questions.]

Number 1396

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AkPIRG), Anchorage, testified in opposition to HB 389, saying though he appreciated the work by the Department of Law and others on this bill, it doesn't deal with what he sees as the central issue. This bill will allow payday lenders to lend money at interest rates in excess of 400 percent, which AkPIRG believes is unfair to consumers. It allows payday lenders to charge 417 percent APR [annual percentage rate] for a two-week loan of \$500. This often leads consumers to a cycle of debt from which they cannot recover.

MR. CLEARY said the State of Alaska adequately protects consumers who borrow \$600, and he feels it should do the same for consumers who borrow \$500 or less. Payday loans currently exist in Alaska in a legal vacuum, he said. Although Alaska is one of 15 states that still have usury laws, small-loan rate caps, and no safe harbor for payday lenders, no one is enforcing laws to protect the consumers. Increasingly, payday loans are chosen by people as a last resort, and while payday lenders can currently sue borrowers for treble damages and court costs, no one is enforcing Alaska's laws to protect these same consumers.

MR. CLEARY suggested it makes no sense that the legislature thought consumers borrowing \$600 should be protected by a 36 percent APR cap but those borrowing \$500 should get no protection and pay over 400 percent APR. He said HB 389

purports to limit the amount a payday lender can charge to \$15 per \$100, which sounds like a firm regulation, until one realizes this is what the industry is currently charging and, therefore, it's no limit at all.

MR. CLEARY pointed out that other states have been inundated when they decided to turn their backs on consumers. He cited a bill enabling payday loans, enacted in Oklahoma; since it took effect in September 2003, almost 300 storefront lenders have sprung up in Oklahoma, all but 17 with out-of-state owners. He noted that Internet loans are proliferating, and feels an upswing in this industry signals an unhealthy economy. Similarly, he said, the boom in payday loans is equivalent to a boom in hospital usage, which only shows that more people are ill - financially, in this case.

Number 1570

MR. CLEARY suggested some changes that AkPIRG would support. One is prohibiting loans based on personal checks held for future deposits. The lenders could continue to make small loans, but couldn't hold the borrower's check as security. Nonpayment of a payday loan should be collected just as other small loans are, where the lender sues for the amount owed. In addition, payday lenders should be subject to the small loan Act in order to adequately protect consumers.

MR. CLEARY said consumers need to be aware, and groups like AkPIRG are educating people every day on how to more wisely budget their finances. He noted that AkPIRG recently cooperated with the Department of Law and other groups during the national consumer protection week to promote financial literacy. He felt that, as a society, people have adopted usury statutes because of the belief that usury is wrong, and simply because these payday loans are smaller doesn't mean outrageous interest rates are not usurious. Clarifying that AkPIRG opposes HB 389 in its current form, he asked the committee to amend it to adequately protect consumers in Alaska.

Number 1602

CHAIR ANDERSON said he didn't see the possibility of the proliferation of payday lenders in Alaska coming about, and hadn't seen statistics that payday lenders target the poor, seniors, or the military. He said the last thing the committee wanted to do was to harm consumers or limit consumer protection.

He asked Mr. Cleary where he had gotten the information that payday lenders harm seniors and the indigent.

Number 1700

MR. CLEARY responded that he'd prefer that the representative from AARP answer the portion of the question concerning the elderly. He then said:

We have seen, in front of the military bases here in Anchorage, I believe, four payday loan sites just outside the base. ... In a survey we conducted at AkPIRG, they tend to be located in low-income neighborhoods, and have flashy signs and ads that are designed to address that segment of the population. I shouldn't say those are the people who are choosing these loans, people that actually are living paycheck to paycheck, because as ... any payday lender could tell you, they only lend to people who are making a steady paycheck, have utility bills and ways they can prove some income.

The point that I'm trying to make is that this bill would allow people to take out loans that force them to pay 400 percent and more, annual percentage rate interest. We believe that, on its face, is unfair.

CHAIR ANDERSON replied that 417 percent represents the worst-case scenario, rather than if a consumer pays back the loan within the promised period of time. He commented that he'd heard of several examples when a payday loan had forestalled repossession of a car or the cutoff of utilities. He asked Mr. Cleary if he could admit that there is a positive as well as negative side to this legislation.

Number 1766

MR. CLEARY replied that he hoped education would help people have enough savings so they wouldn't have to engage in the practice of payday loans. He acknowledged that at certain times people may have to engage in this practice, but still didn't think they deserved to pay triple-digit interest rates. He further stated:

Just for the record, under this bill, if somebody took out a \$500 loan, paid it off in 14 days, which is the minimum period under this bill, their annual

percentage rate would be 417 percent. And that's something that the truth-in-lending Act, a federal Act, requires everybody to disclose, and that's what would be disclosed at Cash Alaska or any other payday lender.

Number 1811

REPRESENTATIVE LYNN asked what AkPIRG's primary mission is, according to its charter.

MR. CLEARY responded that the group has existed since 1974 in Alaska. Its mission is to help protect consumers; it deals with issues like HB 389 and utility rates. The organization is often contacted by consumers with complaints; they work together with the Department of Law, referring consumers to state agencies where they can get help with any type of consumer complaints.

REPRESENTATIVE GATTO asked, "If a person has a bill that they need to pay, that's going to charge them even more for being late than the amount they could pay by borrowing this money. Is that something you would oppose?"

MR. CLEARY responded that he wouldn't oppose that, but pointed out that consumers who take out payday loans are often the most vulnerable consumers that AkPIRG sees. Laws set loan rates for housing and small loans, often at a rather low percentage compared with the 400-plus percent this bill would allow. He agreed there might be emergencies when people need payday loans, but said they shouldn't be paying triple-digit percentage rates on them.

