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COMMITTEE REPORT

SENATE

FURTHER:

Date _____

Mr. President

The Committee on _____ considered _____

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title _____
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 2/09/84

REQUEST

Bill/Resolution No: SB 404
Title: An act relating to permits for games of chance and contests of skill
Sponsor: Josephson and Rodey
Requestor: Senate Judiciary Committee
Date of Request: 2/06/84

FISCAL DETAIL

Agency Affected: Revenue
Program Category Affected: Revenue Collection & Management
BRU, Program or Subprogram(s) Affected: Public Services Division BRU

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	14.1	14.6	15.1	15.6	16.1
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	4.7	.8	.9	1.0	1.1
500 EQUIPMENT	-	1.0	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	19.8	15.4	16.0	16.6	17.2
CAPITAL	-	-	-	-	-	-
REVENUE	-	38.5	40.5	42.5	44.6	46.9

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	19.8	15.4	16.0	16.6	17.2
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	19.8	15.4	16.0	16.6	17.2

POSITIONS:

FULL-TIME	-	.5	.5	.5	.5	.5
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attached.

Prepared By: Martin J. Richard
Division: Public Services

Phone: 465-2192
Date: _____

Approved by Commissioner: [Signature]
Agency: DOR

Date: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

SB 404 ANALYSIS
PUBLIC SERVICES DIVISION BRU

EXPENDITURES

1. Passage of SB 404 will require a seasonal, (6 months) Tax Examiner to handle a minimum of 227 new applications. Each application and attendant Financial Statement requires 1.5 to 2.0 hours of processing and in addition, clerical time of approximately one hour per application is required.
2. The personal service costs include the total for insurance and various other benefits. Annual increases for personal services are based on 3.5% rate, reflecting average contractual salary and merit increases.
3. The supplies and commodities include new forms, mail outs and miscellaneous clerical supplies. All instructions and forms will require immediate revision and reprint for FY85. Figures for FY86-89 reflect additional forms costs for increased number of permittees.

Equipment money required in FY85 is for furniture and office equipment for the seasonal Tax Examiner.

REVENUE

Figures in this area are based on 227 new applications remitting an annual permit fee of \$20.00 each. Additionally the required 1% of gross receipts be remitted with annual financial statement. An average of the 1% fee is \$150.00 per permittee.

TESTIMONY ON SENATE BILL 404

by

COOK INLET REGION, INC.

and

COOK INLET TRIBAL COUNCIL, INC.

MR. CHAIRMAN, MY NAME IS ROBERT RUDE. I AM SENIOR VICE PRESIDENT OF COOK INLET REGION, INC., AND PRESIDENT OF COOK INLET TRIBAL COUNCIL, THE NON-PROFIT ARM FOR THE REGIONAL CORPORATION; PRESIDENT OF THE CIRI FOUNDATION AND PRESIDENT OF THE SOUTHCENTRAL FOUNDATION. THESE FOUNDATIONS WERE ESTABLISHED BY COOK INLET REGION TO PROVIDE SCHOLARSHIPS AND SOCIAL PROGRAMS TO THE REGION'S 6,400 SHAREHOLDERS.

THE ALASKA STATUTES HAVE, FOR MANY YEARS, PROVIDED AN OPPORTUNITY FOR CHARITABLE, SOCIAL SERVICE ORGANIZATIONS TO RAISE MONEY BY HOLDING "GAMES OF CHANCE AND SKILL." THE ALASKA LEGISLATURE AND THE DEPARTMENT OF REVENUE REGULATE THESE ACTIVITIES TO ENSURE THAT THE PRIVATE FUNDS RAISED ARE USED TO SERVE THE SOCIAL SERVICE PURPOSES FOR WHICH THEY WERE INTENDED. MANY NATIVE NON-PROFIT ORGANIZATIONS SUCH AS COOK INLET TRIBAL COUNCIL, ALEUTIAN PRIBILOF ISLAND ASSOCIATION AND ALEUTIAN HOUSING AUTHORITY HAVE ESTABLISHED BINGO GAME OPERATIONS TO CREATE REVENUES. SOME OF THE PRIMARY WAYS THESE REVENUES ARE USED FOLLOWS:

