

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 13, 2003

1:32 p.m.

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Gary Stevens
Senator Bettye Davis
Senator Hollis French

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 58

"An Act relating to the reinstatement of Native corporations;
and providing for an effective date."

MOVED HB 58 OUT OF COMMITTEE

SENATE BILL NO. 82

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

HEARD AND HELD

CS FOR HOUSE BILL NO. 82(L&C)

"An Act making certain activity related to commercial electronic
mail unlawful and an unfair method of competition or an unfair
or deceptive act or practice under the Act enumerating unfair
trade practices and consumer protections."

MOVED CSHB 82(L&C) OUT OF COMMITTEE

SENATE BILL NO. 102

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

HEARD AND HELD

PREVIOUS ACTION

HB 58 - No previous action to consider.

SB 82 - See Transportation minutes dated 3/4/03.

HB 82 - No previous action to consider.

SB 102 - No previous action to consider.

WITNESS REGISTER

Mr. Doug Letch, Chief of Staff
Senator Gary Stevens
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 82 for the sponsor.

Mr. Chuck Harlamert, Chief of Operations
Tax Division
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400

POSITION STATEMENT: Commented on SB 82.

Mr. Steven Thomsen
Alaskan Wilderness Wines
PO Box 3574
Kodiak AK 99615

POSITION STATEMENT: Answered questions on SB 82.

Mr. David Menaker
Great Land Wines
Haines AK 99827

POSITION STATEMENT: Supported HB 82.

Representative Kevin Meyer
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 82.

Mr. Ed Sniffen
Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Supported HB 82.

Commissioner Bill Corbus
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Supported SB 102.

Mr. Larry Persily, Deputy Commissioner
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Commented on SB 102.

Mr. Dan Branch, Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Commented on SB 102.

Mr. Jeff Prather, Gaming Unit Supervisor
Department of Revenue
PO Box 110400
Juneau, AK 99811-0400
POSITION STATEMENT: Commented on SB 102.

Mr. David Sanden
Primary Member in Charge of Gaming for Juneau Montessori Center,
Southeast Alaska Friends of the Montessori, and Juneau Dance
Unlimited
750 St. Ann's Ave.
Douglas AK 99824
POSITION STATEMENT: Opposed SB 102.

Mr. Perry Green
Anchorage AK
POSITION STATEMENT: Opposed SB 102.

Mr. George Wright
Alaska Native Brotherhood #2 (ANB)
320 W. Willoughby St., #100
Juneau AK 99801
POSITION STATEMENT: Opposed SB 102.

Mr. Bob Loecher, President and Chairman
Tlingit Haida Community Council (THCC)
10645 Misty Lane
Juneau AK 99801

POSITION STATEMENT: Opposed SB 102.

Mr. David Massey
JDHS/Midnight Sons Softball
3855 Seaview St.
Juneau AK 99801

POSITION STATEMENT: Opposed SB 102.

Mr. Mac Meiners
Juneau Gun Club and United Fishermen of Alaska
9001 Ferndale St.
Juneau AK 99801

POSITION STATEMENT: Opposed SB 102.

Mr. G. Peterson
Alaska Indoor Sports Distributors

POSITION STATEMENT: Opposed SB 102.

Ms. Julie Cozzi, Executive Director
Haines Chamber of Commerce
PO Box 1449
Haines AK

POSITION STATEMENT: Opposed SB 102.

Mr. Gene Hanson
Fraternal Order of Eagles
Fairbanks AK

POSITION STATEMENT: Opposed SB 102.

Mr. Jim Stuckey, State Director
Loyal Order of Moose
Offnet

POSITION STATEMENT: Opposed SB 102.

Ms. Ann Walaszek, Executive Director
Kenai Chamber of Commerce
Kenai AK

POSITION STATEMENT: Opposed SB 102.

Ms. Justine Polzin, Executive Director
Soldotna Chamber of Commerce
Soldotna AK

POSITION STATEMENT: Opposed SB 102.

Mr. Peter Roberts
333 W 4th Ave. #200
Anchorage AK 99501

POSITION STATEMENT: Supported SB 102.

ACTION NARRATIVE

TAPE 03-11, SIDE A

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. All members were present.