REPRESENTATIVE GATTO responded:

If a triple-digit percentage is bad, what about a quadruple-digit percentage? If, indeed, that's the choice an individual has that says, "I'm going to pay a whole lot more unless I get this thing taken care of because I have a penalty and I may have to get something repossessed and then try to get it back again" - and this 417 percent may be the annual percentage rate, but for \$15 they may be able to avoid an awful lot of grief, hassle, and \$25 or whatever the other penalties would be - why would you want to deny them at least the possibility of reducing the liability and the obligations to an individual that they also owe some money to?

MR. CLEARY replied:

That is a good question. And that, again, points to the fact of what we would consider predatory lending or why we have usury laws in the first place, because if somebody is vulnerable, do they deserve to be loaned to for such an outrageous rate? Don't we need to figure out another way to protect them, rather than subjecting them to the only option that they have left, ... to go to a payday lender and come out with a loan that charges them 400 percent interest? These are people living, literally, paycheck to paycheck, and we don't believe they should be subject to that type of predatory lending.

Number 1960

GORIUNE DUDUKGIAN, Staff Attorney, Alaska Legal Services Corporation (ALSC), Anchorage, testified against HB 389. She explained that ALSC is a statewide legal-aid organization. She commended the attorney general's office for taking this bill in the right direction. Ms. Dudukgian said she felt she could speak for those who represent consumer interests, saying they cannot support this bill because it fails to address the number-one problem with the original bill, the unconscionable interest rates it allows. Noting that Mr. Cleary had pointed out that a \$500 loan has an APR of 417 percent, she said:

That's just the maximum loan at the minimum term. But a \$250 loan would carry 443 percent interest, and a \$100 loan would bear an APR of 521 percent interest. Just to put those rates into perspective, it's been documented that loan sharks that worked for the Gambino crime family only charged between 150 percent and 250 percent for similar loans, where they took consumer checks, where they made payday loans that basically, worked the exact same way that payday loans would be working under this bill and they were charging half as much interest.

MS. DUDUKGIAN compared these interest rates with the small loans Act. This bill would allow at least 10 times the interest that regular small loan lenders charge. She said she could see no reason for these high rates. Noting that payday lenders may say they need to charge these rates to protect themselves because these loans are far riskier than regular loans, she questioned

this logic, since regular lenders who lend \$600 and don't even have a check as security can only charge 36 percent interest. In contrast, payday lenders take a check and could previously get treble damages, and in this bill would still get up to \$700 more than the face of the loan. Ms. Dudukgian also noted that in Alaska not many people are judgment-proof, and lenders have the security of going to court when permanent fund checks are distributed and making a claim for \$700 in addition to the face value of the loan, which would be a very large profit.

Number 2073

MS. DUDUKGIAN proposed to solve these concerns by requiring the current payday lenders to disclose the APR, an action mandated by the federal truth-in-lending Act. She suggested that the legislature put a hard cap on the APR that payday lenders can charge, a hard cap far lower than the 417 percent currently allowed, no more than double digits, which would still be a handsome profit for the payday lenders. Suggesting the bill doesn't allow for a private right of action, she explained that the Division of Banking and Securities might not have the capability of enforcement, and the attorney general's office funding has been cut. Noting that there's been an inability to prosecute a lot of the consumer-related violations, she submitted that the same would happen under the current legislation.

MS. DUDUKGIAN assured members that hard statistics from other states indicate payday lenders target military families and seniors; she suggested similar statistics would apply in Alaska if the studies were done. She had received information from Mr. Cleary's organization that confirmed these targets, she noted.

Number 2160

ANGELA LISTON, Director, Office of Justice and Peace, Archdiocese of Anchorage, spoke on behalf of the Alaska Catholic Conference, the public-policy arm of Alaska's Catholic bishops. She said the conference supports the concept of HB 389 and is pleased with some of the changes incorporated into the proposed CS, particularly lowering the maximum loan amount to \$500 and curtailing the use of the bad-check civil penalty in case of default. She said she felt this bill would begin the conversation on regulating industry, and she applauded the committee for taking these steps. However, she said, the

Catholic Church had long opposed exorbitant profits on loans to the working poor.

MS. LISTON related some concerns. She said 10 days ago the Georgia [House of Representatives] overwhelmingly passed legislation to crack down on these types of loans and set the new loan interest cap at 60 percent. She said this legislation was of particular interest to Alaska because, according to the newspaper reports, it came as the military officials across Georgia tried with lawmakers to stop these lenders from taking advantage of cash-strapped soldiers. Fort Stewart has called these lenders "enemies at its gates." Georgia now bans lenders from garnishing soldiers' wages or contacting a base commander to collect on a loan. She said the proximity of payday lenders to the gates of Elmendorf Air Force Base certainly should cause some concern, and more questions needed to be asked.

MS. LISTON said the crux of the issue is protection of the consumer. One business in Anchorage said it processes 26,000 loans per year; if that represents 26,000 individuals taking out two-week loans, she said, she feels this industry provides a valuable system of service. However, if the trend in Alaska is similar to other states, then that number is probably quite different. She cited a national study as the source of information that many borrowers are applying for back-to-back loans. In California, borrowers average 11 loans per year; in Illinois, 13; in Indiana, 12; and in Wisconsin, 13.

MS. LISTON mentioned that 26,000 loans that Anchorage businesses process every year. She said it's important to know the number of individuals who are taking out those loans. She informed the committee that if Alaskan statistics are similar to other states, then these borrowers average 12 loans per year, and thus 26,000 loans might only represent 2,000 borrowers. When this is added to the fact that these businesses also sue 500 borrowers a year for defaulting, then one couldn't call this short-term lending or helpful credit; rather, it is increasing, chronic, and overwhelming debt for people.

MS. LISTON urged consideration of the effect of this type of lending on both soldiers and those for whom the cycle of debt might become crushing. She recommended a much-reduced fee or interest rate.

