

**SB**

**4**

*Waived from JFC  
5-20-91*

CS FOR SENATE BILL NO. 4 (JUDICIARY)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 5/8/91  
Referred: Finance

Sponsor(s): SENATORS ZHAROFF, Jones

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Alaska Gaming Commission; and providing for an effective date."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 \* Section 1. AS 05.15 is amended by adding new sections to read:

4 ARTICLE 4. ALASKA GAMING COMMISSION.

5 Sec. 05.15.300. ALASKA GAMING COMMISSION. (a) The Alaska Gaming  
6 Commission is established in the Department of Commerce and Economic Development. The  
7 commission is composed of five members appointed by the governor, subject to confirmation by  
8 the legislature.

9 (b) Each member of the commission shall at the time of the member's appointment be  
10 a resident of the state. One member shall be appointed from each of the four judicial districts  
11 of the state, and the fifth member may reside anywhere in the state.

12 (c) A person may not serve as a member of the commission if that person

13 (1) has been convicted of

14 (A) a felony; or

1 (B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a  
2 comparable provision of municipal, state, or federal law;

3 (2) holds an operator's license under AS 05.15.122 or a distributor's license under  
4 AS 05.15.183; or

5 (3) is an elected official of the state or of a political subdivision of the state.

6 (d) A person may not serve as a member of the commission until the investigation  
7 required under AS 18.65.080(b) is completed.

8 (e) The commission shall elect a chair from its membership.

9 (f) Three members of the commission constitute a quorum for the transaction of business.

10 Sec. 05.15.310. TERM OF OFFICE. (a) Members of the commission serve staggered  
11 terms of four years. A vacancy is filled by appointment for the unexpired term.

12 (b) A member may not serve for more than eight years.

13 Sec. 05.15.320. REMOVAL AND SUSPENSION OF MEMBERS. (a) The governor  
14 may remove a member for cause, including incompetence, neglect of duty, or misconduct in  
15 office. A member being removed for cause shall be given a copy of the charges and afforded  
16 an opportunity to publicly present a defense in person or by counsel upon not less than 10 days'  
17 notice. If a member is removed for cause, the governor shall file with the lieutenant governor  
18 a complete statement of all charges made against the member and the governor's findings based  
19 on the charges, together with a complete record of the proceedings.

20 (b) The governor may immediately suspend a member for a violation of law or for  
21 misconduct in office pending removal from office under (a) of this section.

22 Sec. 05.15.330. COMPENSATION AND PER DIEM. Members of the commission do  
23 not receive a salary for their service on the commission but are entitled to per diem and travel  
24 expenses authorized for state boards and commissions under AS 39.20.180.

25 Sec. 05.15.340. DUTIES AND POWERS OF THE COMMISSION. (a) The commission  
26 shall

27 (1) license, regulate, and supervise games of chance and contests of skill under  
28 this chapter;

29 (2) hire an executive director and other staff as needed to enforce and administer  
30 this chapter;

31 (3) meet at least once every three months; and

1 (4) adopt regulations necessary to carry out the provisions of this chapter.

2 (b) The commission may appoint a hearing officer to conduct a hearing required by this  
3 chapter or by a regulation adopted under it.

4 Sec. 05.15.350. EMPLOYEES OF THE COMMISSION. The executive director of the  
5 commission is in the partially exempt service under AS 39.25.120. Other employees of the  
6 commission are in the classified service under AS 39.25.100.

7 Sec. 05.15.360. REGULATIONS OF THE COMMISSION. The attorney general shall  
8 enforce the regulations of the commission.

9 Sec. 05.15.370. RECORDS OF THE COMMISSION. (a) Except as provided in (b) of  
10 this section, all records of the commission are public records and subject to public inspection.

11 (b) Records relating to audits and investigations by the commission, both ongoing and  
12 completed, are confidential, except for the audit report issued by the commission and records  
13 submitted as evidence in an administrative or judicial proceeding that results from an  
14 investigation.