HB 58-REINSTATEMENT OF NATIVE CORPS

CHAIR BUNDE announced HB 58 to be up for consideration. He said he had been satisfied that the cost of the reinstatement was borne by the people who asked for it. There were no other concerns.

SENATOR SEEKINS moved to pass HB 58 from committee with individual recommendations and its zero fiscal note. SENATORS FRENCH, STEVENS, DAVIS, SEEKINS and BUNDE voted in favor, therefore HB 58 passed from committee.

SB 82-ALCOHOLIC BEVERAGE TAX FOR WINE & OTHERS

CHAIR BUNDE announced SB 82 to be up for consideration.

MR. DOUG LETCH, Chief of Staff for Senator Gary Stevens, said SB 82 replaces the federal yearly sales eligibility excise tax limit of 100,000 gallons a year with an exemption of 3,000 gallons per year. He explained:

Currently, wineries are taxed at the rate of \$2.50 per gallon. This reduction would decrease the impact on state revenues while at the same time stimulating and supporting small Alaska wineries, which currently number four. Two of them are on Kodiak Island, one in Haines and a fourth in Anchorage.

This burgeoning Alaska industry needs support to prosper and contribute to the state's changing economy and SB 82 is one means of assisting them.

CHAIR BUNDE said there is some concern about fairness and that wines be taxed equally with beer.

MR. LETCH responded that's the impetus behind this bill. Some Kodiak constituents believe that breweries are being given a break that isn't available to wineries.

CHAIR BUNDE said the state will lose \$50,000 in revenue with this proposal and asked how he proposed to make it up.

MR. LETCH said he would defer to wiser minds than his.

SENATOR FRENCH asked where the micro-breweries are addressed and how this legislation treats wineries like micro-breweries.

MR. LETCH replied that breweries receive an exemption of \$1.50 versus \$2.50 up to a certain amount. The Department of Revenue is concerned if the wineries have an exemption as well it would open the flood gates to wineries all over the place.

SENATOR FRENCH asked if the micro-breweries get a break on the first certain number of barrels produced.

MR. LETCH replied that is correct.

SENATOR FRENCH said he has several micro-breweries in his district and no wineries but he's sensitive to the argument that the two should be treated fairly. He wanted to know what statute contains the exemption for the first so many barrels of beer and to compare it to the language in the bill.

MR. CHUCK HARLAMERT, Chief of Operations, Tax Division, Department of Revenue, said Title 43, section 60 provides for a lower rate on the first 60,000 barrels of beer produced by a small brewery. He indicated that the difference between the tax differential for a small brewery and the proposal in SB 82 is large. The tax treatments are completely different. The beer and wine industries are very different and Alaska has many more small wineries than small breweries.

SENATOR FRENCH asked if there are more beer or wine producers in the state.

MR. HARLAMERT replied that small brewers in Alaska represent a greater percent of the small brewery market than the small wineries represent a share of the wine market. He said you have to grant breaks in a way that doesn't discriminate against folks who are brewing beer or pressing wine out of state. If the legislature grants the same tax break to small wineries that it gives to small breweries, there would be a much greater

proportion of the tax benefit flowing out of state versus the targeted beneficiaries. The approach [in SB 82] focuses on the taxpayer with the hope of retaining constitutionality. It focuses the tax benefits on Alaska taxpayers more so than the exemption for small breweries.

SENATOR FRENCH asked if the state would assess a tax on only that beer, wine and alcohol produced in state or whether it also assesses a tax on beer, wine and alcohol produced out of state and sold in the state.

MR. HARLAMERT replied that it imposes a tax on beer sold or produced for sale in Alaska, either way.

SENATOR SEEKINS asked if, based on AS 60.010 (c), a brewer pays a tax rate of 35 cents per gallon on the first 60,000 barrels of beer (about 31 gallons per barrel) and after that pays \$1.07. However, a winery always pays \$2.50 per gallon.

MR. HARLAMERT explained that currently wine is taxed at a flat rate of \$2.50 a gallon. There is no threshold for taxability or lower rate for incremental gallons.

SENATOR SEEKINS asked what the rationale is behind the tax reduction for the first 60,000 barrels of beer.

CHAIR BUNDE speculated that it was done years ago to give small Alaskan brewers a competitive edge through a subsidy. Senator Gary Stevens wants to see small wineries be given a competitive edge too.