**TAPE 04-16, SIDE B**  
Number 2342

MARIE DARLIN, Coordinator, AARP Capital City Task Force, testified in opposition to HB 389 as it was introduced. She proposed several changes: the interest rate should be no more than 36 percent APR, the available loan amount shouldn't be more than \$300, and borrowers should be allowed to make partial repayments. She read her testimony, which stated [original punctuation provided but some formatting changed]:

AARP, in partnership with the Consumer Federation of America, Consumer's Union, the National Consumer Law Center, has developed what we feel is a model bill to deal with the issue of payday lenders. You were all given a copy of that model bill some time ago.

Among our recommendations: Each deferred deposit loan must have a minimum term of no less than two weeks for each \$50 owed on the loan. A consumer shall be permitted to make partial payments (in amounts equal to no less than \$5 increments) on the loan at any time, without charge. The maximum amount of the deferred deposit loan shall not exceed \$300.

We are sure that the Committee is concerned with consumer protection. If the term of the loan is not less than two weeks per \$50, consumers will have a better chance of paying off the loan rather than defaulting and possibly facing court action or having to renew the loan at exorbitant rates.

We understand that a new version of the bill does retain the maximum amount at \$500 rather than increasing the available loan amount to \$1,000; we believe Alaska should reduce the available amount from \$500 to \$300.

Fees are money out of someone's pocket. So is interest. If you and I do not pay off our credit cards each month, we will have to pay interest. If I take out a payday loan and pay an exorbitant fee, much higher than interest on a credit card, it is still money...a significant amount of money...out of my pocket.

If credit card companies can make handsome profits with interest rates in the 18 to 23 percent range, why cannot a payday loan outfit make a profit with an interest rate, or a fee, that does not go beyond 36%.

Our model law also allows for an administrative fee of no more than \$5 per loan, no matter how much the loan is for.

There are some states that have determined that payday lenders should not be allowed to exist in their states. AARP does not argue that they should be banned; we only argue that the interest rate should be no more than 36% APR; the available loan amount should not be more than \$300, and borrowers should be allowed to make partial re-payments. If a consumer has more than \$300 in outstanding payday loans, from one or more than one lender, they should be prohibited from taking out any additional loans from any payday lending organization.

We believe this is in everyone's best interest.

CHAIR ANDERSON noted that she'd supported some of the changes contained in the proposed CS and commented, "So, we're continuing this evolution."

REPRESENTATIVE GUTTENBERG asked Ms. Darlin if she'd had a chance to look at the proposed CS.

MS. DARLIN replied that she'd received a copy today and that her testimony agreed with most of the changes proposed in the CS.

REPRESENTATIVE GUTTENBERG asked if the proposed CS went far enough.

MS. DARLIN replied, "If you can go along with what we are recommending here."

CHAIR ANDERSON stated the desire to come to a consensus.

REPRESENTATIVE ROKEBERG asked someone from Cash Alaska to comment on Mr. Sniffen's question about borrowers who are "hopping" from one lender to another.

Number 2066

DEBRA FINK, Owner, Cash Alaska, testified in support of HB 389 and responded that she did not know how to keep track of borrowers that "hop." Within her own business of four stores she said there is never any danger of a borrower's going beyond the \$500 limit. She stated, "I don't still think there's any

way of knowing whether somebody is going across town to another place and taking out a loan that brings their total in excess of \$500. But certainly within our business, in our own stores, we can control that."

MS. FINK addressed the 36 percent interest rate as not being enough to allow the industry to stay in business. She said her business did 26,000 loans last year for 24,000 customers, bringing in approximately \$120,000 in fees. Her overhead included nine full-time positions covering four locations, making \$40,000 each. This cost of \$360,000 is three times the 36 percent cap that has been recommended. In addition, she has two and a half positions in her collections division, a full-time auditor who does the payroll advances, general managers, and store managers. She said 40 percent of the \$15 fee goes towards payroll. Her business has overhead costs of a lease, utilities, and the computer system that connects the stores. She explained that it is expensive to run a business in Alaska.

Number 1925

MS. FINK turned attention to a handout about a recent study of payday lenders in Tennessee, Kentucky, Illinois, and Wisconsin. It showed a 10 percent profit after costs. She said she felt this was in the ballpark of the profit she experiences, and she couldn't offer her services at a 36 percent cap. In response to a remark from Chair Anderson, Ms. Fink pointed out that \$15 per \$100 is under the national average, so Alaska charges the low-end rate in the business. Stand-alone stores that charge a rate of "about \$17 per \$100" are going out of business in the Lower 48, she said, and many of her stand-alone Anchorage competitors have ceased to exist.

Number 1810

REPRESENTATIVE GUTTENBERG clarified the source of a handout that he'd distributed entitled "NCO Update, 08/01/2003." He said it helps non-commissioned officers keep abreast of military matters and is copyrighted under the Association of the United States Army.

CHAIR ANDERSON said the Division of Banking and Securities, the Office of the Attorney General, and, to a degree, AARP had collaborated with his office on the proposed CS. He acknowledged that AARP had originally recommended its national model and promoted lowering the cap further than was done in HB 389. He noted that Ms. Fink had provided correspondence from

individuals supportive of the legislation, and said the committee hadn't heard from any customers who had problems.

CHAIR ANDERSON commented that he wanted to maintain consumer protection but at the same time have a law that regulates payday lenders. The attorney general's office wanted conformity and statutory definition as to levels of licensure, he said, and consumer protection; he surmised that the attorney general's office supports this bill. He noted that eight major revisions had been made to the bill, but acknowledged that these changes didn't completely satisfy AARP.

Number 1693

REPRESENTATIVE LYNN said military people and seniors aren't stupid and know what interest rates are. He remarked:

I think there are just as many qualified people that know how to conduct their business in the military as in any other segment of the population. The same goes with seniors. I don't think military or seniors are any less capable of making financial decisions than anybody else.

Number 1653

REPRESENTATIVE DAHLSTROM moved to report CSHB 389 [the undated, unnumbered conceptual CS adopted as a work draft] out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GUTTENBERG objected, stating concern that the committee didn't have an official version of the bill. He said he'd like to see the original version with Mr. Sniffen's additions and Representative Rokeberg's amendments.