15 Sec. 05.15.380. PROCEEDS. Fees and other money received by the commission shall  
16 be paid into the general fund.

17 Sec. 05.15.390. ADMINISTRATIVE PROCEDURE ACT. The operations of the  
18 commission are subject to the Administrative Procedure Act (AS 44.62).

19 Sec. 05.15.400. CONFLICT OF INTEREST ACT. The commission is subject to  
20 AS 39.50 (conflict of interest).

21 \* Sec. 2. AS 05.15.010 is repealed and reenacted to read:

22 Sec. 05.15.010. ALASKA GAMING COMMISSION TO ADMINISTER CHAPTER.  
23 The Alaska Gaming Commission shall administer this chapter.

24 \* Sec. 3. AS 05.15.100 is amended by adding a new subsection to read:

25 (d) The commissioner may not issue a permit or license under this chapter to a person  
26 who has, within one year preceding the person's application for a permit or license, been a  
27 member of the Alaska Gaming Commission established under AS 05.15.300.

28 \* Sec. 4. AS 05.15.112 is amended by adding a new subsection to read:

29 (e) A person may not serve as a member in charge if the person has, within the preceding  
30 one year, been a member of the Alaska Gaming Commission established under AS 05.15.300.

31 \* Sec. 5. AS 05.15.210(6) is repealed and reenacted to read:

1 (6) "commission" means the Alaska Gaming Commission;

2 \* Sec. 6. AS 11.66.280(2) is amended to read:

3 (2) "gambling" means that a person stakes or risks something of value upon the  
4 outcome of a contest of chance or a future contingent event not under the person's control or  
5 influence, upon an agreement or understanding that person or someone else will receive  
6 something of value in the event of a certain outcome; "gambling" does not include

7 (A) bona fide business transactions valid under the law of contracts for  
8 the purchase or sale at a future date of securities or commodities and agreements to  
9 compensate for loss caused by the happening of chance, including contracts of indemnity  
10 or guaranty and life, health, or accident insurance; [OR]

11 (B) playing an amusement device that

12 (i) confers only an immediate right of replay not  
13 exchangeable for something of value other than the privilege of immediate replay;  
14 and

15 (ii) does not contain a method or device by which the  
16 privilege of immediate replay may be cancelled or revoked; or

17 (C) an activity authorized [BY THE COMMISSIONER OF COMMERCE  
18 AND ECONOMIC DEVELOPMENT] under AS 05.15;

19 \* Sec. 7. AS 18.65.080 is amended by adding a new subsection to read:

20 (b) The Department of Public Safety shall investigate and ascertain whether a person  
21 appointed by the governor to serve as a member of the Alaska Gaming Commission has been  
22 convicted of a crime set out in AS 05.15.300(c).

23 \* Sec. 8. AS 39.25.120(c) is amended by adding a new paragraph to read:

24 (21) the executive director of the Alaska Gaming Commission.

25 \* Sec. 9. AS 39.50.200(b) is amended by adding a new paragraph to read:

26 (52) Alaska Gaming Commission (AS 05.15.300).

27 \* Sec. 10. AS 44.62.330(a) is amended by adding a new paragraph to read:

28 (57) Alaska Gaming Commission (AS 05.15.300).

29 \* Sec. 11. AS 44.66.010(a) is amended by adding a new paragraph to read:

30 (20) Alaska Gaming Commission (AS 05.15.300) -- June 30, 1995.

31 \* Sec. 12. AS 05.15.210(8) and AS 44.33.020(31) are repealed.

1 \* Sec. 13. INITIAL COMMISSION APPOINTMENTS. The governor shall make the initial  
2 appointment of members of the Alaska Gaming Commission within 120 days after the effective date of  
3 this Act. The governor shall set the terms of initial members so that two members serve terms of four  
4 years, one member serves a term of three years, one member serves a term of two years, and one  
5 member serves a term of one year.