SENATOR STEVENS agreed.

SENATOR FRENCH asked if the effect of the bill would be to exempt the first 3,000 gallons or to apply a lower rate as with micro-breweries.

MR. HARLAMERT replied that this bill exempts the first 3,000 gallons as opposed to having a reduced rate for some threshold.

MR. STEVEN THOMSEN, Alaskan Wilderness Wines, said he is a local part-time vintner and hopes his winery becomes his retirement business. He told members, "Having the same kind of benefit the breweries have would help me stay in business a lot easier...." He said that wineries are not asking for the same kind of discount that breweries have. The brewery amount of 60,000 barrels comes from the federal discount amount. The federal

discount for wineries is 100,000-gallons but he doesn't think that is necessary. He cut it down to 3,000 gallons based on keeping his business viable and still being able to afford to pay the tax.

CHAIR BUNDE asked what volume he is producing now.

MR. THOMSEN replied about 300 gallons per year.

SENATOR STEVENS said Mr. Thomson produces a fine wine and asked him to comment on the other wineries in the state and the potential he sees for those operations.

MR. THOMSEN related that last year numerous parties interested in his wild berry products contacted him; he sold 11,000 pounds of berries.

SENATOR STEVENS asked where the other wineries are located.

MR. THOMSEN replied the other wineries are Kodiak Winery, Alaska Great Land in Haines and Denali Winery, which is a little different in that people buy kit wines and produce them.

MR. DAVE MENAKER, Great Land Wines, Haines, supported Mr. Thomsen's testimony. He said at the end of the year he might have a total of 500 gallons and he has no problem with 85 cents per gallon.

CHAIR BUNDE said there is a projected tax savings of \$7,500 and asked if that is the potential savings or whether it is the actual amount of tax they are paying now.

MR. LETCH replied that is based on the wineries hitting the 3,000-gallon threshold.

CHAIR BUNDE asked if any winery in Alaska is producing more than 3,000 gallons.

MR. LETCH replied he didn't believe so. He thought 3,000 gallons was a starting point that he and Mr. Thomsen came up with as a goal that their businesses might grow to.

1:58 p.m.

SENATOR SEEKINS asked if this bill gives the exemption to everyone who imports to or produces wine in Alaska.

MR. LETCH replied that is correct. He thought the 3,000-gallon figure opens up some unintended consequences and that the bill needs more work.

CHAIR BUNDE said anything he could do to reduce the fiscal note would be a positive step. He said he would hold the bill for further work.

HB 82-COMMERCIAL ELECTRONIC MAIL

CHAIR BUNDE announced HB 82 to be up for consideration.

REPRESENTATIVE KEVIN MEYER, sponsor of HB 82, told members HB 82 prohibits individuals from sending unsolicited e-mail that contains sexually explicit material unless the subject heading contains the communication "add:adlt". Nine other states require this same heading for sexually explicit e-mail and other states have pending legislation. Some people call this a consumer protection bill, but he calls it a children's protection bill.

He said society tries to protect children from getting this type of material by requiring them to be 18 to go to an R-rated movie or an adult bookstore. Yet children can open their e-mail and see everything we are trying to protect them from. In summary, this bill does two good things. By requiring certain letters in the subject line, adults can start deleting those e-mails or tell their kids not to open them. Parents can also set up a filtering system to pick up that subject heading and prevent delivery of that e-mail.

CHAIR BUNDE asked how it could be enforced and how out-of-state violators would be prosecuted.

REPRESENTATIVE MEYER replied the Department of Law has received a lot of complaints on this matter. The Department of Law could pursue it or individuals could take action themselves.

MR. ED SNIFFEN, Assistant Attorney General, supported HB 82 in its current form. He said it has no legal problems, but enforcement is a trickier problem and could go only so far out-of-state. The Department of Law's normal procedure is to find out as much about the sender as possible, send them cease and desist letters and hope the sender takes them seriously. This bill would give the department another tool to use. He said the department really can't stop people who thumb their nose at the law in this instance, but he hopes this legislation would target the majority of legitimate e-mail operators.

He pointed out the bill contains language about computers and e-mail within the state. However, a lot of companies would send e-mail messages without this header to folks in Alaska who have yahoo.com addresses because there's no way a sender can identify that those addresses are located in Alaska.