REPRESENTATIVE ROKEBERG noted it was a valid concern. Recalling that his motion to adopt the proposed CS was made conceptually, he said he thought the style of the document was adequate to "give public exposition to what the language intended."

CHAIR ANDERSON offered, "We will draft this into the CS, the legislative protocol and document, and then have you look at it to make sure, verbatim, what this document says with the added amendment, within the next day. With that, do you maintain your objection?"

REPRESENTATIVE GUTTENBERG removed his objection.

Number 1545

CHAIR ANDERSON indicated that there being no further objection, CSHB 389(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 418-EXTEND REAL ESTATE COMMISSION

Number 1520

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 418, "An Act extending the termination date of the Real Estate Commission; and providing for an effective date." [HB 418 was sponsored by the House Labor and Commerce Standing Committee.]

REPRESENTATIVE ROKEBERG asked that the proposed committee substitute (CS), Version D, be adopted. He explained, "The original draft is under the sunset extension for the Real Estate Commission, and I have taken the liberty of using it to do some cleanup work in this area."

Number 1488

CHAIR ANDERSON moved to adopt the proposed CS, Version 23-LS1548\D, Mischel, 2/20/04, as a work draft. There being no objection, Version D was before the committee.

Number 1474

REPRESENTATIVE ROKEBERG explained that Version D includes certain aspects of a former bill that could only be corrected through statute. Section 2 clarifies that a firm or business can have a policy in which its inspectors are covered, rather than have each individual licensee get his/her own individual insurance. Section 3 relates to a request to the Division of Occupational Licensing about the timing of inactive licenses and active licenses, and directs that an inactive license be reactivated; he described this change as a housekeeping measure. Section 4 is another housekeeping measure, an added request from the Division of Occupational Licensing to clarify issues surrounding notification of a licensee; sometimes the division has difficulty, and this allows access to the current mailing address and other ways to find [licensees].

REPRESENTATIVE ROKEBERG explained that Section 5 corrects a problem in the old home-inspector bill, which allows current practitioners to become home inspectors without an examination; in former HB 9, page 23, a subsection said "a certificate of registration issued under this section may not be renewed or extended", and the assistant attorneys generals said there was a need to take the exam again because of the word "not". Thus Section 5 of the current bill says that if the [license is given to the applicant], the applicant doesn't have to take an examination again [for renewal]. He called this a housekeeping measure as well. Section 6 provides for a new effective date.

Number 1285

REPRESENTATIVE LYNN disclosed that he is a licensed associate real estate broker with a major company in Anchorage. He also stated support for HB 418.

REPRESENTATIVE ROKEBERG disclosed that he is also a licensed real estate broker in Alaska, with a current license although he isn't actively engaged in this.

CHAIR ANDERSON asked both members to vote nonetheless.

Number 1245

KATHRYN CLARK, President, Alaska Association of Realtors, spoke in support of HB 418 as far as the extension of the real estate commission to the June 30, 2008, date. However, she noted that she'd been asked to suggest that the changes to the surety fund wouldn't be supported, which Mr. Feeken could speak to better.

REPRESENTATIVE ROKEBERG clarified for the committee that there was a recommendation in the audit to raise the surety fund claim level from \$10,000 to \$20,000, and the aggregate to one licensee from \$50,000 to \$100,000. He said he didn't agree with this and hadn't put it in the bill "for various reasons," but noted that there are split opinions within the industry.

REPRESENTATIVE ROKEBERG also referred to a recommendation in the audit that mobile homes or trailers should be subject to claims under the surety fund. He said this recommendation wasn't included in the bill either, because the industry is 100 percent opposed to it. Noting that trailers and mobile homes are personal property, not real property, he said when the mobile home dealers or sellers want to start paying into the surety fund, then they can have a claim to it, but not until that time.

Number 1133

REPRESENTATIVE LYNN noted that typically realtors can list and sell mobile homes. He asked whether the buyers would have need of the surety fund.

REPRESENTATIVE ROKEBERG said the realtor would be selling personal, not real, property and that the "mobile home people" don't contribute to the fund. "If they want to become real estate licensees, then that's fine," he added, saying it's an old issue that has been debated in this committee previously. He added that at one time there was licensure of mobile home dealers, which was repealed.

REPRESENTATIVE LYNN asked, though, if he sold a mobile home and made some error and the buyer wanted redress, whether that person could go to the surety fund.

REPRESENTATIVE ROKEBERG replied that hearing officers had made that finding based on that claim before, but he feels so strongly about it that he has contemplated adding a statutory prohibition.

Number 1037

DAVE FEEKEN, Legislative Chair, Alaska Association of Realtors, Kenai, testified in favor of Version D. However, he said his association had concerns about raising the surety fund claim amounts and the mobile home issue, and was happy these recommendations weren't included in the bill. With regard to mobile homes, he said if someone who has a real estate license is subject to surety fund claims. Mr. Feeken explained that claims involving earnest money agreements require mandatory mediation; there are currently three to four claims a year with two to three mediation hearings a month. The Alaska Association of Realtors hears three to four arbitrations annually, providing this service to practically all licensees in the state, whether or not they are members of the organization.

MR. FEEKEN informed the committee that when the surety fund was put in place, it covered fraud, deceit, misrepresentation, and conversion of funds. Previously, errors and omissions (E&O) insurance didn't cover fraud, deceit, and misrepresentation, but now it does. Thus he said he felt many avenues were available for the public to correct a wrong. He added that the Alaska Association of Realtors had invested a substantial amount of

money and time over the last 15 years to deal with disputes and provide consumer protection.