1. MATCHING MONIES FOR STATE, FEDERAL AND FOUNDATION GRANTS THAT REQUIRE MATCHING FUNDS. WITH THE REDUCTIONS IN FEDERAL FUNDING FOR SOCIAL, HEALTH, EDUCATIONAL AND EMPLOYMENT PROGRAMS OVER THE YEARS, WE ANTICIPATE THAT NON-PROFIT SOCIAL SERVICE ORGANIZATIONS WILL INCREASINGLY FIND IT NECESSARY TO DEVELOP ENTERPRISES, SUCH AS BINGO OPERATIONS, TO GENERATE AN IMPORTANT SECONDARY SOURCE OF REVENUE TO SUSTAIN MANY OF THEIR HUMAN SERVICES PROGRAMS.

2. SCHOLARSHIPS FOR VOCATIONAL TRAINING AND HIGHER EDUCATION INCLUDING GRADUATE SCHOOL. MANY STUDENTS COULD NEVER ATTEND IF THESE SCHOLARSHIPS WERE NOT AVAILABLE.
3. CULTURAL ACTIVITIES SUCH AS POTLATCHES, NATIVE DANCES, ETC.
4. FOOD BASKETS FOR NEEDY PEOPLE AT SUCH TIMES AS EASTER, THANKSGIVING AND CHRISTMAS.
5. SUPPORT FOR SPORTS EVENTS PARTICIPATED IN BY NATIVE STUDENTS WHO WOULD NOT OTHERWISE BE ABLE TO PARTICIPATE WITHOUT THIS SUPPORT.
6. CHRISTMAS PARTY AND PRESENTS FOR CHILDREN OF LOW INCOME FAMILIES. MANY TIMES THIS IS THE ONLY CHRISTMAS THESE CHILDREN HAVE.
7. SUPPORT FOR ATTENDANCE AT MEETINGS OF THE NATIONAL CONGRESS OF AMERICAN INDIANS, NATIONAL URBAN INDIAN COUNCIL, AFN, AND OTHER STATE MEETINGS THAT AFFECT NATIVE ISSUES AND THEIR LIFESTYLES.
8. CONTRIBUTIONS TO PERSONS WHO HAVE LITTLE OR NO INCOME AND WHO HAVE EMERGENCY NEEDS SUCH AS FUNERAL EXPENSES, FOOD, CLOTHING, SHELTER, TRANSPORTATION, ETC.

IN REVIEWING THE ALASKA STATUTES ON BINGO, WE FOUND THAT THE CURRENT LAW PROHIBITS ANY OF OUR NON-PROFIT CORPORATIONS FROM APPLYING FOR A BINGO LICENSE. THE ALASKA STATUTES (A.S. 05.15.210) AND THE ALASKA ADMINISTRATIVE CODE (15 AAC 105.010) ESTABLISH THE REQUIREMENTS FOR OBTAINING A PERMIT TO CONDUCT GAMES OF CHANCE AND CONTESTS OF SKILL. IN ORDER TO BE ELIGIBLE, ORGANIZATIONS MUST BE NOT-FOR-PROFIT AND MUST HAVE BEEN IN EXISTENCE CONTINUALLY FOR FIVE YEARS BEFORE SUBMITTING AN APPLICATION.

COOK INLET REGION, INC. ESTABLISHED TWO NON-PROFIT FOUNDATIONS AND ONE NON-PROFIT ORGANIZATION (COOK INLET TRIBAL COUNCIL) AND NONE WILL BECOME ELIGIBLE TO APPLY FOR A BINGO LICENSE UNTIL 1987. THIS APPEARS TO BE DISCRIMINATORY TO OUR NON-PROFIT ORGANIZATIONS AND ALASKA NATIVES, ESPECIALLY IN LIGHT OF RECENT COURT DECISIONS ON STATE RESIDENCY BEING REDUCED TO ONE YEAR.