CHAIR BUNDE said he hopes other states enact similar legislation and squeeze out the offenders.

SENATOR SEEKINS moved to pass CSHB 82(L&C) from committee with individual recommendations. SENATORS DAVIS, SEEKINS, FRENCH, STEVENS AND BUNDE voted in favor and CSHB 82(L&C) moved from committee.

SB 102-CHARITABLE GAMING REVENUE

CHAIR BUNDE announced SB 102 to be up for consideration.

COMMISSIONER BILL CORBUS, Department of Revenue, informed members the Administration supports this legislation. He said revenues generated from pull-tabs amount to about \$270 million per year, of which the State of Alaska receives about \$2 million in taxes.

MR. LARRY PERSILY, Deputy Commissioner, Department of Revenue, said he would address the department's proposed amendment first.

SENATOR SEEKINS moved to adopt Amendment 1.

CHAIR BUNDE objected for discussion purposes.

MR. PERSILY said in the rush to introduce a lot of legislation and a comprehensive budget plan, some bills needed a little more tweaking after introduction. This amendment would bring the legislation closer to the Governor's intent, stated in his speech, that additional tax revenue would not come from the pockets of charities.

MR. DAN BRANCH, Assistant Attorney General, explained that the way the tax now works is that the sale of pull-tabs produces a certain amount of revenue called gross proceeds. Prizes are paid out to the participants and taxes are deducted on income, leaving the adjusted gross income. Under current law, 70 percent of that adjusted gross income may be used to pay the expenses of gaming; the other 30 percent has to go to the charities. Sometimes charities operate the games themselves and sometimes

they form a multiple beneficiary permittee (MBP), a kind of partnership where they hire a manager to conduct the pull-tab sales. Charities can also use operators who are hired professionals to run the games or a vendor, such as a bar or liquor store, to sell the games (and receive the statutorily mandated payment for them).

Charities are guaranteed to get 30 percent of the adjusted gross income if they use an operator and, if they run their own games, they have to make sure they get at least 30 percent of the adjusted gross income for themselves. If they use a vendor, they buy the pull-tab games from a distributor and deliver the pull-tabs to the vendor who gives them a check for 70 percent of the ideal net of the games. The ideal net is the amount that one would receive if all the pull-tab games were sold, less the prize payout.

MR. PERSILY interrupted to say that pull-tabs generated \$274 million in 2001 but of that amount, almost \$214 million was paid out in prizes. Of the \$60 million left, about \$36 million was used to pay expenses, leaving a little more than \$23 million for net proceeds to the charities.

MR. BRANCH continued by saying the last piece of the puzzle is that a little bit of a tax is paid as an expense of gaming, part of the 70 percent of expenses that is deducted before the charities actually get their money.

SENATOR FRENCH asked what the difference is between ideal net and adjusted gross income.

MR. BRANCH answered that ideal net is a concept that is used in vendor sales because the permittees of charities buy pull-tabs from a distributor and deliver them directly to the bar owner and get their payment right then. It is 70 percent of the ideal net, which is the amount of money left over if every single ticket in the series sold and the prizes were paid out.

TAPE 03-11, SIDE B

MR. BRANCH stated the vendor gets to keep all the money he earns for the sale of pull-tabs because he's paid the upfront amount to the charities. He explained that adjusted gross income is a concept that is used when talking about the other types of pull-tab sales - those self-directed by the charities themselves, by MBPs or operators. He commented:

That is arrived at with a different mathematical formula. You take the total amount of pull-tabs sold, the value of them, the gross, and you subtract from that the prizes paid out and the taxes paid on income.

SENATOR FRENCH asked if both state and federal taxes are included.

MR. BRANCH explained that the federal taxes are deducted before the adjusted gross income is determined, but the state tax comes off as an expense and is counted as part of the 70 percent of adjusted gross income expenses.

CHAIR BUNDE asked if vendors work with ideal net and operators and charities who operate their own pull-tabs work in the adjusted gross arena.

MR. BRANCH said that is right.

SENATOR SEEKINS asked if there is a statutory formula that prescribes what the prize money would be from a \$1,000 bucket of pull-tabs.

MR. BRANCH replied there is not.

SENATOR SEEKINS asked if one could return 70 percent and another could return 80 percent.

MR. BRANCH replied yes.

