

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 24, 2003

1:31 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

SENATE BILL NO. 180

"An Act establishing the Safety Code Task Force; and providing for an effective date."

MOVED CSSB 180(L&C) OUT OF COMMITTEE

SENATE BILL NO. 114

"An Act increasing the fee for a state business license; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 168

"An Act relating to issuance and revocation of licenses for the importation, sale, distribution, or manufacture of cigarettes and tobacco products; relating to a tax refund or credit for unsaleable, returned, or destroyed tobacco products; relating to restrictions on shipping or transporting cigarettes; relating to records concerning the sale of cigarettes; amending and adding definitions relating to cigarette taxes; relating to the payment of cigarette taxes; relating to penalties applicable to cigarette taxes; relating to the definition of the wholesale price of tobacco products; relating to payment of cigarette taxes through the use of cigarette tax stamps; relating to provisions making certain cigarettes contraband and subject to seizure and forfeiture; relating to certain crimes, penalties, and interest concerning tobacco taxes and sales; and providing for an effective date."

MOVED CSSB 168(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

SB 180 - See Labor and Commerce minutes dated 4/15/03.

SB 114 - See Labor and Commerce minutes dated 3/18/03, 4/10/03 and 4/15/03.

SB 168 - See Labor and Commerce minutes dated 4/15/03.

SB 102 - See Labor and Commerce minutes dated 3/13/03.

WITNESS REGISTER

Mr. Zach Warwick
Staff to Senator Therriault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 180 for sponsor.

Mr. David R. Owens
Owens Inspection Services
P. O. Box 3589
Palmer AK 99645

POSITION STATEMENT: Supported SB 180.

Mr. James Baisden
Kenai Fire Marshall
PO Box 105, South Willow Street
Kenai AK 99611

POSITION STATEMENT: Opposed SB 180.

Mr. Steve Shuttleworth
Fairbanks Building Official
800 Cushman
Fairbanks AK 99701

POSITION STATEMENT: Commented on SB 180.

Mr. Rick Urion, Director
Division of Occupational Licensing
Department of Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800
POSITION STATEMENT: Supported SB 114.

Ms. Jane Alberts
Staff to Senator Bunde
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on SB 168 for the sponsor.

Mr. Mike Elerding
Northern Sales
PO Box 8112
Ketchikan AK 99901
POSITION STATEMENT: Supported SB 168.

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

Mr. Gregory Peterson
Allied Charities of Alaska
POSITION STATEMENT: Commented on SB 102.

Mr. Dale Robertson
American Games
Council Bluffs IA
POSITION STATEMENT: Commented on SB 102.

Mr. Roger Frank, President
North American Fund Raising Ticket Manufacturers Association
(NAFTM)
POSITION STATEMENT: Commented on SB 102.

Mr. Jack Powers
P.O. Box 24-1113
Anchorage AK 99517
POSITION STATEMENT: Commented on SB 102.

Mr. David Lambert
3431 Airport Way
Fairbanks AK 99709

POSITION STATEMENT: Commented on SB 102.

Mr. Roger McCoy
United Services
Juneau AK

POSITION STATEMENT: Commented on SB 102.

Mr. Jim Peot, General Manager
Whaler Casino Supply
520 W. International Airport Rd.
Anchorage AK 99518

POSITION STATEMENT: Commented on SB 102.

Mr. Wayne Stevens, Executive Director
Kodiak Chamber of Commerce
P.O. Box 1485
Kodiak AK 99615

POSITION STATEMENT: Opposed SB 102.

Mr. George Wright
Juneau AK

POSITION STATEMENT: Commented on SB 102.

Ms. Camille Ferguson
Sitka Tribe of Alaska
456 Katlian
Sitka AK

POSITION STATEMENT: Opposed SB 102.

Ms. Erin Jackson-Hill
Powers Public relations
PO box 241113
Anchorage AK 99524

POSITION STATEMENT: Opposed SB 102.