SENATE BILL 404, RELATING TO GAMES OF CHANCE, INTRODUCED BY SENATOR JOSEPHSON, CALLS FOR A WAIVER OF THE FIVE YEAR RESIDENCY REQUIREMENT.

HOWEVER, THE PROPOSED AMENDMENT STILL DOES NOT ENABLE COOK INLET TRIBAL COUNCIL, THE CIRI FOUNDATION OR THE SOUTHCENTRAL FOUNDATION TO MEET THE PROPOSED REQUIREMENTS OF AS. 05.15.210(19) FOR A PERMIT SINCE THESE ORGANIZATIONS ARE ALL DISTINCT AND SEPARATE ENTITIES INCORPORATED UNDER THE LAWS OF ALASKA AND HAVE NOT BEEN IN EXISTENCE FOR FIVE YEARS OR MORE. NONE OF THESE ORGANIZATIONS, WHICH OPERATE IN THE GEOGRAPHICAL AREA OF COOK INLET REGION, HAVE AN ASSOCIATION WITH A QUALIFIED NON-PROFIT. WE DO HAVE A BUSINESS RELATIONSHIP WITH COOK INLET REGION, INC., BUT AS CIRI IS A PROFIT CORPORATION, IT DOES NOT MEET THE NON-PROFIT REQUIREMENT.

WE UNDERSTAND THE MERITS BEING INTRODUCED IN THE PROPOSED AMENDMENT WHICH ARE INTENDED TO GIVE SOME CREDIBILITY TO A NON-PROFIT ORGANIZATION IN EXISTENCE FOR LESS THAN FIVE YEARS; HOWEVER, WE STILL COULD NOT MEET THESE REQUIREMENTS.

INSTEAD, WE OFFER TWO ALTERNATIVES:

THE FIRST ONE WOULD BE TO CREATE SPECIAL LEGISLATION TO ALLOW ALASKA NATIVE NON-PROFIT ORGANIZATIONS TO APPLY FOR BINGO PERMITS AFTER HAVING BEEN IN EXISTENCE ONE YEAR. THE PRECEDENCE FOR SPECIAL LAWS FOR ALASKA NATIVE TRIBAL ORGANIZATIONS HAS ALREADY BEEN SET TO COVER ACTIVITIES SUCH AS PROXY SOLICITATIONS AND OTHER BUSINESS OPERATIONS.

THE SECOND ALTERNATIVE WE PROPOSE IS THAT A NON-PROFIT ORGANIZATION HAVING BEEN IN EXISTENCE CONTINUOUSLY FOR ONE YEAR AND WHO IS SEEKING TO APPLY FOR A BINGO LICENSE, BE SPONSORED BY A PROFIT OR NON-PROFIT ORGANIZATION THAT MEETS THE FIVE-YEAR REQUIREMENT. THIS WOULD MEAN THAT THE SPONSORING ORGANIZATION WOULD BE REQUIRED TO MAKE A STATEMENT CONCERNING ITS KNOWLEDGE OF THE APPLYING ORGANIZATIONS PURPOSES, GOVERNING BODY (BOARD OF DIRECTORS), MEMBERSHIP AND PROGRAMS, IF APPLICABLE. THIS WOULD SERVE TO ESTABLISH CREDIBILITY OF THE ONE-YEAR NON-PROFIT WITHOUT REQUIRING ANY KIND OF LEGAL RELATIONSHIP EXIST WITH THE FIVE-YEAR ORGANIZATIONS.

OF THE TWO PROPOSALS, WE PREFER THE FIRST ONE WHICH WOULD MEET OUR NEEDS AND IT WOULD NOT IMPOSE AN ADDITIONAL MONITORING BURDEN ON THE STATE SINCE THERE ARE NOT THAT MANY ALASKA NATIVE NON-PROFITS WHO WOULD BE APPLYING FOR AND OPERATING BINGO LICENSES.

