

MINUTES
SENATE FINANCE COMMITTEE
May 09, 2003
9:02 AM

TAPES

SFC-03 # 84, Side A
SFC 03 # 84, Side B
SFC 03 # 85, Side A

CALL TO ORDER

Co-Chair Gary Wilken convened the meeting at approximately 9:02 AM.

PRESENT

Senator Gary Wilken, Co-Chair
Senator Lyda Green, Co-Chair
Senator Con Bunde, Vice Chair
Senator Robin Taylor
Senator Lyman Hoffman
Senator Donny Olson
Senator Ben Stevens

Also Attending: LARRY PERSILY, Deputy Commissioner, Department of Revenue; MARIA MOYA, Member, Southeast Alaska Friends of Montessori; ALBERT JUDSON; BOB LOESCHER, President, Juneau Tlingit & Haida Community Council; GEORGE WRIGHT, Operator, former Self-Directed Permittee and former Charitable Gaming Task Force member; AGNES D'CAFANGO, Gaming Employee; DAVID KATZEEK, Member, Alaska Native Brotherhood; ELLIE MORITZ, Pull Tab Dealer, Alaska Native Brotherhood Hall; DAVID SANDEN, Coordinator, Juneau Multiple-Beneficiaries Permittees; LASH ZEMP, Parent; LUPITA ALVEREZ, Director, Juneau Montessori Center

Attending via Teleconference: From an offnet site: GREG PETERSON, Allied Charities of Alaska Association; From Anchorage: PERRY GREEN; JOHN LOPEZ, President, Denali Gaming Supply, Inc.; LYNN REESE, Owner and Operator, Lynn's Pull-tabs; TED BROWN, Representative, Alaska Indoor Sports; JIM PEOT, General Manager, Whaler Casino Supply; KENT HARTZBERG, Licensed Operator and former State Auditor, Division of Games of Chance & Skill, Department of Community and Economic Development; From Fairbanks: DAVID LAMBERT, Fundraiser; GENE HANSEN, Representative, Fraternal Order of Eagles; JUNE ROGERS, Executive Director, Fairbanks Art Association; TOM ROGERS, Office Manager, Downtown Bingo; DAN THOMPSON,

Representative, C&A Distributors; STEVE EARLY; LAYNE ST. JOHN, Executive Director, Yukon Quest International, Ltd.; JOELLEN FOX, Pull-tab Operator/Dealer; ALLYN YANISH; Representative, Q&A Distributors; From Nome: TIM SMITH, President, Nome Fisherman's Association; From Sitka: PATTY MILLS, Gaming Manager, Sitka Tribes of Alaska; SANDIE JOHNSON; From Kenai: LEN MALMQUIST, Representative, Kenai Charities Co-op; From Kodiak: WAYNE STEVENS, Executive Director, Kodiak Chamber of Commerce;

SUMMARY INFORMATION

SB 102-CHARITABLE GAMING REVENUE

Testimony was presented by the Department of Revenue and public testimony was taken. The bill was held in Committee.

HB 229-PAROLE FOR MEDICAL/COGNITIVE DISABILITY

This bill was scheduled but not heard.

#sb102

CS FOR SENATE BILL NO. 102(L&C)

"An Act increasing the amount of revenue received by the state from charitable gaming activities; relating to taxes on pull-tabs; and providing for an effective date."

Co-Chair Wilken stated that the Senate Rules Committee at the request of Governor Frank Murkowski sponsors this bill. He noted that the bill would increase "the State's charitable gaming tax rate to five percent of ideal gross receipts for pull tabs which generates \$12.5 million." He continued that the Senate Labor and Commerce (SL&C) Committee committee substitute, Version 23-GS1131\Q, "instead places a 15-percent tax rate on the ideal net on each series" distributed by a pull-tab operation, which he stated, might generate approximately ten million dollars. He noted that a proposed committee substitute, Version "Q", is before the Committee and is accompanied by new fiscal note #2 from the Department of Revenue.

LARRY PERSILY, Deputy Commissioner, Department of Revenue, informed the Committee that the Administration's original bill would have instituted "a significant change in how the pull-tab tax is administered on charitable organizations" by taxing on gross revenue rather than the existing three-percent of net on pull-tabs "played." He continued that the original bill was changed by the SL&C to tax at a 15-percent of ideal net which, he explained, is

the amount remaining after prizes are distributed with the assumption that all of the pull-tabs in a game would be sold. He exemplified that \$200 is the ideal net of a game consisting of 1000 one-dollar pull-tabs with an 80-percent payout. He furthered that while both the current tax and the tax proposed in Version "Q" collect on the net amount of the game, Version "Q" assumes that all the pull-tabs in a specific game would be sold. He stated that in order to meet the tax obligation, charities would make "internal adjustments" such as negotiating operating expenses with operators and vendors and adjusting prize payouts. He stated that the original version of the bill proposed "a significant change" by mandating, in statute, that no game in the State could payout more than 68-percent in prizes as compared to the current average payout of 78-percent. He explained that the intent of the lower payout limit is to provide operators with additional funds to cover "the higher tax burden"

Mr. Persily clarified that the Department's fiscal note #2 should be correctly identified as CS SB 102(L&C) rather than CS SB 102(STA).