Mr. Dan Thompson
C & A Distributors
1890 Marika
Fairbanks AK 99709

POSITION STATEMENT: Commented on SB 102.

Mr. Glen Alt, Manager
MCA Charities
Juneau AK

POSITION STATEMENT: Commented on SB 102.

Mr. Alfred McKinley, Sr.

Grand Camp
Alaska Native Brotherhood
Juneau AK
POSITION STATEMENT: Opposed SB 102.

ACTION NARRATIVE

TAPE 03-24, SIDE A

SB 180-SAFETY CODE TASK FORCE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 1:31 p.m. Present were SENATORS DAVIS, SEEKINS and FRENCH.

MR. ZACH WARWICK, staff to Senator Therriault, said they like the committee substitute (CS) and noted a fiscal note was submitted to fund travel to meetings.

SENATOR DAVIS moved to adopt CSSB 180(L&C), Version D, as the working document. There were no objections and it was adopted.

MR. DAVID OWENS, Owens Inspection Services, supported SB 180. He recommended adding a certified building inspector to the task force.

CHAIR BUNDE thanked him for his support and said he would forward his suggestion to the bill's sponsor.

MR. JAMES BAISDEN, Kenai Fire Marshall, opposed SB 180 because there is no building or fire code official as a voting member of the task force.

CHAIR BUNDE asked Mr. Warwick if the fire marshall would be on the advisory committee.

MR. WARWICK replied the Fire Marshall would. He noted he is compiling a list of all of the members who were hoping to be on the advisory panel for the Senate Finance Committee.

SENATOR STEVENS arrived at 1:37 p.m.

MR. STEVE SHUTTLEWORTH, Fairbanks building official, said Fairbanks concurs with the purpose and spirit of SB 180, but believes that municipal participation should be included on the task force, and that a member of the fire department should be there as well. He commented:

If the task force is to reach an equitable solution and provide a meaningful recommendation to the Legislature, it is essential that personnel would provide daily plan review and inspections for municipal code compliance and be provided an opportunity to engage in the important decisions. To do otherwise would exclude valuable expertise and insight.

We also request that any appointment to the task force not result in duplicate representation.

CHAIR BUNDE asked if the bill's sponsor wanted to entertain amendments in this committee or whether it will be difficult to accommodate everyone who wants to be on the task force.

MR. WARWICK replied that it is going to be difficult to accommodate everyone, but Senator Therriault would entertain amendments at another level. He cautioned that unless the bill starts moving, the task force, which is required to provide recommendations at the start of the next session, would be useless.

SENATOR SEEKINS moved to pass CSSB 180(L&C), Version D, from committee with individual recommendations and the attached fiscal note.

The roll was taken. SENATORS STEVENS, DAVIS, FRENCH, SEEKINS and BUNDE voted yea and CSSB 180(L&C) passed from committee.

SB 114-INCREASE BUSINESS LICENSE FEE

CHAIR BUNDE announced SB 114 to be up for consideration and that a new committee substitute (CS) had been prepared.

SENATOR SEEKINS moved to adopt the CS to SB 114, Version H, as the committee's working document. There were no objections and it was so ordered.

MR. RICK URION, Director, Division of Occupational Licensing, said that people who file for a business license as a sole proprietor [would] pay a fee of \$100 while everyone else pays \$300. He talked with corporate leaders who said that \$300 would be okay.

SENATOR FRENCH asked if any court has analyzed the place of business idea, or whether there is any further definition in state law.

MR. URION replied yes, businesses that sell tobacco products must have a specific endorsement for each location. However, not all businesses with multiple locations sell tobacco products.

SENATOR FRENCH said he was looking at businesses that don't sell tobacco, like coffee kiosks, apartment buildings and mobile repairmen.

MR. URION replied that from his perspective, if he were drafting regulations for this, he would say the rental business is passive as opposed to a grocery store or bank that has multiple branches. He expects to see some type of business activity at the locations.