MR. FEEKEN also explained that \$10,000 is the standard settlement in a claim against licensed professionals. He said E&O claims average \$6,000 to \$7,000; mediation cases, which currently happen at the rate of two or three a month, have average settlement claims of \$5,000 to \$6,000; and small claims court remedies up to \$7,500, and there's currently a bill that would raise this to \$10,000. He emphasized that many remedies are available to the public without resorting to a surety fund claim or a lawsuit, and he said those remedies are far more expedient than either the surety fund claim or a lawsuit, which may take multiple years. For example, it costs \$75 to file for mediation.

MR. FEEKEN went on to say that has been input to the industry that the surety fund claims are used to "finance further losses." He said that's a valid concern.

[Chair Anderson noted that Pat Davidson was present from the Division of Legislative Audit to answer questions.]

Number 0754

REPRESENTATIVE LYNN moved to report CSHB 418, Version 23-LS1548\D, Mischel, 2/20/04, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 418(L&C) was reported from the House Labor and Commerce Standing Committee.

#### HB 509-ALASKA GAMING COMMISSION

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 509, "An Act relating to establishing the Alaska Gaming Commission."

Number 0691

REPRESENTATIVE ROKEBERG moved to adopt the proposed committee substitute (CS), Version 23-LS1768\I, Luckhaupt, 02/23/04, as a work draft. There being no objection, Version I was before the committee.

Number 0655

SUE STANCLIFF, House Majority Office, Alaska State Legislature, presented HB 509 on behalf of Representative Kott, sponsor. She introduced Version I by saying the Alaska Gaming Commission will regulate all forms of gaming activity in Alaska; this includes current forms and additional forms that may be authorized by the legislature under AS 05.15." Reading from the sponsor statement, she said gaming activity currently allowed in AS 05.15.100 includes bingo, raffles, lotteries, pull-tab games, "classics," fish derbies, and contests of skill. If additional forms of gaming become legal in Alaska in the future, it will be critical that appropriate regulatory oversight be in place.

MS. STANCLIFF said the goal of HB 509 is to put the regulatory framework in place by establishing the Alaska Gaming Commission within the Department of Revenue. This bill establishes parameters for a seven-member commission appointed by the governor and confirmed by the legislature; it clearly specifies commission makeup, qualifications for commissioners, meeting times, powers, and duties. It clarifies that the commission may not authorize a charitable gaming activity unless that activity is authorized under AS 05.15. It only gives the commission tools necessary to administer gaming once the legislature and governor adopt this activity into law.

Number 0558

MS. STANCLIFF said Version I was a result of working with different members of the gaming industry, taking their recommendations and incorporating them. There is also a new fiscal note attached that will have minimal impact. Version I limits the ability of gaming to expand in Alaska, since it could only do so with the authorization of the legislature. The sponsor didn't feel it was appropriate to give the commission broad authority to do interstate gambling or take up extended gaming activities, she explained. Ms. Stancliff pointed out that while it had been recommended to appoint one member of the commission from the gaming industry, the decision had been to choose three. It would be a seven-member commission, which she characterized as large, and this was the reason for choosing three commissioners that would have direct industry ties.

MS. STANCLIFF referred to changes on page 6 that would require the legislature to authorize various gaming activities. She said she'd verified the ages of people in the prohibited acts on page 6 and explained:

It says a person "may not". And if you look on number 3, line 28, it says "knowingly sell or offer to sell a gaming product to a person under the age of 21." Now, for bingo it is age 19; pull-tabs is age 21. I felt that this was appropriate to put in here for the construction of this commission.

MS. STANCLIFF related that the proposed commission was modeled after several states, including Idaho and Colorado. She said 47 states have commissions similar to the one proposed in this bill, with only Utah, Hawaii, and Alaska absent from this count.

CHAIR ANDERSON said a representative from the Department of Revenue would stand by for technical questions.

Number 0214

DARWIN BIWER, Cabaret Hotel Restaurant & Retailers Association (CHARR) for Alaska and for Anchorage, said his organization is totally in favor of HB 509. He felt the bill was overdue, since several types of gambling are legal in Alaska and some that are illegal need to be "cleaned up." He suggested this was not a bill for or against gambling, but a bill to regulate the present activities of gambling in Alaska.

CHAIR ANDERSON asked how many members were in Alaska CHARR.

MR. BIWER said he thought there were approximately 200 statewide members in CHARR; in Anchorage there were about 200.

Number 0069

REPRESENTATIVE ROKEBERG noted that there is already gambling on licensed premises in Alaska.

CHAIR ANDERSON offered his understanding that Mr. Biwer was in favor of the seven-member commission.

**TAPE 04-17, SIDE A**

Number 0033

CHAIR ANDERSON suggested the commission was proportioned throughout the state for the selection of the commissioners.

MR. BIWER said he understood that the proposed CS indicates one commissioner from the pull-tab industry, one from the bingo industry, and one from the general gaming. He reiterated that

this is to "clean up our act." He said illegal gambling is prolific around the state, especially in Anchorage. He wanted the commission to oversee electronic gaming, pari-mutuel gambling, and any other type of gambling in the state.

CHAIR ANDERSON recalled that in the 1990s there was a charitable-gaming division under Department of Revenue. Now there is a need for coverage and analysis of gambling issues, whether or not there's expansion. The bill would also provides for enforcement and overview where there hasn't been any before. He suggested this is a preparation in case there is expansion as well.

MR. BIWER recalled a visit last year from Dennis Jackson, former head of the Idaho State Lottery, to the House Special Committee on Ways and Means [and the House Special Committee on Economic Development, International Trade and Tourism as well]. He recalled that Mr. Jackson explained two basic premises: gaming must be run like a business, and it requires airtight security. Mr. Biwer said he felt the commission would do that.

Number 0252

REPRESENTATIVE GATTO offered his initial reaction, if there is a seven-member commission, with three representing the industry, and the commission is designed to clean up the industry, that this is overweighted.

MR. BIWER responded that three out of seven is not a majority.

REPRESENTATIVE GATTO said he was well aware of that and added, "You only need one more vote to do whatever you like as far as cleaning up the industry. It just seems overweighted."