AT EASE 9:08 AM / 9:08 AM

Mr. Persily referred the Committee to a handout provided by the Department titled, "Distribution of Dollars in Pull-Tab Games," [copy on file] dated May 9, 2003, which reflects the calendar year 2001 financial activity levels of the four types of pull-tab operations in the State. He defined these operations as follows: Self-Directed Gaming Permittees are those that oversee their own pull-tab operations; Multiple-Beneficiary Permittees (MBPs) occur when several charities form a cooperative to run a gaming site; Operators are for-profit businesses that contract with a charity to sell its pull-tabs; and the Vendors category applies to permittees that sell pull-tabs to a bar, which then sells the game to its patrons. He specified that the charts depict the percentages of revenue paid out for prizes; the current pull-tab tax; total expenses; and the net profit to charities for each of the four operations.

Co-Chair Wilken asked for confirmation that the four types of categories currently operate in the State.

Mr. Persily affirmed. He reiterated that the charts reflect the total monetary activities of the four operations for the year 2001. He pointed out that pull-tab operators must determine whether the money to fund the proposed tax increase would be subtracted from prizes, profits, or expenses.

Co-Chair Wilken asked which of the operations is most prevalent.

Mr. Persily communicated that the "Self-Directed Permittees" category conducted approximately half, or \$126 million of the total \$274 million, of the 2001 pull-tab volume.

Co-Chair Wilken furthered that the chart indicates that the MBPs and Operators each earned revenues of approximately \$54 to \$57 million and that Vendors earned approximately half that amount.

Mr. Persily concurred.

Senator Taylor asked which expenses could be deducted under the ideal net proposal.

Mr. Persily responded that prizes and federal and local taxes would be allowable deductions while payroll taxes, rent, and utilities would be disallowed.

Co-Chair Wilken summarized that the definition of ideal net is "the amount equal to the total amount of receipts that would be received if every individual pull-tab in a series were sold at face value minus the prizes to be awarded for that series."

Mr. Persily corrected his previous statement by clarifying that allowable expenses would be limited to prizes and not to federal and local taxes.

Senator Taylor asked for confirmation that a prize payout limit is not specified in the SL&C committee substitute.

Mr. Persily confirmed that Version "Q" does not specify a prize limit. He reiterated that the charitable organizations would make the decisions "on how to come up with the money to pay the higher tax."

Senator Taylor asked how pull-tab players would be notified of a game's prize structure.

Mr. Persily responded that games are required to disclose what the prizes are, but he continued, payout statistics are not required. However, he voiced the understanding that "players become very quickly educated" about which games pay out. Therefore, he reasoned that "competition would dictate that" charities and games with a low payout percentage would experience "players gravitating to those games with a higher payout."

Senator Taylor opined that this "might be true" in a competitive

urban area; however, he asked what might occur were there "only one game in town."

Mr. Persily stated that while there might be a single pull-tab permittee in a community, more than one pull-tab game could be offered. He continued that State statutes do not currently specify a minimum or maximum payout level.

Senator Taylor understood that State statutes do not influence the prize payout; however, he voiced "fascination" that the four operations currently have prize payouts of approximately 78 percent. He asked whether the industry rather than the game determines the payout range as he considers "this an important part of the equation."

Mr. Persily responded that the payout range falls between 72 to 80 percent with the average payout being 78 percent. He informed that charities could specify the prize payout percentage when they purchase a game.

Senator Hoffman surmised from the aforementioned chart that the expenses for the four types of pull-tab operations appear to be "somewhat fixed due to [the] nature of [the] operation." Therefore, he continued, the prize payout percentage and the net profit to the charities would be the areas from which the new tax would be funded. He stressed that as a result; this legislation might negatively impact the level of money available for charity donations and might ultimately require State assistance in some manner. He opined that were this the resulting scenario, the "bill would be for naught."

Senator Taylor asked whether revenue projections for video gaming or a State lottery are available.

Mr. Persily responded that the revenue would depend on how the net proceeds would be distributed. He elaborated that the revenue could be shared, for example, between the State and charities or municipalities. He voiced that projected revenue from a State lottery would be "no more than one million dollars;" however, he noted that were the State to join in a multi-state lottery, the revenue could be higher. He summarized that numerous variables such as the type of video gaming or lottery, prize payouts, the entities involved in the revenue sharing, game limitations, and the frequency of the lottery would affect the revenue.