SENATOR STEVENS asked what the state revenues and expenses are.

MR. PERSILY explained, in terms of the tax on pull-tabs, the state gets about \$2 million per year and it also gets licensing fees of about \$300,000. He submitted:

In terms of the budget, charitable gaming used to be a division separate within the Department of Revenue. Some years ago, the division was eliminated and reduced dramatically - folded into the tax division. Right now the operating budget for the charitable gaming section within the tax division is approximately \$700,000 per year. So, we do make more off tax and licensing fees than we spend on direct enforcement, but we'd be happy to spend more on enforcement if the committee were so inclined.

SENATOR STEVENS asked about additional costs to the state.

MR. PERSILY replied that the \$700,000 are direct costs from the tax division and that some law enforcement actions take place during the year and, if added in, the total would be increased. He is reporting just on that portion of the tax division budget that is allocated to charitable gaming. From that, they send some money over to the Department of Law.

MR. BRANCH said:

Within the context I just explained, what the bill before you would do is it would increase the tax quite a bit, to 5 percent of ideal gross of the pull-tab sales as opposed to 3 percent of the ideal net.... We figured about \$12.5 million.

CHAIR BUNDE asked him to define ideal gross.

MR. BRANCH said that ideal gross is a new concept that's defined in the bill. He indicated:

As I said earlier, right now the most that an operator can charge in expenses including his or her fees is 70 percent of adjusted gross income. This bill, if passed, would drop that to 65 percent. So, that essentially guarantees an additional 5 percent of adjusted gross income going to the charities with the idea that they could use that money to pick up at least part of this tax.

For vendors, it's the same kind of a deal. It shifts the amount that the vendor would have to pay for the pull-tabs to 75 percent of ideal net. Right now, it's at 70 percent - so, again, a shift of 5 percent to try and give the charities some additional dough to pay this additional tax.

MR. BRANCH said the department is trying to make it so that the charities won't be any softer than they were before but it's hard to do because of all of the variables. The amendment would create an increase in the cash flow going through the system by setting a cap on the prize payout of 72 percent. He explained:

The key is the formula for adjusted gross income. Adjusted gross income is the gross you receive from pull-tab sales minus the prizes and minus the taxes.

What the bill does is it makes the new tax - 5 percent of ideal gross - one of the things you subtract when you're trying to determine how much the adjusted gross income is. So, you've got adjusted gross income minus taxes, minus prizes. So, the smaller you make that prize figure, the more you're going to have available for adjusted gross income to pay the expenses of gaming and to pay the charities. So the charities should have more money and they'll be able to shoulder the burden.

MR. PERSILY clarified that the tax is paid by the charities, not by the operators or the vendors. The purpose of the legislation and the amendment is to get more money to the charities so they can essentially have the same amount of money they started with before all this.

SENATOR SEEKINS commented, "In other words, the tax is going to be paid by the reduction in the number of winners and so the losers are going to pay the tax."

MR. BRANCH said that is correct.

MR. PERSILY added that charitable gaming is very competitive. He told members:

If location A has a game that pays off more in prizes than location B, people are going to go to location A. So, by setting a limit in statute, the intent is to insure that no charity is at a competitive disadvantage because we don't want to hurt charities with this legislation.

CHAIR BUNDE removed his objection and Amendment 1 was adopted.

2:35 p.m.

MR. DAVID SANDEN said he represents the Juneau Montessori Center, Southeast Alaska Friends of the Montessori and Juneau Dance Unlimited. He explained that those organizations used to be separate, but now operate under a multi-beneficiary permit. The old proposal would have bankrupted them. He referred to his handout and explained that currently they sell a pull-tab for \$1; of that \$.80 is the prize payout and they are left with \$.20 as their adjusted gross income. The amendment will change that amount to \$.38.

CHAIR BUNDE asked if the multi-beneficiary permit makes them a vendor as well.

MR. SANDEN replied that they do vend, but a vendor is a liquor license owner who acts like an operator and takes a percentage for his own profit.

SENATOR FRENCH asked Mr. Sanden why the amendment would change the adjusted gross income to \$.38.