CHAIR ANDERSON suggested the weighting should perhaps be addressed by the sponsor.

REPRESENTATIVE LYNN asked for clarification [page 2, line 14] on who might be the third member from the gaming industry. He surmised it would be from something that would come in the future.

MR. BIWER said it could be an ice classic, for example, or a salmon derby.

CHAIR ANDERSON said it isn't designated, but presumably will be someone from the industry. He suggested this is an important aspect for this committee to look at.

MR. BIWER referred to page 2, lines [14-17], and said it would be someone holding a permit for a charitable gaming activity other than bingo or pull-tabs.

Number 0423

REPRESENTATIVE GUTTENBERG asked Mr. Biwer, "Do you think this bill would be necessary if we weren't ready to expand gaming in this state?"

MR. BIWER responded, "Absolutely." He said it is needed because of current illegal gambling activities. He referred to after-hours joints, gray machines, the need to tighten reporting on pull-tab revenue, and loss to the state of revenue from taxation as current issues that need to be dealt with. In response to remarks from Chair Anderson, who noted he used to work with CHARR, Mr. Biwer said the reporting system isn't airtight and remarked, "If you're against this bill, I would think you're in favor of not having control or regulation."

CHAIR ANDERSON asked Mr. Biwer whether he has pull-tabs in his bar.

MR. BIWER said no.

Number 0566

REPRESENTATIVE GUTTENBERG asked what a gray machine is.

MR. BIWER explained that those are illegal machines imported into the state that are in bars; there is an agreement with the manager or owner of a bar that they'll pay off.

CHAIR ANDERSON pointed out that none of that money goes to the state, in addition to its being illegal.

Number 0605

REPRESENTATIVE LYNN asked how this commission would address the problem of illegal gambling.

MR. BIWER replied that if the commission had regulatory control, it would monitor and regulate illegal gambling. He noted that

there may be a federal angle as well, and mentioned the Federal Bureau of Investigation (FBI) and interstate commerce related to shipping the machines. He said the Municipality of Anchorage won't prosecute this; when an after-hours joint does get busted, the penalty is lax, basically a "slap on the hands."

REPRESENTATIVE LYNN asked whether the commission would use civil or criminal laws to come down on these activities.

CHAIR ANDERSON suggested that the Department of Revenue answer that question later.

Number 0732

ROBERT LOESCHER, Chairman, Legislative Committee, Alaska Native Brotherhood, Camp 2; President, Juneau Tlingit-Haida Community Council, said he represents a number of other community organizations. He testified in favor of HB 509 with recommendations and comments. He offered several suggestions including careful review of the provision in the bill that would create dual authority over establishments that serve alcohol and participate in gaming. He expressed concern that both the new commission and the Alcoholic Beverage Control Board ("ABC Board") would have authority, which could create conflicts in the state administration of this area. He also pointed out that a business in violation of a gaming law could lose its liquor license, suggesting this dual-authority situation should be examined.

MR. LOESCHER noted that he'd submitted a letter to the committee and would give the highlights in his testimony. He said the way the commission is configured, four members could come from one political party; this might pose difficulty in terms of how this operates. Furthermore, he proposed having a five-person majority rather than the four-person majority presently in the bill; this would result in clear decision-making.

MR. LOESCHER, pointing out that the executive director of the proposed commission would have the power to sign contracts and agreements, offered the belief that no contracts or agreements should be authorized unless it's authorized by the commission and the executive director has been directed to [by the commission] to execute agreements. Some of the agreements that could be contemplated in the future could be large decisions that would have a lot of effect on organizations, communities, and businesses. Stating support for the formation of the

commission, he requested consideration of the comments he'd provided.

Number 0940

REPRESENTATIVE ROKEBERG surmised that the letter Mr. Loescher had presented was based on another version of HB 509. He opined that some issues had been taken care of in Version I. He requested input from the sponsor.

Number 0988

REPRESENTATIVE PETE KOTT, Alaska State Legislature, sponsor of HB 509, responded that he didn't believe a five-member quorum had been addressed. With regard to the last issue talked about by Mr. Loescher, he said Sec. 05.18[.030] on page 3, line 20, says the commission shall enter into contracts and agreements necessary to carry out the provisions of the chapter, and on the next page it says the commission shall employ the director who is qualified and so forth.

Number 1050

REPRESENTATIVE ROKEBERG asked Mr. Loescher if he there had been discussion of having three versus two members of the gaming industry.

MR. LOESCHER replied, "We would fully support three."

REPRESENTATIVE GATTO asked, "Would you support five? Would you support four? ... How do you arrive at the number that is important to you?"

MR. LOESCHER replied:

Considering the size of the commission, the commission shouldn't be ... too big, so that it couldn't make decisions, but it should be large enough that it at least have representation from the industry as we know it today, because there's a lot of experience there and they have familiarity with the regulatory development already. ... And the growth of the industry would probably evolve from these people that are involved. And so my thinking basically was to make sure that there was at least representation from the existing industry.

MR. LOESCHER, in further response, indicated he believes it would be pragmatic to have at least a third of whatever size the [commission] is.

REPRESENTATIVE GUTTENBERG suggested perhaps party affiliation should be further diminished so that no two members could be of any political party.

MR. LOESCHER said he'd served on other commissions, having been appointed by President Clinton to the study commission on a national gasoline cap that had three members from the House of Representatives, three from the Senate, and three from the President. He said this was basically done on a party basis. He commented that in state government commissions are often appointed with members from the legislature, members of industry, or from citizens groups. Saying this is kind of unusual, he said his organization hadn't wanted to challenge where the people came from, as long as there was representation from the industry.

Number 1187

CHAIR ANDERSON said he thought it was the intent to ensure there wouldn't be partisanship by having a limit. He then noted that the sponsor was shaking his head.

REPRESENTATIVE LYNN asked about nonpartisan and undeclared persons, and asked whether they should be included also.