SENATOR SEEKINS explained that the CS basically says that the fee for a business license starting July 1, 2003 for a sole proprietorship is \$100 annually. Any other type of business, like a corporation, partnership, limited liability partnership, etc., would be \$300 annually. Multiple locations, including coffee kiosks, would be \$300 annually for each location. He calculated a 25% dropout rate of the sole proprietorships, but he didn't think it would be that high - maybe half. He thought this CS was a reasonable approach and brings the tobacco endorsement back on an annual basis, which would bring in \$125,000 more per year.

CHAIR BUNDE noted that this program brings in far more than it costs to issue a business license because it's a revenue-generator and the state needs revenue.

SENATOR FRENCH asked if taxicabs would need individual business licenses, since there is an exchange of money happening in each location.

MR. URION replied that he didn't know how all cabs operate. He said some are individually owned and some are owned by a company. A company that owns 15 cabs would be considered as one business.

SENATOR FRENCH countered, "But if you only own one cab, you pay the same as the guy with 15 cabs."

CHAIR BUNDE added that someone could own one coffee kiosk or five. He wanted to make sure there was a good definition of multiple locations.

SENATOR FRENCH asked how the division determined there are 265 businesses with multiple locations.

MR. URION answered that those figures are from tobacco endorsements only, the only figures the division has.

SENATOR FRENCH pointed out there are 1,256 tobacco endorsements.

MR. URION clarified that 265 businesses have 1,256 locations.

SENATOR FRENCH said if there are 1,256 locations, it should be \$300 [not \$100] times that figure, if he understands the intent of the bill correctly.

CHAIR BUNDE asked Mr. Urion to make an appointment with him to come up with a better definition of multiple locations and bring it back before the committee. He said they would hold SB 114 for further work.

SB 168-CIGARETTE SALE/DISTRIBUTION

CHAIR BUNDE announced SB 168 to be up for consideration and that the industry requested the committee include minimum pricing verbiage, which has been included in the committee substitute (CS).

SENATOR SEEKINS moved to adopt the CS to SB 168, Version I, as the working document. There were no objections and it was so ordered.

MS. JANE ALBERTS, staff to Senator Bunde, said that the CS sets a minimum price for the sale of cigarettes, either wholesale or retail, in the state creating a more level playing field for competition. She explained that the Department of Revenue (DOR) would receive a wholesale list price from the tobacco manufacturer of all the various brands of cigarettes from the high end all the way to the low end. That price will be listed on its website for all distributors to see. Everyone would know the price and be better able to police each other to see if anyone is underselling. Upon discovering an entity selling below cost, a competitor could contact the Department of Revenue and file court action, a class B misdemeanor with a fine of \$2,000, against the violator. The bill was set up this way so the

industry could self regulate and only involve the Department of Revenue in extreme cases to keep the cost to the state lower.

CHAIR BUNDE explained the changes in the CS are basically on page 9, lines 26 - 27, where it states there was a zero discount for collecting tax on more than \$2 million worth of cigarettes.

MR. MIKE ELERDING, Northern Sales, supported the committee substitute. He thanked the committee for working on the bill. He said the department has projected that every one percent increase in taxes would generate an increase in revenue of about \$400,000. Other states that have implemented a tax stamp after not having one have had significant increases in their collections. He said that he has some definitions to offer, but didn't want to slow the bill down.

CHAIR BUNDE responded that the wordsmithing could be discussed in the Senate Finance Committee.

SENATOR SEEKINS moved on page 9, lines 26 - 27, to delete language after "\$2 million" through "\$5 million" so it would read "the amount that is more than \$2 million is zero percent." There were no objections and it was adopted.

SENATOR SEEKINS moved to pass CSSB 168(L&C), Version I, from committee with individual recommendations and the appropriate fiscal note.

The roll was called. SENATORS FRENCH, STEVENS, DAVIS, SEEKINS and BUNDE voted yea and CSSB 168(L&C) moved from committee.