MR. SANDEN answered because currently they pay out 80 percent but the amendment changes that to a 72 percent cap. Of that, 30.5 percent currently goes to charitable proceeds, which is .5 percent above the minimums. Twenty-five percent of that, exactly what the Governor proposed, is their sales tax liability here in Juneau. The Governor's proposal would make it the same in Anchorage and Fairbanks. Their payroll cost is 18.5 percent; their cost for the single pull-tab is 13 percent; the fixed costs for rental and utilities, etcetera, equals 10 percent; and 3 percent goes to the state as the current ideal net tax. That amounts to 100 percent of their adjusted gross income. He noted that it has to be split 70 percent expenses/30 percent charities.

SB 102 would take their charitable proceeds down to 8.5 percent, putting them out of compliance. Taxes would double because 25 percent goes to the city and 25 percent to the state. They would not pass the sales tax on to the consumer, which has been tried, because their gross revenues would drop by 60 percent, which would put them out of business so they would have no choice but to absorb the tax. He continued:

To put this in perspective, what makes gaming work, what makes the gears grind without grinding to a halt, is the playbacks - and the playbacks are \$2, \$5, \$10 winners. Those get changed over the counter in a matter of seconds. But, under a sales tax, what theoretically the city thinks we can do is somebody buys \$20 in pull-tabs, gives a bunch of playbacks, they hand those over and instead of instantly getting their playbacks, they have to dig in their pocket for \$.15 or \$.10 or \$.20. It just grinds the logistics of gaming to a halt. So, we've basically said we'll absorb that 25 percent of tax, which we have with the city of Juneau.

And then you might ask are your expenses higher than any other type of business. No, in fact I challenge you to find any other business in the state that returns a 30.5 percent profit, which my organization currently does while absorbing a 28 percent tax burden. And you further might ask how can we create an equitable tax structure on gaming statewide. This is long overdue and I think we can do it while making sure we have proper regulation and no profiteering in the industry, thus insuring permit holders receive the maximum possible return. This is how you do it...

MR. SANDEN explained that first local sales taxation on charitable gaming would have to be outlawed; the 3 percent current ideal net tax would have to be increased to 20 percent; then another very small tax would have to be created on bingo paper, which is currently not taxed; and the new revenues would be split 50/50 with the municipalities. He explained that Anchorage, which generates the most gaming proceeds of all, gets none of the revenues but would under his proposed scenario.

SENATOR FRENCH asked if Juneau is the only locality with a local sales tax.

MR. SANDEN replied that he thought Hoonah and another place in the Mat-Su Valley near the fair grounds charge a nominal sales tax.

He further explained that 1 percent of the additional revenue could be put into the general fund to be split between the municipalities to step up enforcement of gaming regulations. All management would have to be licensed, not just the operators. He suggested increasing the mandated minimums on operators to prevent profiteering, as they should be able to pay themselves \$70 to \$100 per hour. He noted that some operators are now paying themselves over \$200. Then, since the cost of distributors is the second highest expense and everyone has to go through a number of them, the distributors should be required to reveal their books once per year and pay taxes on any profit over 40 percent. He said another important point is the need to eliminate ghost charities, as a lot of nonprofits exist only on paper. He pointed out that is a huge abuse of gaming and needs to be stopped.

MR. SANDEN said he knows it was not the Governor's intention to put these groups in jeopardy, but he concluded that if he wasn't

paying a 5 percent sales tax, he would be able to pay the proposed tax and stay in business. However, he can't do both.

MR. PERRY GREEN, Anchorage resident, agreed with Senator Seekins when he said the losers would end up paying this tax. Pull-tab sales would decrease by 70 percent. The number of charities that are now serviced would also drop by 70 percent. Stores around the state will close and over 500 people will lose their jobs; thousands of kids and charities will lose their funding. He continued:

This bill actually works against the new goals of the new regulations that were just enacted. For instance, they want to have operators return 35 percent and they want MBPs to return 30 percent after they just encouraged people who are MBPs to become operators - and now they're asking them to return more money. It just doesn't make sense.

He said that of approximately \$350 million per year in gross sales in gaming, \$267 million is paid out in prizes, \$50 million in expenses, the net to the charities is \$30 [million], and the state gets about \$2.2 to \$3 million. Mandating a 72 percent across-the-board payout equates to the state regulating something to a point where people will be forced to go out of business. About 1,400 permittees are making money off of charities in Alaska. Oklahoma, which gets 10 percent, and has four times the population, has 183 permittees. Massachusetts gets 10 percent, but it also sells lottery tickets so you get them both at the same time.