Senator Taylor requested "a best case" revenue scenario for these activities.

Mr. Persily responded that were the current video gaming legislation adopted, the State could gross up to \$50 million; however, he continued that, after expenses, the State might net in "the single digit numbers."

Co-Chair Wilken commented that public testimony would now be taken, and he asked testifiers to limit their comments to two minutes. He encouraged Committee members to ask questions of the testifiers and noted that Senator Bunde, being a member of the SL&C committee, might be able to provide further information to the Committee.

GREGORY PETERSON, Representative, Allied Charities of Alaska Association, testified via teleconference from an offnet site and commented that Senator Hoffman's comments regarding the negative affect the new tax might incur upon charitable donations "was a remarkable grasp" of the possible consequences of this legislation. He stated that while the State might receive ten million dollars in new revenue, the consequence might be the removal of "33 percent of the money that charities have to give away." He stated that this would compare to "the dog chasing its tail" as the State "would lose more than it would gain" by being required to compensate charities for the downturn in pull-tab permittees' charitable contributions.

PERRY GREEN testified via teleconference from Anchorage and suggested that a study be conducted to understand "the real affect" of the committee substitute. He opined that the removal of 15-percent of ideal net profit would "kill the industry," reduce jobs, and destroy resources to 1,200 charities. He stressed that the proposal needs more discussion and that the July 1, 2003 effective date is premature. He concluded that this legislation is "little in comparison" to legislation regarding revenue from North Slope oil, and that these changes would be harmful to charities and the benefits derived from pull-tab revenues.

JOHN LOPEZ, President, Denali Gaming Supply Inc., testified via teleconference from Anchorage to state that the proposed ideal net tax burden would force operators to lower prize payouts which, he avowed, would deter players from participating. He continued that this would result in pull-tab businesses either closing or reducing operations, and, he asserted that there would be a snowball affect on tax bases because supporting business, such as distributors, would be harmed. He stated that a study should be conducted to determine the impact of the legislation before it is enacted.

Co-Chair Wilken acknowledged that the Committee has received copies of Mr. Lopez's written testimony and accompanying spreadsheet [copy on file] dated May 5, 2003.

LYNN REESE, Owner/Operator, Lynn's Pull-tabs, testified via teleconference from Anchorage and informed the Committee that her small business would not survive the 15 percent increase specified in this bill.

Senator Hoffman asked the number of employees in her business.

Ms. Reese replied six. She stated that some of them are single parents, some are on welfare, and that she is flexible with their schedules in order to make work a viable option for them.

TED BROWN, Representative, Alaska Indoor Sports, testified via teleconference from Anchorage to state that enacting this legislation this session provides insufficient time for operators, the Legislature, and other affected individuals to become familiar with the numerous "factors, terminology, and consequences" of this legislation. He urged that time is provided to fully understand the business and the impacts of this legislation before a vote be taken that could "destroy" the industry.

Co-chair Wilken assured the testifier that, in addition to this public testimony, legislators are reading the numerous letters and e-mails in order to understand the impacts of the bill.

JIM PEOT, General Manager, Whaler Casino Supply, testified via teleconference from Anchorage and urged the Committee to curtail action on this legislation until an economic impact study has been conducted. He communicated that due to the nature of his business, he has contact with each of the four different pull-tab operations. He continued that he has conducted an informal survey of those operators, and he attested that the self-directed charities and small operators would be severely impacted by this legislation. He announced that the solution is not to lower the prize payouts as it would negatively affect the number of players of a game. He voiced support for a study to be conducted to gauge the impact of the legislation.

GENE HANSEN, Representative, Fraternal Order of Eagles, testified via teleconference from Fairbanks to share information with the Committee regarding how the net profit generated from pull-tabs contributes to a community. He noted that, over the past three years, his Order has netted \$122,000 in pull-tab revenue, although he communicated that due to the economy and changes in alcohol consumption laws, this amount is lower than previous historical revenues. He noted that were this committee substitute adopted, the 15 percent of ideal net tax would equate to approximately \$18,000 of the \$122,000. He stated that the Order uses its net proceeds to

support local needs such as the Breast Cancer Detection Center and funding Prostate Specific Antigen (PSA) blood tests for senior citizens. He stated that were this level of tax implemented, the Order would not be able to continue funding community needs as they historically have. He urged the Committee to table this legislation until further research has been conducted.

Senator Olson asked for further information regarding the PSA testing that the Order supports.

Mr. Hansen explained that the Order provides funds to the local senior health center to assist senior men in having the test performed.

DAVID LAMBERT, Fundraiser, testified via teleconference from Fairbanks to declare that the result of this legislation would be "the obliteration" of MBPs, Operators, and a number of Self-Directed Permittees. He stated that those that might survive would be the larger operations such as the Moose and Elks Club fraternal organizations that have other means of supporting their labor costs.