REPRESENTATIVE ROKEBERG suggested the term "affiliation" rather than "party".

CHAIR ANDERSON said Representative Lynn had brought up a good point, and noted that Representative Rokeberg had brought up a possible rewording.

REPRESENTATIVE KOTT said, "No more than four from a particular party." He then asked about "nonpartisan" and said that's fine.

[Chair Anderson called upon David Lambert, but then announced that Fairbanks was disconnected.]

Number 1272

ED MOEGLEIN, Alaska Nonprofit Charitable Organizations, Soldotna, expressed concern about issues that may impact his

organization's fundraising capabilities on behalf of charities they support. He explained:

Each organization that belongs to our organization pays \$50 annually to cover costs of mailing, phones, and copying. We've been having regular meetings twice a month, on the first and third Mondays. Our members are from a number of organizations that have statewide affiliations that represent the posts and lodges of the [American veterans], VFW [Veterans of Foreign Wars], American Legion, Disabled American Veterans, Moose, Elks, Eagles, as well as their state departments that oversee and promote the programs and charities of these lodges that post across the entire state. Also supporting us is the local chamber of commerce that also recognized our efforts and contributions to our communities.

MR. MOEGLEIN said he was present to listen to others' testimony, get additional information, and support formation of the gaming commission. As for accountability with regard to pull-tabs, he said there is strict accountability as to the total amount of money taken in both by his organization and the vendors that sell pull-tabs for his organization; there are annual reports, and this also is reflected in the cost of the permit. He explained that his organization has no problem with the commission, but just wants the nonprofits to be fairly represented so they can continue to serve communities. He expressed the need for representation on this commission in order to address his organization's concerns.

Number 1463

GREG PETERSON, Allied Charities, Ketchikan, testified against HB 509 and questioned the reason for and the intent of the proposed gaming commission. He expressed being stunned that there was new attention being paid to the gaming industry, since previous regulation had diminished through time due to decreased funding. Countering Mr. Biwer's comments, he said there are laws on the books that deal with after-hours joints and incorrect accounting in the pull-tab business, as well as investigators.

MR. PETERSON said he feels the reason for this commission is that the Department of Revenue recommended that before Alaska enters into any video gaming, a commission be formed. He feels it isn't because of new concern or caring about the charitable

gaming industry. He said, "We've asked and lobbied for all kinds of different things over the years to help ... clean up the industry; we've never been listened to once." He again questioned the reason and intent for the proposed commission.

CHAIR ANDERSON said he'd talk to Mr. Peterson later about CAGE (ph), an organization Mr. Peterson is a member of; he expressed concern about whether that organization is registered with the Alaska Public Offices Commission for lobbying purposes.

Number 1614

CHAIR ANDERSON, upon determining no one else wished to testify, closed public testimony.

REPRESENTATIVE DAHLSTROM stated:

With all due respect to the maker of this bill, I am going to disagree with many of the things that I've heard this afternoon. ... I acknowledge that we currently have pull-tabs and we have other games that are being played. In acknowledging that and in knowing that they're there, to me that does not make it right.

And as the gentleman who previously just spoke [said], we do have laws and regulations that are in place that I feel should be held accountable, and ... that we need to enforce the laws that are there as far as regulating. An example that continues to be brought up today are the after-hour joints. I personally don't ever want to see our state become dependent on money that comes in, in this form.

And I also believe that setting regulations for money that comes in, in the wrong way isn't right. I don't think you can take something that I believe is wrong and make it right by creating regulations for it. Again, with ... respect for the maker of ... the bill, I have no intention of being any part of ... moving this ... commission forward. I feel that this is part of an overall plan of allowing electronic gaming and other gambling to become legal. And I just cannot support that.

REPRESENTATIVE ROKEBERG commented with regard to the Alaska Native Brotherhood letter that Mr. Loescher had presented:

His first point about ... the duplication of responsibility between this new Alaska Gaming Commission and the, presumably, ABC Board, which is under the Department of ... Revenue, ... in Section 1 of the bill, ... I'd like to state for the record that it's my interpretation of the bill that the license or permit referred to in Section 1 are the bill's licenses and permits under AS 05.15 and not under Title 4. ... Representative Kott, is that correct? So, I just want to make sure that's on the record, and we don't need to amend it in any way. ... That takes care of that one issue they brought up. It is a valid point of clarification; I think it's necessary.

CHAIR ANDERSON said Representative Kott, for the record, agrees.

Number 1753

REPRESENTATIVE ROKEBERG began discussion of Conceptual Amendment 1. He referred to page 2, line 12, and suggested adding "affiliation or" after "political". Thus it would say "members of the same political affiliation or party". He explained that a nonpartisan person isn't a member of a party.

CHAIR ANDERSON asked whether the sponsor concurred with encapsulating those registered voters as well. [There was no audible response.]

Number 1820

REPRESENTATIVE ROKEBERG moved to adopt the foregoing as Conceptual Amendment 1, leaving to the drafters wording such that any registered voter in Alaska could qualify for that position, whether a party member or not.

REPRESENTATIVE GUTTENBERG said it seemed simple but could be complex. For example, there couldn't be a full commission of nonpartisan or unaffiliated persons.

REPRESENTATIVE ROKEBERG specified that he was trying to make it more open to all people.

Number 1883

CHAIR ANDERSON asked whether there was any objection to Conceptual Amendment 1.

REPRESENTATIVE GUTTENBERG said he wasn't sure it answered the problem, but he wouldn't object.

CHAIR ANDERSON announced that Conceptual Amendment 1 was adopted.

Number 1899

REPRESENTATIVE ROKEBERG moved to adopt Conceptual Amendment 2, on page 2, line 11, changing the number from "four" to "three" of the seven members. There being no objection, it was so ordered.