SB 102-CHARITABLE GAMING REVENUE/TAXES

CHAIR BUNDE announced SB 102 to be up for consideration and that a committee substitute (CS) had been prepared and that the Governor has made suggestions. The CS would impose a 5 percent tax on earnings from pulltabs and disallow any taxes at the municipal level, basically duplicating what is happening in Juneau now. The Governor's version would substitute 8 percent for the 5 percent and reduce the amount of payout.

SENATOR SEEKINS said during the process of obtaining input in Fairbanks, he talked to a reputable accountant who does a lot of accounting for operators in the Interior. The accountant had a document that showed the real corpus of money that is being spent in the gambling industry to be around \$60 million rather than \$240 million. He explained that much of what happens is

that someone will come in with \$100, play \$100, win a little bit; they'll take their winnings and put it back in. He explained, "In the end, you really see a large number in the amount of money that is gambled, but it is really the same \$60 million that is just turning over again and again in the process."

He said that brings up the question again of what they are really trying to tax and what the effect will be if they impose a tax every time someone gambles the winnings from their first \$100. He also became aware of other disconcerting information. Revenue and gross gambling receipts are reported from some locations that are actually, in many cases, 100 miles away from that particular location. That benefits municipal governments. He said if the committee is trying to benefit charities, perhaps it should put some geographic restriction in the bill that says a Fairbanks operator must operate somewhere in the Fairbanks Northstar Borough, not in Juneau or Ketchikan.

SENATOR SEEKINS said a letter from a firm in Fairbanks, named Richards, Johnson and Granberry, CPAs, dated April 21 made him deliberate on this particular bill more. He said he now favors returning to the original intent of helping charities.

CHAIR BUNDE said he told the Governor he would offer his amendment [Amendment 1] in committee to change the 5 percent to 8 percent and change the payout from 72 percent to a 68 percent maximum.

SENATOR SEEKINS said he would offer Amendment 1 for the purpose of discussion, but he wasn't sure he was in favor of it.

CHAIR BUNDE objected for purpose of taking a vote.

SENATOR SEEKINS explained that he is reluctant to support Amendment 1 because he still has unanswered questions.

CHAIR BUNDE said this would be an amendment to the original bill.

SENATOR FRENCH objected.

The roll was called. SENATORS STEVENS voted yea; SENATORS FRENCH, DAVIS, SEEKINS and BUNDE voted nay. SENATOR SEEKINS commented that he was not yet ready to make a decision one way or the other.

TAPE 03-24, SIDE B

CHAIR BUNDE announced that Amendment 1 failed.

SENATOR SEEKINS moved to adopt CSSB 102(L&C), Version I, as the working document.

CHAIR BUNDE informed the committee that the CS calls for 25 percent of the ideal net tax, about a 5 percent increase, requires a surety bond from distributors to make sure the tax is collected and prevents cities and municipalities from levying a sales tax on the pulltabs.

MR. LARRY PERSILY, Deputy Commissioner, Department of Revenue, agreed that is an accurate synopsis.

SENATOR SEEKINS said his concern is what they will actually be taxing. The bill could bring in more money by taxing every transaction, but, as he understands it, there is a card that goes along with every game that says how much the game would return in dollars from the first pulltab to the end.

MR. PERSILY said that is correct.

SENATOR SEEKINS continued by saying that would be called the ideal net.

MR. PERSILY agreed and said the ideal net is a term the department uses, but for lay people it would be the net or what is left after prizes, regardless of taxes and expenses.

SENATOR SEEKINS asked what they should tax - each play or the amount of money that would be the net.

CHAIR BUNDE said he understands that an operator goes to the distributor, buys a box of pulltabs, the tax is paid then - upfront, based on the net. Then the distributor plays the pulltabs out and gets his return.

MR. PERSILY clarified that the Governor's proposal would be a tax on the total ideal gross of that box. If that box contained 1,000 pull-tabs at \$1 each, the Governor's tax would be on the \$1,000 as if every pull-tab was sold. Currently, the tax is computed on the net after prizes. Version I, which has been adopted, would continue taxing the net (total sales minus prizes).