Mr. Lambert relayed Senator Bunde's comments spoken in the SL&C committee that "non-profits are lazy and should raise funds via bake sales and raffles." Mr. Lambert contended this suggestion is unrealistic as funds raised from these efforts would be inadequate. He stated that this legislation is not going to work, and he urged the Committee to table it, as the Committee, he opined, is unaware of the devastation that would occur.

Senator Bunde noted his involvement in non-profit organizations before the onset of pull-tabs, and he attested that sufficient funds were raised to keep operations afloat. He stated that raising funds without pull-tab revenues might be hard work, but it is do-able.

JUNE ROGERS, Executive Director, Fairbanks Art Association, testified via teleconference from Fairbanks that she is "very concerned" about the bill's affect on local organizations as the revenue garnered from pull-tabs supports local social services and would be difficult to replace. She stated that this issue is "misunderstood," and she urged the Committee to table this issue until a later date in order for "a better decision" to be made. She reminded the Committee that non-profit organizations, specifically arts organizations, have undergone continuous funding reductions over the past twenty years. She continued that these entities have been sustained by diversifying funding endeavors using a variety of methods, including collecting revenue from pull-tabs as well as

bake sales and other creative measures.

TOM ROGERS, Office Manager, Downtown Bingo, testified via teleconference from Fairbanks in support of the testimony regarding the negative impact that this legislation would have on the pull-tab industry. He voiced that rather than the projected ten million dollars in new revenue, the State "would raise nothing...because there isn't going to be anything to tax." He stated that were prize payouts reduced, the industry would suffer. He shared that the result of this action would be similar to that of the Nenana Ice Classic which suffered a "a 30-percent reduction in their gross revenue" this year after ticket prices were raised from two dollars to two dollars and fifty cents.

DAN THOMPSON, Representative, C&A Distributors, testified via teleconference from Fairbanks and conveyed to the Committee that, as a result of working with a variety of non-profit organizations, he is aware that gaming is an important revenue source and that this legislation "would do tremendous damage" to the industry. He asserted that the proposed tax would reflect a simple economic law, which is "increase the expenses, lower the profits." He stated that this would negatively affect charitable contributions in the community. He asserted that the Department of Revenue numbers are "bad," and that the Department does not understand the economics of the industry. He urged the Committee to table the issue until further studies are conducted.

Co-Chair Wilken asked whether Mr. Thompson has a copy of the pie chart information for the four types of pull-tab operations.

Mr. Thompson responded he did.

Co-Chair Wilken asked for clarification that while the prize component averages 78-percent, the level is variable as game operators could specify lower prize payout percentages. Additionally, he asked whether "the prize component could become one of the components that is reduced in order to pay the additional tax."

Mr. Thompson responded that some entities would adjust or maintain the prize payout levels depending "on the profile of the operation and what their players will accept."

Co-Chair Wilken asked whether it would be "too simple" to increase a charity's net profit by three percent by lowering the average prize payout from 78 percent to 75 percent.

Mr. Thompson responded that this would be "too simple of a way to

look at it;" although he believed that a portion of the money to pay the tax would be drawn from the prize structure.

Co-Chair Wilken acknowledged that the prize payout could be adjusted.

Senator Bunde informed the Committee that, by law, charities must receive a minimum of 30-percent of the pull-tab operation revenue; therefore, he asserted an operator must decide whether "it is in their interest to stay in business."

[NOTE: The following testifiers presented in Juneau.]

MARIA MOYA, Member, Southeast Alaska Friends of Montessori, informed the Committee that this is a non-profit organization that promotes educational opportunities in the Juneau area.

SFC 03 # 84, Side B 09:50 AM

Ms. Moya urged the Committee to amend the committee substitute to include "a statewide prohibition of local sales taxation of pull-tab receipts." She shared that with the net revenue it receives from its pull-tab gaming permit, the Juneau Montessori community program provides a wide variety of educational programs including a high quality preschool program, a kindergarten program, and an elementary program with a total enrollment in excess of 120 students.

Ms. Moya expressed that were this legislation adopted without this exemption, the resulting affect on the Montessori program "would be profound." She elaborated that currently the program pays a city tax that equates to 25-percent of the ideal net receipts. She stated that the addition of an additional 15-percent of ideal net tax, as proposed in the committee substitute, would mean the overall tax burden of the program would be approximately 40-percent. She asserted that with overhead expenses and prize payouts, the current programs would not be viable under that circumstance. Thus, she concluded, a downsizing or discontinuation of programs, specifically the kindergarten program that has served approximately 1,600 children during its 18-year operation, would result. She stated that closure of the kindergarten program, which is the foundation for the other levels of the Montessori program, "would have a chilling rippling affect." She requested the Committee to carefully consider the affect this legislation has on small businesses and, in particular, address the double-taxation issue.