Number 1920

REPRESENTATIVE ROKEBERG began discussion of Conceptual Amendment 3, page 2, line 12. He said:

The three member commission that are permittees, I'd make that two members and they could just hold the charitable gaming permit under [AS] 05.15 and not make them bingo, pull-tab, whatever. They'd just have to have a permit and they'd be two of the seven members. ... The reason I'm going to this method is I would be concerned about if the people that are regulating themselves may have too much weight. The current statutory structure would be overweighted in this group.

One of the charges, quite frankly - and I don't think anybody is trying to hide anything here - is for this commission to look at the policy and the future policy of the State of Alaska. So, if we get too many members that are ingrained in the current status quo, we won't get any movement at all; we won't make any changes, and I don't think that's the intention of the bill.

REPRESENTATIVE ROKEBERG clarified that two of those members would be permittees. He said sometimes it's hard to get people who are qualified or who want to serve who are particular kinds of licensees or permit holders.

CHAIR ANDERSON clarified: "So, rather than one bingo commissioner and one pull-tab commissioner and then a third

unknown, there will be two commissioners with permits, and not designated bingo or pull-tab, just open."

Number 2037

REPRESENTATIVE ROKEBERG moved to adopt Conceptual Amendment 3, page 2, line 12, to delete "three" and insert "two" and further have it read, "Two members of the commission must be involved in charitable gaming in this state, and hold a permit under AS 05.15." The rest of the sentence would be deleted.

CHAIR ANDERSON, hearing no objection, announced that Conceptual Amendment 3 was adopted.

CHAIR ANDERSON remarked that he understands and respects Representative Dahlstrom's philosophy, but said:

I think that ... this is important. The commission is necessary, and not just from the testimony we have heard, but from my experience in the industry, and also looking at legislation last year, which really didn't move anywhere. But through analysis we determined that, and I think the [House Special Committee on Ways and Means] also determined that a gaming commission is the first step, an essential foundation, whether gaming expands or does not expand.

And I think Mr. Biver testified to that, that ... CHARR did not come here saying, "Hey, we support or are against other issues of gaming." They came to support the Alaska Gaming Commission concept because it will increase enforcement. ... The last testifier stated that he didn't think it would help, but I do. I do think it will help. And I think that it will prevent those gray machines and [illegal] gaming and gambling, and it will make it more stricter. And so I support the bill to that end.

Number 2059

REPRESENTATIVE GUTTENBERG stated:

In the early 90s I was involved peripherally in gaming, and watched ... the funding and the enforcement officers and investigators ... through a variety ... of governors kind of dissipate, and oversight kind of diminish. ... If Mr. Meyers is still

on [teleconference], I would like him to comment on the state of charitable-gaming oversight now, because basically what we're doing is saying the system we have doesn't work, and we want to replace it with this commission. So how is it broken? ... Is it a matter of ... [nonenforcement]? Is it a matter of no investigations? Is it a matter of inadequate laws or regulation?

Number 2129

LARRY MEYERS, Deputy Director, Tax Division, Department of Revenue, explained that one of the programs for which he has oversight is the charitable gaming unit. He offered background as follows:

Charitable gaming used to be a division. In 1997, for budget reasons, they were reduced from a division to a unit. The division used to comprise ... 13 people. At the time that it was transferred over into the income and excise audit division at that time, there were seven folks that transferred over: one supervisor, two accounting techs, two auditors, ... and two investigators. Since that time, the unit has not grown in size. ...

During the six or seven years ... that it's been under my responsibility, we've tried to increase the enforcement. ... We haven't had any new positions. I think that ... we have shown that we've done a lot with the tools that we have had, but gaming continues to grow. It is a ... very controversial area. ... It deals in a lot of cash, and there are some problems out there. We've tried to set out in our annual report some of the major cases that we've worked and some of the good that we've brought to the industry, and it is an industry that needs a lot of oversight.

MR. MEYERS, in response to Representative Guttenberg, said there are two investigators statewide, over 1,200 permittees, approximately 200 complaints a year, and two auditors. In response to Representative Gatto, he said the most common complaint has come from people who have felt there was insider action, that is, collusion between select players and the person running the game.

Number 2239

REPRESENTATIVE KOTT agreed there have been some troubling aspects in this particular area. He said this committee has in its possession a bill from the governor that deals with pull-tabs, but there are problems with that bill and thus it has been referred back to this committee. He remarked, "It's a continuation of various activities that are somewhat problematic in this state regarding gaming." Turning to the current bill, he told members:

Right now, this commission is not needed. Regardless of what one of the members said, this commission is not needed to implement or expand gaming operations in this state. We can do it without this commission. Now, what we're saying is there's an extra layer here that's first going to have to evaluate everything around the state to determine whether or not whatever it is, is good for the State of Alaska. Once that recommendation is made and forwarded to us, then the legislature, in the same process we would go through right now, ... would have to introduce legislation and pass it through the committee process. So this particular commission allows for a second layer.

But thirdly, and probably more importantly, is that this protects us against an initiative process. [If] an initiative comes forward, I think most of you have recognized in the various polls that there's some forms of gaming opportunities in this state that would probably pass, albeit a lottery or maybe the electronic gaming machines. That goes on the ballot in the form of an initiative and passes. Guess what we got? We got it. We don't have the luxury of going back and debating the issue. At least we have the commission that is in place to deal with it and to regulate. I think that's the most important aspect of this because I believe it's coming.

Number 2330

REPRESENTATIVE ROKEBERG moved to report CSHB 509 [Version 23-LS1768\I, Luckhaupt, 2/23/04], as amended, out of committee with individual recommendations and the accompanying indeterminate fiscal note(s).

REPRESENTATIVE DAHLSTROM objected.

Number 2350

A roll call vote was taken. Representatives Lynn, Rokeberg, Gatto, and Anderson voted in favor of reporting the bill from committee. Representatives Guttenberg and Dahlstrom voted against it. Therefore, CSHB 509(L&C) was reported from the House Labor and Commerce Standing Committee by a vote of 4-2.

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:45 p.m.