SENATOR FRENCH asked if his understanding is correct that that is why it is called the ideal net - they are not measuring what is actually happening in the field; they are saying that in a box that is going to pay out 28 percent, the state is going to tax 5 percent of that 28 percent.

MR. PERSILY said that is correct and, by going to ideal net, they are assuming that everything will be sold.

SENATOR SEEKINS said they are in effect taxing the profit on the game.

MR. PERSILY clarified that they are taxing the net before the expenses.

CHAIR BUNDE said that he has heard various opinions on how that would actually affect the operators and that inefficient operators may go out of business. He asked the committee if they want to go forward with the CS or address the broader issue of charitable gaming and have the Legislature get more involved in the issue.

SENATOR SEEKINS added to the question - or what radius of operation a non-profit should be able to operate.

MR. PERSILY said current Alaska statute does not require that a charitable organization, for the purposes of a charitable gaming permit, be an IRS certified 501(C)(3) non-profit. It just has to meet the definition in Alaska statute of having a civic educational purpose - a rather broad definition. It doesn't just apply to charities in the traditional sense; it includes business associations and small city governments.

CHAIR BUNDE said he has discussed with Mr. Persily before that becoming a certified non-profit is not that difficult.

MR. PERSILY agreed that he didn't think it would be that difficult to qualify, but he was sure some groups would not qualify under the IRS rules and they wouldn't be happy about being excluded from charitable gaming.

SENATOR SEEKINS said he was beginning to understand after talking to many people involved in charitable gaming that the pie actually stays constant and, because there is a very liberal definition of who can be involved, it's getting cut into smaller and smaller pieces. Actually those people who have the money to come in upfront and arrange for locations, operators, etc., are

at a distinct advantage over some other charitable organization that may be struggling to get upfront money to fund some of the operations. It would be reasonable to say if you're going to be looking to the gamblers of the state to provide your income, it should be the gamblers close to your home and try not to make the definition so liberal that the pieces get smaller and smaller.

CHAIR BUNDE added that current regulation doesn't allow an operator to pool games for different charities. They all have to be accounted for separately. He asked Mr. Persily to comment.

MR. PERSILY said:

As Senator Seekins explained, there are MBPs, which are multiple beneficiary permittees, which are essentially a co-op where charities get together and run their own gaming location rather than contracting with a commercial operator. There are four different ways that pulltabs can be played. Either the charity plays it themselves, self-directed as we call it, when they band together as a co-op, when they contract with an operator or they contract with a vendor, which essentially is putting on the table in a bar. About half of the charitable gaming in Alaska is run through the charities themselves as self-directed. The other half is split between co-ops, operators and vendors. So, you've got four very distinct ways of playing the games - each with their own set of issues, set of expenses, rules that govern them. It's a very complex issue and, certainly, we're here to help you in any way we can figure out the answers.

CHAIR BUNDE said he would appreciate some feedback from the administration on the notion of both the territorial imperative of pulltab operations, whether they should be operated within 50 miles of whoever owns them - or some such geographic criteria, and any feedback on the definition of a charitable organization.

MR. PERSILY added:

There [are] more charities with a need for the money than there are good locations or good operations to play them at. The charities are in a position where they don't have much bargaining power, because if the operator or vendor or the co-op, if that charity won't go in on those terms, there's at least one more

waiting to take their place. You do have an imbalance with supply and demand, but certainly we can get back to the committee with answers on those two questions: how we feel about a limitation to more of a traditional 501(C)(3) definition and should there be a change in the current statute, which says you can play your permit anywhere. There are some charities in Juneau whose permits are played on the Kenai Peninsula. St. George plays theirs on Fireweed, an operator in Anchorage. There are some in Anchorage that play on the Kenai.