Senator Bunde asked regarding the tuition structure for students.

Ms. Moya replied that there is a tuition charge at the preschool level.

Senator Bunde asked for confirmation that the program's current City and Borough of Juneau taxes amount to approximately 25-percent of ideal net.

Ms. Moya confirmed that current local taxes equate to approximately 25-percent of ideal net.

Senator Bunde surmised therefore, that contrary to testimony attesting "that economic collapse" would result at a 25-percent of ideal net taxation level there are charity programs that currently function successfully at that level.

Ms. Moya commented that were this legislation to be adopted, the additional tax would put the organization under.

Senator Taylor asked how a statewide four-percent sales tax would affect the program assuming the legislation was amended to prohibit local sales taxes being collected on pull-tab revenue.

Ms. Moya responded that options might include distributing a portion of the receipts from those taxes back to municipalities.

Senator Taylor asked whether the intent would be to funnel those funds through to organizations such as the Montessori program.

Ms. Moya clarified that rather than be directed to programs, the funds would allow a municipality to replace the revenue lost by the pull-tab sales tax exemption.

Senator Taylor asked for further information regarding the amount the organization is currently taxed on its pull-tab sales.

Ms. Moya clarified that the organization is required to pay five-percent of gross which equates to 25-percent of ideal net receipts.

Senator Taylor asked how an eight-percent sales tax, comprised of the five percent City tax and a three-percent statewide tax, might affect the organization.

Ms. Moya remarked that this would make the situation "even more difficult."

ALBERT JUDSON, voiced opposition to the bill as it "would shackle the benevolent efforts" of local entities by imposing unrealistic requirements on pull-tab operators. He stated that were this legislation to be adopted without further study being conducted, "it would create a fiscal experiment at the expense of low income people," who "should not be targeted" to solve the fiscal problems of the State.

BOB LOESCHER, President, Juneau Tlingit & Haida Community Council, communicated to the Committee that the self-directed local gaming organization has been involved in gaming activities in excess of thirty years and that the net profits have allowed the organization to build a community center and support numerous internal charitable groups as well as local schools and the elderly. He informed the Committee that were this bill's regulations applied to the organization's December 31, 2002 pull-tab report that was submitted to the State, the net income to the organization would have been sufficiently impacted.

Furthermore, Mr. Loescher asserted that the organization would be forced out of compliance with the State's 30-percent requirement and would be forced to relinquish its permit. He noted that were the five-percent local tax factored in, the cumulative tax would amount to 43-percent of ideal net, and that a Statewide sales tax would further increase the overall tax amount. He urged the Committee to hold the bill and reconsider its impacts.

GEORGE WRIGHT, Operator, former Self-Directed Permittee and former Charitable Gaming Task Force member, declared that the Department of Revenue does not have a grasp on charitable gaming as is substantiated by the fact that the aforementioned pie charts are incomplete in that they do not reflect the three-percent tax that gaming entities are required to pay to the State upon the initial purchase of the pull-tabs. He asserted that this is a complex situation that requires further study. He attested that were charitable revenues reduced, such things as school sport programs would be negatively affected as they are funded primarily by charitable organizations. He stated that a gambling commission should be formed to study the industry and make recommendations addressing such things as the impact of the three-percent State tax, local sales taxes, and the proposed 15-percent on ideal net tax. He stated that were this tax imposed as presented, "70-percent of the charities would be forced to close," his organization would lose 100 employees, and that other entities such as the Alaska Native Brotherhood organization would lose 90 percent of its funding.

AGNES D'CAFANGO, Gaming Industry Employee, testified that it

appears "that the State is not against gaming," so she pondered why the State does not incorporate a lottery and "leave the charities alone that are struggling to make it now." She asked whether the revenue generated from this bill would be used to fund State health care.

Co-chair Wilken stated that the money would be deposited into the general fund and used for multiple purposes, including some health care.

Ms. D'Cafango asserted that, "the State should earn its own money instead of taking it from charities." She stated that rather than penalize charities in this manner, the money could remain in the organization and be used to elevate counter staff salaries.

[NOTE: Statewide testimony resumes.]

LEN MALMQUIST, Representative, Kenai Charities Co-op, testified via teleconference from Kenai and voiced opposition to the bill. He attested that this legislation would result in a 500-percent tax increase that would impact each charity in the State. He disclosed that the historical high level of pull-tab revenue occurred in the year 2001 and that using that data as the basis for the pie charts "is misleading you at best." He continued that pull-tab revenue in his region is down this year from the previous year, and that any decline in charitable contributions would force recipients to turn to the State for assistance. Furthermore, he asserted that the Department of Revenue fiscal note does not anticipate the shift from charitable funding to the State. He continued that in addition, the loss of potential jobs and "the trickle down" affect of the legislation are not reflected. He stated that local Kenai charities fund substantial projects such as sports events, scholarships, food banks, fire fighting training, and more. He advised that were this legislation adopted, these things could not be funded and he questioned whether "the State would pick them up." In conclusion, he urged for a study to be conducted to determine the minimal overall fiscal impact and what the "trickle down affect" would be.