MR. GREEN said the proposed taxes in the legislation presuppose that the net to charities will increase, but the net will actually decrease. There will be fewer charities and they will lose players because the 72 percent is not a fair game. He thought the net to charities would decrease to about \$9 million. The state would be the big winner and receive \$6.2 million, as opposed to the current \$2.2 million. He concluded, "In the meantime, many of the charities that now depend on it will go out of business."

MR. GREEN said, "To now put a 5 percent of the gross is phenomenal. This is not Las Vegas. This is a little bit of social gambling."

MR. GEORGE WRIGHT, operator, said he has been a permittee and an MBP.

CHAIR BUNDE asked him to define MBP.

MR. WRIGHT explained that a permittee is a charity, like the Moose Lodge, that sells its games in-house. Charities that don't have an outlet like that can get together and sign a contract and become partners (up to six charities). They can hire a manager or MBP (as an employee) to manage the gaming affairs for all six charities. His became so large that it got divided up and he became an operator - with a large investment.

He said the state doesn't understand charitable gaming. They are bringing this legislation forward now after they spent one year writing regulations for the industry that entirely changed it. He said this [legislation] would drive the ANB completely out of business. There is no way they can pay a 10 percent tax. If the state wants to raise more revenue from gaming, it should sit down with industry and come up with a plan instead of putting something together at the last minute and trying to pass it.

MR. WRIGHT pointed out that as long as he has been in the business, since 1992, neither the local police department, the Alaska State Troopers nor the Division of Gaming has ever arrested, convicted or charged anyone that was caught stealing from the industry.

MR. WRIGHT said the offenders had to be taken to court on a civil charge. The attorney general said he was not going to spend government dollars chasing a gambling debt. He opined, "It's not a gambling debt, it's charities."

He pointed out that over 70 percent of the Meals on Wheels program in Ninilchik is funded by pull-tabs. He accused the Administration of inventing the new term "ideal gross net" because it wants to pass this bill.

MR. BOB LOESCHER, President and Chair of the Tlingit-Haida Community Council (THCC), said THCC has a gaming license to operate pull-tabs, bingo and raffles. He is also an advisor to the Alaska Native Brotherhood Grand Camp, which has a permit to operate the same games. President Clinton appointed him to the National Gambling Impact Study Commission, which does a study every 20 years where he spent two and half years studying class 2 and 3 gaming. He informed members:

This tax that the Governor wants is misplaced. If they want to put pull-tabs out of business, then you should

consider the policy aspects first of just taking out of business rather than doing it the way they are doing it right now by taxing it out of business.

MR. LOESCHER said he believes gaming is a state concern. The City and Borough of Juneau (CBJ) should not be in the business of managing, regulating and taxing gaming. The CBJ does it anyway with its 5 percent sales tax. He said THCC's gaming is a social thing; THCC uses what little revenue it gets to pay for a community hall at Salmon Creek, which serves as a center for community activities. Children's cultural events, singing and dancing, and drug and alcohol abuse programs are held there. Without gaming income, THCC would have great difficulty managing its community programs. If another 5 percent tax is added to what THCC already pays in taxes, it would be running a deficit. Pull-tabs are a supplement to bingo games, which THCC offers twice a week.

MR. LOECHER concluded by saying members should reject SB 102.

MR. DAVID MASSEY, JDHS Midnight Sons Softball, opposed SB 102. He said he worked in the Division of Investments for 26 years and "this doesn't fly mathematically," one reason being the suggestion that you can still game at 72 percent payback. His experience has been that an operation will start losing players at anything past 70 percent.

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MR. MASSEY said whatever the state wants to call it, the adjusted gross income is not the equivalent of cost of goods sold.

MR. MAC MEINERS, Juneau Gun Club, said he is also the designated member in charge for United Fishermen of Alaska, and was the designated member in charge for the Juneau Ski Club. He set up a flip chart for the committee and illustrated how adding 5 percent in Juneau would take all of the profit out of the game. He said the playbacks are the biggest part of the game.