CHAIR BUNDE said there are over 100 charities with permits to play, but they don't have anyone to place their permit with at this point.

CHAIR BUNDE turned the gavel over to SENATOR SEEKINS, Vice Chairman.

MR. GREGORY PETERSON, Allied Charities of Alaska, said the small village of St. George in the middle of nowhere relies on charitable gaming money to keep it going. The larger municipalities, in many cases, pay for the fire department, ambulance service and police department. He urged members to take a real close look at what they are doing.

MR. DALE ROBERTSON, American Games, said they are licensed to manufacture charitable gaming to the State of Alaska. In regard to the pulltab prize cap, their concern is that payout limits depress the number of plays, reduce gross receipts, hence decrease profits for charities and tax revenues. History has proved this to be true. He said that Nebraska has a low net at 80 percent and revenues have been stagnant. Minnesota has a high gross receipts income, around 82 percent. Charities that have reduced their payouts, say, from 86 percent to 80 percent to cover the increased tax have had their gross receipts drop considerably. He questioned what 72 percent or 68 percent would do in the State of Alaska. He concluded, "Less play, less tax revenue."

He said manufacturers don't create very many games at all at the 68 percent or 72 percent prize payout. They don't create product just for Alaska, but for all markets and those payouts are not made because they do not sell very well. Taxing the ideal gross would be satisfactory from his perspective.

MR. ROGER FRANK, President, North American Fund Raising Ticket Manufacturers Association, said that Mr. Robertson's company is a member of their organization. He was formerly the state regulator in Minnesota where they do \$1.4 billion a year in pulltabs. He was the director for five years and during that time he was also a member of the North America Gaming Regulators Association. He supported what Mr. Robertson said about the impacts of increasing the taxes. There is a limited amount of money out there and if you increase the taxes, you will deflate the gross receipts. That has been illustrated in Minnesota, Oklahoma, Nebraska and North Dakota. He offered, "Gamblers are gamblers, but they are also shoppers and while a lot of people think they make foolish mistakes gambling, they don't make a lot of foolish mistakes."

He said the basic kinds of taxing he sees nationwide are generally 10 percent of the net or 2 percent of the gross. He suggested if they are looking at alternatives, they might consider a very small tax on each bingo space. That would allow the industry to contribute to solving the problems Alaska has as well as moving the industry forward. He said he also has some insight into the \$60 million and the definition of a charity if they want that.

SENATOR FRENCH said he would be happy to hear his views on that.

MR. FRANK said:

The issue of the \$60 million is what is left over after the prizes are paid. That's the only real money that exists in charitable gambling. While there may be high grosses, \$1.4 billion in Minnesota, the nets aren't that high, because our payouts are 83 percent. That gets people to continue to buy and consequently we do well selling pulltabs in the state of Minnesota. So, taxing on the gross is taxing of money that you have never earned and I don't think that's the kind of thing that you would expect if you were running a business - to be taxed on money you don't have. That's the objection to the tax on the gross, unless it's a very small tax on the gross.

MR. FRANK suggested that they look at the statute to see if it says the profits from charitable gambling can be spent any way the organization wants. He suggested it could be spent for educational purposes, in support of recreational purposes, senior citizens or veterans.

MR. JACK POWERS, licensed Anchorage operator, said that all gaming bills should be tabled and the legislature, along with the Governor should put a task force together over the next six months. People need to know the mechanics of how charitable gaming works. He asked, "How can you pass legislation if you do not understand it?"

CHAIR BUNDE added that there are 25 licensed operators in the state, 11 multi-beneficiary permits, 260 licensed vendors; and 1,088 pulltab permits are currently being used out of approximately 1,500 that have been issued in 2001.

MR. POWERS added that a number of the 25 operators are probably small time operators with one location. He noted, "There is a lot more activity with the MBPs than with large operators."

MR. DAVE LAMBERT said he operates a fundraising business for 17 charities in Fairbanks and, with a 5 percent tax, he would have been in the negative by \$18,500 last spring. That would put him out of business. Of all the operators in Fairbanks, he didn't know of any that had pulltabs sales as their primary business as it isn't that lucrative anymore.