WAYNE STEVENS, Executive Director, Kodiak Chamber of Commerce, testified via teleconference from Kodiak and communicated that the Chamber operates a Self-Directed, Multi-Beneficiary Permit gaming operation. He mentioned that separate electronic gaming legislation specifies an 85-percent prize payout whereas pull-tabs average a 78-percent payout. He stated that the discussion to reduce the pull-tab payout is being conducted "without any corresponding discussion about the psychology of gaming and what that does to the play." He labeled the aforementioned pie chart as "misleading,"

particularly "as it includes the one percent tax on annual net proceeds but very conveniently includes the three-percent tax that is currently paid on the ideal net to the State in the expense slice." He shared that his organization's 2002 permit's ideal net was approximately \$729,000 with \$22,000 paid to the State as a result of the three-percent tax. He continued that were the 15-percent of ideal net adopted, his organization's tax component would be approximately \$109,350 which, based on the year 2002 numbers, would leave the Chamber with a net profit of \$5,000. He stated that at that point, the organization would choose not to continue its gaming activities and would thereby terminate three employees and the ability to fund multiple community needs. He urged the Committee to further study the legislation.

Senator Taylor voiced concern about testifiers' assertions that the Department of Revenue is misleading the Legislature by including the one percent State tax on the chart but not specifying the three percent tax that is paid.

Mr. Stevens responded that according to his organization's 2002 Permittee Annual Financial Statement, the one percent State tax on net proceeds amounted to \$845. In addition, he continued, the organization paid approximately \$22,000 in the form of the three percent tax. He continued that the 15-percent of ideal net tax would increase the amount to approximately \$109,000 that in effect would reduce the organization's net proceeds from \$92,000 to approximately \$5,000.

Senator Taylor asked how the three-percent tax is determined.

Mr. Stevens clarified that the three percent tax is paid on the ideal net when the charity purchases the game. He voiced the understanding that this tax is included in the "total expense" section of the pie chart.

In response to a question from Senator Taylor, Mr. Stevens clarified that the three-percent tax is a tax on the ideal net at the time a game is purchased whereas the one-percent State tax is paid on the net proceeds as presented on the year-end financial statement.

Co-Chair Wilken surmised that the three-percent tax is included in the total expense information.

Mr. Stevens "assumed" that it is.

Co-chair Wilken stated that the footnote on the pie chart reads as follows.

"For purposes of this presentation, federal and local taxes have been combined into the expenses category but the state pull-tab tax has been set out separately from expenses."

Co-chair Wilken stated that clarification regarding this "upfront tax on pull-tabs" would be forthcoming from the Department.

TIM SMITH, President, Nome Fisherman's Association, testified via teleconference from Nome in opposition to the bill on behalf of the Self-Directed Permittee association. He stated that this 500 percent tax increase would "kill the goose that lays the golden eggs." He shared how important pull-tab sales are to local governments, particularly those small communities in Bush Alaska, which acquire the majority of their local operating funds from pull-tab sales. Additionally, he voiced concern that communities such as Nome, which has a local four-percent sales tax, would be negatively affected by a loss of revenue from negatively affected pull-tab operations.

Mr. Smith explained that the one-percent pull-tab tax category reflected on the pie chart equates "to one percent of the gross" revenue. However, he declared, "that this is not a realistic way to look at pull-tab revenues" because there is quite a bit of difference between gross sales and ideal net revenue. He stressed that were this legislation adopted, the one percent increment on the chart would be increased fivefold with the net profit being lowered by that amount. He exemplified that were this to occur, using the data on the "Operators" chart, the one-percent increment for the pull-tab tax would increase to five percent and the charities' six-percent net profit increment would decrease to one-percent.

Mr. Smith noted that rather than collect \$1.04 for a pull-tab, charities in Nome collect ninety-six cents on a one-dollar pull-tab because they absorb the four-percent local tax. He stated that this action and the three-percent State tax paid on each pull-tab affects ideal net. Therefore, he asserted that the charity, in reality, collects ninety-three cents for each one-dollar face-value pull-tab when both the local and State taxes are factored in. He stated that were the State tax to increase to 15-percent of ideal net, it "makes our math even worse." Additionally, he stated that in order to entice individuals to purchase the few remaining pull-tabs of a particular game, pull-tab operators must offer incentives, thereby creating more loss. He asserted that all of these things factor into the net profit.