WE, THEREFORE, SEEK YOUR SUPPORT TO CHANGE THE STATE REGULATIONS ON BINGO LICENSE AFTER BEING INCORPORATED FOR ONE YEAR AND WE URGE STRONGER ENFORCEMENT AND MONITORING OF BINGO OPERATIONS IN ALASKA.

THANK YOU, MR. CHAIRMAN.

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

While in Juneau
POUCH V
JUNEAU, ALASKA 99811



Senate

VICE CHAIRMAN
SENATE RESOURCES COMMITTEE
MEMBER
SENATE JUDICIARY COMMITTEE
WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
WESTERN CONFERENCE COUNCIL
OF STATE GOVERNMENTS

February 7, 1984

Senator Bill Ray, Chairman
Senate Judiciary Committee
Alaska State Legislature
Juneau, Alaska 99811

Re: SB 40, An Act relating to permits for
games of chance and contests of skill.

Dear Bill:

Obviously this legislation should be classified as "special interest", but I see nothing wrong with it.

In essence, the five year "existence" requirement may be waived by the Commissioner if he finds that the organization requesting the waiver is associated with an organization that does meet the five year requirement. Furthermore, the Commissioner has to find that the requesting organization will comply with the requirements pertaining to games of chance and contests of skill.

For example, let's assume the DAV hasn't existed in this state for five years as a veterans' organization. Further assume they want to conduct a game or contest under the auspices of the American Legion. The Commissioner would no doubt issue the appropriate waiver.

Very truly yours,

Robert H. Ziegler, Sr.

RHZ:1k

STATE OF ALASKA THE LEGISLATURE

POUCHY STATE CAPTIVE
BUREAU ALASKA 99511
1974 105 1887

LEGISLATIVE AFFAIRS AGENCY

M E M O R A D U M

March 1, 1984

SUBJECT: Exemption of Native org nizations
 from statutory requirements
 (CSSB 404 (Judiciary))

TO: Senator Bill Ray
 Chairman, Senate Judiciary Committee

FROM: Keith B. Levy *KBL*
 Legislative Counsel

Enclosed is a Judiciary Committee Substitute for HB 404, relating to permits for games of chance and contests of skill. At your request, I have included a provision exempting "Alaskan Native non-profit organizations" from the requirement that an organization be in existence for five years before it may apply for a permit to conduct certain gambling activities. This draft presents two significant problems, one statutory and one constitutional.

The first problem is that the term "Alaskan Native non-profit organization" is probably too vague for a court to determine which groups are subject to the exemption. It is not clear whether the term means that all of the organization's members must be Natives, or only some, or whether the leadership of the organization must be Native. For example, if a Native person and a non-Native person form a non-profit partnership, would the partnership be covered by the exemption? The vagueness of the term will make it difficult to enforce.

The second and perhaps more significant problem presented by this draft is that it singles out Native organizations for special treatment under the law. Such special treatment on the basis of race raises serious questions under the equal protection clauses of the state and federal constitutions as well as Article I, sec. 3 of the state constitution which provides

Senator Bill Ray
Page 2
March 1, 1984

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section.

The burden of proof the state must satisfy when it treats people differently on the basis of race is a "compelling state interest." Even under the less restrictive "rational basis" test, however, the state would probably not be able to justify the exemption the bill creates for Alaskan Native organizations. There appears to be no rational connection between the Native exemption and the reasons for the five year requirement under the gambling laws.

Federal legislation that treats Natives favorably has been upheld against constitutional challenges, but this is because of the unique trust obligations which the Federal government owes to Natives. Morton v. Varconi, 417 U.S. 535 (1974). State governments do not have a special trust relationship with Natives which would justify special treatment along racial lines. Oklahoma Tax Commission v. United States, 519 U.S. 590 (1943); White v. Califano, 437 F.Supp 543 (1977). Therefore, the special exemption created for Alaskan Natives in this bill draft is probably unconstitutional.