MR. G. PETERSON, Alaska Indoor Sports Distributors, said he has been in the industry for seven years and works every day with the nonprofit organizations that this legislation would directly impact. He reviews their quarterly reports, annual reports and other statements and doesn't see big bank accounts full of surplus money. He said they are struggling to fund medical emergencies, burial assistance, heating oil for Headstart,

seniors organizations, teen centers, Little League, etc. He maintained, "What you are taxing is their ability to disburse funds to people in need. Make no mistake about it, SB 102 takes money directly from the needy people."

MS. JULIE COZZI, Executive Director of the Haines Chamber of Commerce, told members the Haines Chamber of Commerce is a nonprofit organization that has a gaming license. It handles the pull-tab revenue it gets with vendor assisted pull-tab sales. Two bars in Haines sell on the Chamber's behalf. The vendors are struggling and are hardly able to hang on with the already slumping economy. She opposed SB 102 in its present form.

MR. GENE HANSON, Paternal Order of Eagles, Fairbanks, opposed SB 102. He said his organization has donated about \$22,000 to burn victims, families with terminal cancer, the food bank, etc. He asked how many people on the committee had played pull-tabs and no one had. Mr. Hanson suggested that they try it just to see what it is like and that would answer a whole lot of questions. He maintained:

If you're going to put a tax on, it shouldn't be on the front end; it should be on the back end and 10 percent wouldn't be a hard hit on anybody I wouldn't believe. We could live with that.

MR. JIM STUCKEY, State Director, Loyal Order of Moose, opposed SB 102 because of concern about its potential impact on the people who run the service organizations. He stated, "In particular, I think the service organizations and people who run their own permits should be excluded from this bill, because it would just devastate them."

He said he had a chance to look at the amendment, but it is the most ridiculous thing he had ever seen. He opined, "It just would not work."

MS. ANN WALASZEK, Executive Director of the Kenai Chamber of Commerce and also representing the Kenai Tourism and Marketing Council, both nonprofit organizations, said they oppose the bill. She told members, "It would definitely hurt funding for the organizations."

MS. JUSTINE POLZIN, Executive Director of the Soldotna Chamber of Commerce, comprised of 630 small businesses in the surrounding area, said she is very much opposed to this bill. She pointed out that operators are not allowed on the Kenai

Peninsula. She said they paid \$9,000 in taxes last year and would have paid \$60,000 in taxes if this bill goes through.

CHAIR BUNDE asked if everyone listening at the Anchorage LIO opposed this bill. One person answered no. He asked who that was.

MR. PETER ROBERTS said he owns a small business in downtown Anchorage that was undermined by the use of charitable gaming proceeds, authorized by the State of Alaska. He said many of the organizations that get this money are not charities and are actually encouraged to waste the money, because by law they must spend the net proceeds within one year. The gaming statutes require that game proceeds be used for charitable purposes. He thought the real charitable organizations are the ones that are most upset about the organizations that abuse the money they actually get. He explained that he owns a bike rental store in downtown Anchorage. He pointed out:

The organization Earth, which is run by Michael O'Callahan, receives more than \$40,000 and they went out and bought themselves bicycles and paid themselves a salary so they could loan bicycles for free to tourists in downtown Anchorage under the pretext that they were mitigating car use and preventing pollution. I have made numerous appeals to the gaming division of Department of Revenue to do something about it and they absolutely refused. I have been waiting for written explanations and they won't give them to me and I have filed suit over it and was dismissed on a procedural issue. All I'm saying is that charitable gaming - there are two sides to the issue. The issue that you're dealing with now in terms of how to regulate the operators and get the money that is supposed to go to charities - if you're going to address this issue, make sure that you address the other side of the issue and that is how the charitable gaming gross proceeds are spent. The so-called charities themselves should be the very ones encouraging you to do this, because the ones that spend the money responsibly should be just as upset as I am.

CHAIR BUNDE closed the hearing and asked everyone to submit written testimony, which he would distribute to all committee members. He said he did a quick scan and found that the per capita amount of money spent per year in Alaska on bingo and

pull-tabs varies from over \$300 per person in Anchorage to over \$4,000 in Anaktuvuk Pass, over \$7,500 in Brevig Mission, \$6,900 in Eek, \$4,500 in Gambell and well over \$1,000 in many other areas.

CHAIR BUNDE said the bill would be held for further work and adjourned the meeting at 3:35 p.m.