Mr. Smith suggested that, rather than target pull-tab operators with additional taxes, the tax base should be expanded to allow

video gaming and "perhaps a State lottery."

Co-Chair Wilken asked whether local and State taxes could be assessed from the prize payout category rather than the net profit category.

Mr. Smith responded that paying the taxes from the prize category would require prize payouts to be reduced, and he declared that the current payout return has reached the limit of what players "would tolerate." He noted that contrary to the Department of Revenue testimony, the percentage of payout is posted and players "know exactly" what the prize payout is for each game. He declared that players would either "quit" or cut back on playing games were the prize payout lowered.

Co-Chair Wilken surmised therefore, that pull-tab players would quit playing a 50-percent payout game and would seek out a higher payout game.

Mr. Smith concurred and stated that lower prize payout games are currently available, but they are not being played.

Senator Bunde asserted however, that were a statewide percentage payout level incorporated, players would not have different choices. He opined that players would not stop gambling.

PATTY MILLS, Gaming Manager, Sitka Tribes of Alaska, testified via teleconference from Sitka and spoke to the negative impact that this legislation would incur on the organization's ability to fund local charities. She requested that an impact study be conducted before further action was taken.

Senator Bunde asked whether "outside of Sitka" charitable organizations are allowed to sell their pull-tab games in Sitka.

Ms. Mills replied that the City of Sitka recently adopted regulations prohibiting out-of-town pull-tab operations.

SANDIE JOHNSON testified via teleconference from Sitka and spoke of the benefits community charities receive as a result of pull-tab revenue. She stated that this source of revenue has additionally lessened the demand on local and State government for funding and support. She voiced that the testimony being presented to the Committee is both knowledgeable and accurate. She urged the Committee to conduct an impact study, as she stressed, this legislation would "greatly impact" charities, communities, and governments.

KENT HARTZBERG, Licensed Operator and former State auditor, Division of Games of Chance & Skill, Department of Revenue, testified via teleconference from Anchorage and commented that while "this legislation might look good on paper, in reality, it's just not going to work." He stated that "gaming is an entertainment business," and were the prize payout lowered to 68-percent as proposed by the Governor, "people would just not play." He noted that it takes up to two months to sell all the pull-tabs in a game, and he furthered "that from an operational standpoint," a tax increase from three-percent to 15-percent on ideal net would incur a substantial tax bill. He attested that "it would be much better to fine tune" this legislation before it is enacted.

Senator Bunde wondered how the odds for winning the Nenana Ice Classic compare to the prize payout for pull-tabs because he understood that the number of Ice Classic tickets being sold is increasing annually. Furthermore, he commented that while there is increasing support for implementation of a State Lottery, the chances of winning that are less than that of pull-tabs. He stated that the continuing growth of the Ice Classic ticket sales and the support of a lottery, contradict the testimony against this legislation.

STEVE EARLY, testified via teleconference from Anchorage, to voice that this legislation "would tax the gaming business out of business in one fell swoop." He continued that rather than the State gaining revenue, it would cost the State money, as the charities currently benefiting from the pull-tab revenue would be required to seek replacement assistance from the State. Additionally, he shared that his twelve years of experience in the gaming business have taught him that running a game with a 77-percent average payout works best as those that return higher payouts sell out within two days and those with lower payouts "do not move." He stated that customers "are on the edge now" and lowering the payout would result in the loss of players. He stated that the fallout of failed pull-tab business would be job losses, sales tax losses, supporting businesses losses, and real estate losses.

LAYNE ST. JOHN, Executive Director, Yukon Quest International, Ltd., testified via teleconference from Fairbanks to state that he does not support the 15-percent of ideal net tax as it would hurt the industry too much. He stated that currently, the organization currently pays approximately \$600 a month in State taxes; however, he calculated that this amount would increase to approximately \$3,000 a month, "straight out of the non-profits pocket as the bill now reads." He spoke of the difficulty that this legislation would incur to the operators, although he stated that,

while the industry would not be able to continue to support other charities or community events at current levels, he doubted that it would "kill" the industry. He affirmed that the State currently receives a three-percent tax on the purchase of the pull-tabs and an additional one-percent of the entity's gross gaming revenue at the end of the year.

JOELLEN FOX, Pull-Tab Operator and Dealer, testified via teleconference to affirm that lowering pull-tab prize payouts would lower the gross sales of the pull-tab operators. She reviewed the history of this legislation, and she urged the Committee to become further educated on the pull-tab industry before any decisions regarding it are made. She stressed that, "a 15-percent tax is not the answer" as it would have a devastating affect on the industry.