MR. ROGER MCCOY, United Services, said he is the only licensed operator in Juneau and he provided them with a copy of one of his quarterly reports and commented on how the 5 percent tax in SB 102 would affect it. For the first quarter of 2003, the permittees would have received their 30 percent of the adjusted gross and he would have paid all the expenses to operate his three stores (two in Fairbanks), but he would have lost \$50,000. He couldn't do that for very long. He clarified that an operator can have 50 permittees in a store at the same time, but he has to identify them.

He noted that Senator Seekins expressed concern about permittees who want to use their permits in other cities. Mr. McCoy explained that he runs a Tanana permit in Fairbanks, because pulltabs are not sold anywhere in Tanana and it is their only source of income. He said another thing is that the players who play pulltabs could care less who the permittee is and, "All they want to do is win."

CHAIR BUNDE asked if he thought the vendors should be taxed as well.

MR. MCCOY said that most taxes are passed on to the consumer.

CHAIR BUNDE asked what tax he pays as an operator in Fairbanks.

MR. MCCOY replied 3 percent of the ideal net. In Juneau, he pays 3 percent on the ideal net, plus 5 percent on the gross sales.

CHAIR BUNDE asked if that would equate to 5 percent of the ideal net.

MR. MCCOY replied, "If you take away the 5 percent sales tax and add the 5 percent state tax, it's a wash."

MR. JIM PEOT, General Manager, Whaler Casino, said the proposed SB 102 would turn them into a tax collection agency. Right now, the tax is about 15 percent of their gross business, but with SB 102, it would be about 50 percent. Also, if they go to a 28 percent or greater profit game, 75 percent of their inventory does not meet that criteria and they have about 400 games in their inventory. Additionally, they would be liable for all the contracts they signed.

3:02 p.m.

CHAIR BUNDE noted that that was a provision in the Governor's proposal and they adopted a CS that doesn't contain that.

MR. WAYNE STEVENS, Executive Director, Kodiak Chamber of Commerce, said they run a self-directed gaming operation in Kodiak and don't allow operators there. They are a membership driven organization focused on economic development. Elimination of their ability to do pulltabs would basically eliminate their operation. He stated:

There is a presumption here in all of this discussion that simply readjusting all of the formulas for payouts for expenses, for net profit to charity and taxes to the state, that the gaming employer remains constant. I think we've heard testimony today that says that is an incorrect assumption.

TAPE 03-25, SIDE A

MR. STEVENS said they are a 501(C)(6) non-profit corporation and would not qualify to be a 501(C)(3) by the IRS designations. He told members, "There are some serious concerns here and we would urge you to perhaps set aside some of discussion until we can

get a working group together and address all issues for all parties...."

MR. GEORGE WRIGHT, Operator 84, said he had been an operator for 110 days. He said that a 25 percent tax with the 3 percent equals a 28 percent tax. Then there's a 1 percent filing fee at the end of the year for a total of 29 percent. The adjusted gross income, less the prize payouts, is the only money left for the operator. He sat on the 1997 and 2002 task forces and the industry is, "...trying to get away from the perception of everybody who says 'evil operators' and we're doing pretty well at that."

He said regarding people gaming in other areas for the territorial purposes, for 12 years he did pulltabs in Anchorage, Fairbanks, Kenai and Juneau and he has charities from all those locations. He pointed out:

Something the industry can live with is the increase from the 3 percent to the 5 percent and an increase from 1 percent at the end of the year to 3 percent when you file your reports. That will give you your 5 percent increase; that will make your \$12 million per year and all the industries will survive.... I do love the cities not being able to tax as they tax in Juneau. It's really cool on how they did it, too, where they changed the law so there's nothing to appeal, but they take those \$800,000 in its prime time, which is now down to \$500,000 annually and they decided they're going to give 50 percent of it away to charities of their choice. So, if you don't sell pulltabs and you're not gaming, you can have a charity and apply it to a city through a grant, you'll get 50 percent of what all the other charities raised. So, it's kind of one-sided. So, I agree with no sales tax on the municipality.