KBL:cjb
J4/030

Enclosure

RECEIVED

Robert W. Rude
Senior Vice President

COOK INLET REGION, INC.

January 16, 1984

Senator Joe Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Josephson:

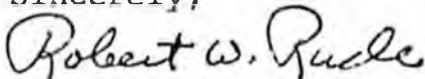
Reductions in federal funding for social needs of Alaska Natives has motivated Cook Inlet Region, Inc. (CIRI) to seek other sources of funding the social needs of our 6400 shareholders.

Revenue derived from bingo operations was identified as a secondary source of funding social needs of our shareholders. In reviewing the Alaska statutes on bingo, we found that the current law prohibits any of our non-profit corporations from applying for a bingo license. The Alaska Statutes (A.S. 05.15.210) and the Alaska Administrative Code (15 AAC 105.010) establish the requirements for obtaining a permit to conduct games of chance and contests of skill. In order to be eligible, organizations must be not-for-profit and must have been in existence continually for five years before submitting an application.

The three non-profit foundations established by CIRI do not become eligible to apply for bingo licenses until 1987. We believe this is discriminatory to our non-profit organizations and Native people, especially in light of recent court decisions on State residency being reduced to one year.

We, therefore, seek your support to change the State regulations on bingo license after being incorporated for one year and we urge stronger enforcement and monitoring of bingo operations in Alaska. I am attaching a copy of testimony submitted by the Cook Inlet Native Association that would achieve that goal.

Sincerely,



Robert W. Rude
Senior Vice President, CIRI
President, Cook Inlet Tribal Council, Inc.

CIRI

COOK INLET REGION, INC.

February 14, 1984

The Honorable Joe P. Josephson
Alaska State Senate
Pouch V
Juneau, Alaska 99811

*Mr. Rude
272-7529*

Dear Senator Josephson:

Thank you for your prompt response and draft of a proposed amendment to waive the five-year existence requirement for non-profit organizations eligibility for a bingo permit.

However, the proposed amendment still does not enable Cook Inlet Tribal Council, The CIRI Foundation or the Southcentral Foundation to meet the proposed requirements of AS 05.15.210(19) for a permit since these organizations are all distinct and separate entities incorporated under the laws of Alaska and have not been in existence for five years or more. None of these organizations, which operate in the geographical area of Cook Inlet Region, have an association with a qualified non-profit. We do have a business relationship with Cook Inlet Region, Inc., but as CIRI is a profit corporation, it does not meet the non-profit requirement.

We understand the merits being introduced in the proposed amendment which are intended to give some credibility to a non-profit organization in existence for less than five years; however, we still could not meet these requirements.

Instead, we offer two alternatives. The first one would be to create special legislation to allow Alaska Native non-profit organizations to apply for bingo permits after having been in existence one year. The precedence for special laws for Alaska Native tribal organizations has already been set to cover activities such as proxy campaigns and other business operations.

The second alternative we propose is that a non-profit organization having been in existence continuously for one year and who is seeking to apply for a bingo license, be sponsored by a profit or non-profit organization that meets the five-year requirement. This would mean that the sponsoring organization would be required to make a statement concerning its knowledge of the applying organization's purposes, governing body (board of directors), membership and programs, if applicable. This would serve to establish credibility of the one-year non-profit without requiring any kind of legal relationship exist with the five-year organization.

The Honorable Joe P. Josephson

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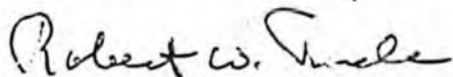
February 14, 1984

Of the two proposals we prefer the first one which would meet our needs and it would not impose an additional monitoring burden on the State since there are not that many Alaska Native non-profits who would be applying for and operating bingo licenses.

Again, we appreciate your prompt attention to this matter. We will be available to work with you or your staff to develop appropriate wording for the proposed statute.

Sincerely,

COOK INLET REGION, INC.



Robert W. Rude
Senior Vice President

RWR:lw