ALLYN YANISH, Representative, Q&A Distributors, testified via teleconference from Fairbanks and informed the Committee that the proposed tax burden would exceed the cost of the product. He presented calculations regarding the cost of a box of pull-tabs to the industry and how the ideal tax on net would affect it. He voiced the understanding that the Republican Party's platform is to reduce taxes and stimulate growth and revenue. He voiced the need for the industry and the State to work together to develop an equitable plan to accomplish these goals.

[NOTE: The following testimonies are presented in Juneau.]

DAVID KATZEEK, Member, Alaska Native Brotherhood, stated that "number crunching" this issue appears to result in seemingly positive benefits to the State. However, he asserted that "15-percent of nothing is nothing." He stated that charities perform important functions in communities, and he asked that more study be conducted on this issue before further action is taken.

ELLIE MORITZ, Pull-Tab Dealer, Alaska Native Brotherhood Hall, informed the Committee that pull-tab revenues have been declining, as people are not playing as frequently or for as long as they used to. However, she noted that the players are educated in the various games being played.

SFC 03 # 85, Side A 10:38 AM

Ms. Moritz continued pull-tab game players "are wise to the payouts" of the various games, and subsequently do not play the games with low percentage payouts.

DAVID SANDEN, Coordinator, Juneau Multiple-Beneficiary Permittees informed the Committee that this group of permittees includes the Juneau Montessori Center, Juneau Dance Unlimited, and Southeast Alaska Friends of the Montessori. He confirmed that the industry does make money; however, he stated that were this legislation adopted without the exemption of local sales taxes, then numerous organizations would not be able to operate. He noted that a financial report of his operation has been provided to the Committee [copy on file] for their review. He stated that while the industry is able to pay a tax, the 15-percent of ideal net combined with local taxation levels would be devastating. He exemplified that a one-dollar bill equals to one pull-tab and, of that dollar, 80 cents is delegated for prize payouts with the remaining 20 cents being the organization's adjusted gross income. He specified that support for local charities, local sales taxes, and the State's three-percent tax are paid from that 20-cents.

Mr. Sanden furthered that it would not be feasible for organizations to pay both a 15-percent State tax and a local tax. He suggested that the Committee consider completely eliminating the State tax and raising the 30-percent minimum return to non-profits to a 50-percent minimum. He urged the Committee to amend the legislation to prohibit double taxation caused by local sales taxes.

Co-Chair Green asked how organizations such as those Mr. Sanden represents arrived at the decision to use pull-tab funds as a funding source for education.

Mr. Sanden responded that the organizations' Boards of Director would need to answer that question; however, he opined that, in his perspective, "every Board of Directors that gets involved in gaming faces an ethical dilemma" in determining whether "the ends justify the means."

Co-Chair Green commented that an alternative to gaming receipts would be a tuition or fee based system.

Mr. Sanden noted that the Montessori School has a tuition program.

Senator Olson asked whether Mr. Sanden would support an amendment that would prohibit local sales taxes from being charged on the industry.

Mr. Sanden responded that were local sales tax prohibited, then the 15-percent of ideal net tax would be acceptable.

LASH ZEMP, Parent, testified that his three children have attended

the Juneau Montessori Center program because it provides quality pre-school activities. He stated that, in as much as it may bother him "philosophically" that the school raises funding from the sale of pull-tabs, the reality is that the pull-tab revenue has allowed the program "to survive." In response to Co-chair Green's comment that tuition is an alternative method of supporting the program, he noted that families with children attending the Juneau Montessori program pay a "hefty tuition" which supports staff training that is a key element as "long-term staff" is "crucial to the success of a program as it provides continuity." He advised that were this legislation to be implemented, the concept of "charity gaming" would be replaced with "gaming with taxation" as the charities would no longer receive benefits. He asserted that bake sales and other local fundraisers, alone, do not provide sufficient revenue; however, he stated that these things, combined with pull-tab revenues and tuition, have allowed the program to be self-sufficient as opposed to being forced to seek a local government subsidy.

LUPITA ALVEREZ, Director, Juneau Montessori Program, reported that the Montessori program depends on pull-tab revenue to assist in offsetting the tuition expense children in the program would be required to pay otherwise. She stated that the loss of this tuition assistance would be a hardship on families. Furthermore, she noted that State childcare grants and childcare assistance programs are reportedly going to receive less funding thereby limiting other avenues of support in addition to having a negative effect on some families in the program who currently receive assistance. She mentioned that until children reach the age of five, free education opportunities are non-existent in the State and families are required to pay for pre-school programs.

Senator Bunde communicated that this issue would be further studied, with particular emphasis on the definition of a charity, during the Legislative interim by a subcommittee comprised of Senator Ralph Seekins and Senator Hollis French. He noted that other issues, including outside charities operating in communities, would also be addressed.

The bill was HELD in Committee
#

ADJOURNMENT

Co-Chair Gary Wilken adjourned the meeting at 10:52 AM