MR. WRIGHT said they do need a task force so the state can become a partner. There is virtually no law enforcement in the gaming business. There are two investigators without police powers that harass businesses, but they don't go out and catch the people who are embezzling and stealing. Recently, there was a federal charge against two storeowners who were trading information. Inside information is the number one killer in the industry. He said, "Without police participation and the police willing to use public dollars to prosecute these thieves, you're

always going to have a tainted, nasty, mean, old gambling situation."

One of the charities that he has been working with a long time, for example, is the Ninilchik Senior Citizens Meals on Wheels Program, pulltabs fund about 90 percent of the program. They provide 126 meals a day, seven days a week for senior citizens.

MS. CAMILLE FERGUSON, Sitka Tribe of Alaska, said they operate a small gaming operation, but it impacts their community in a big way. She said:

If we do go out of operation, we will not be able to buy groceries, rent, electricity, oil, medical and funeral expenses for those who need emergency assistance. The tribe will not be able to offer cultural activities to our Native communities and our local school groups hit us up every year with applications for sports activities because there's not enough funding within our schools....

MS. FERGUSON said they would also be laying off six employees who work within their small gaming operation.

MS. ERIN JACKSON-HILL, Powers Public Relations, said they have four operations. [Tape was indiscernible.] She opposed SB 102. She said a lot of employees would lose their jobs and the state would not come close to its projected revenues.

MR. DAN THOMPSON, C & A Distributors, said that they have a lot of problems with the bill, although the CS is better. It recognizes that the gross is not a real number and the ideal net is the basis that should be used. The tax is way too high and 25 percent equals an 833 percent increase. It would increase the overhead of the permittees drastically. Also, a \$250,000 bond for distributors is unnecessary because many charities are going to go out of business. A lot of operators and vendors have testified but operators only make up 20 percent of the pulltab gaming industry. Vendors make up 13 percent. Sixty-seven percent of gaming and pulltabs is run self-directed by permittees or in groups of multi-beneficiary permits.

MR. GLEN ALT, manager of MCA Charities, thanked the committee for having some dialogue on this issue. He said his organization made lease commitments based on the last task force meetings. With a new law that would tax him more, he wouldn't be able to

survive and the cost of his lease is going up. He also supported establishing a new task force to look into new regulations.

MR. GRAHAM STOREY, Nome Chamber of Commerce, said this bill would put the Nome Chamber of Commerce out of business. They receive approximately \$90,000 annually from the pulltabs. He liked the idea of having a task force to really figure out the effect that this bill and other gaming bills will have on the charities. He said:

To put this as simply as I can and, Senator Seekins, I'm not picking on you, you raise the price on a car, car sales go down - you lower the price on the cars, car sales go up. Right now, the state is raising the prices.

CHAIR BUNDE said that testimony could be sent to the committee and it would be included in their considerations.

SENATOR STEVENS asked Mr. Storey how he was using the funds he receives.

MR. STOREY replied that they are a 501(C)(6) charity and use their funds to build the business community, support the Junior Achievement Program in the local schools and pay the salaries of the Chamber staff. He added that their uses had been audited and were correct uses.

MR. AL MCKINLEY, Alaska Native Brotherhood (ANB), opposed SB 102. He said the ANB is a 501(C)(3)10 organization. Their funds are used entirely for education now, but they are trying to expand their use to emergencies, like a death in the family. As the bill is written, the ANB would be double taxed, but if the city and state taxes were taken out of the net at one time, they could support it.

CHAIR BUNDE pointed out that the committee substitute would cut out the local tax. He said he would block out a work session for the committee on SB 102 to see if there was any way to make it work. He adjourned the meeting at 3:35 p.m.