6 \* Sec. 14. TRANSITION. (a) Regulations relating to games of chance and contests of skill, adopted  
7 by the Department of Revenue or the Department of Commerce and Economic Development under  
8 authority of AS 05.15 before July 1, 1991, and in effect on the effective date of this Act remain in effect  
9 until regulations relating to that function that are adopted by the Alaska Gaming Commission under  
10 AS 05.15 as amended by this Act, take effect. The Alaska Gaming Commission shall administer the  
11 Department of Revenue and the Department of Commerce and Economic Development regulations until  
12 its own take effect.

13 (b) Until the Alaska Gaming Commission is appointed, the Department of Commerce and  
14 Economic Development shall administer games of chance and contests of skill under AS 05.15 and under  
15 the regulations referred to in (a) of this section.

16 \* Sec. 15. IMPLEMENTATION OF LEGISLATION. To be consistent with the changes made by  
17 this legislation, wherever in AS 05.15 and in regulations adopted under those statutes "Department of  
18 Commerce and Economic Development," "department," or "commissioner" is used, they shall be read  
19 as referring to the Alaska Gaming Commission or commission when to do so would implement the  
20 purposes of this Act. Under AS 01.05.031, the revisor of statutes shall implement this section in the  
21 statutes, and, under AS 44.62.125(b)(6), the regulations attorney shall implement this section in the  
22 administrative regulations.

23 \* Sec. 16. This Act takes effect July 1, 1991.

FISCAL NOTE

No. 1

Bill Version: SR 4

(S) Publish Date: 4/17/91

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Department Affected: Commerce & Economic Dev.

Title: An Act establishing the Alaska  
Gaming Commission

BRU: Occupational Licensing

Component: Administration

Sponsor: Senator Zharoff

Requestor: Senator Zharoff

COMPONENT SERIAL NO. 

	3	5	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	289.1	289.1	289.1	289.1	289.1	289.1
TRAVEL	30.0	30.0	30.0	30.0	30.0	30.0
CONTRACTUAL	25.0	25.0	25.0	25.0	25.0	25.0
SUPPLIES	5.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	50.0	5.0	5.0	5.0	5.0	5.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>399.1</b>	<b>352.1</b>	<b>352.1</b>	<b>352.1</b>	<b>352.1</b>	<b>352.1</b>

CAPITAL						
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REVENUE	75.0	100.0	100.0	100.0	100.0	100.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND *	399.1	352.1	352.1	352.1	352.1	352.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>399.1</b>	<b>352.1</b>	<b>352.1</b>	<b>352.1</b>	<b>352.1</b>	<b>352.1</b>

\*Funding source is General Fund in bill as proposed.

POSITIONS:

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

Changes in CS 564 (4 C)  
reflect NO FISCAL CHANGE from the original  
fiscal note. This fiscal note is appropriate.

Estimate of current year impact: -0-

3-16-91 RMH  
date Comte Aide (initial)

ANALYSIS: (Attach a separate page if necessary.)

The CS has no change to operating Funding, Expenditures or Revenue.

Prepared By: John N. Hansen, Jr., Gaming Program Manager Phone: 465-2581

Division: Occupational Licensing Date: \_\_\_\_\_

Approved by Commissioner: Glenn A. Olds

Agency: Department of Commerce & Economic Development Date: 4-11-91

Distribution (by preparer): Legislative Changes in CS 564 (2 sub) have no fiscal impact. This fiscal note is appropriate. VB, & Impacted Agency(ies).

FISCAL NOTE ATTACHMENT - SB 4

EXPENDITURES AND REVENUES

This program was transferred from the Department of Revenue to the Department of Commerce and Economic Development effective July 1, 1989 through Executive Order #74. The total number of employees that transferred with the program was five: one Auditor and one Investigator located in Anchorage, one Auditor, one Tax Examiner and one Clerk Typist located in Juneau. Since that time, the following new positions have been filled: a Gaming Program Manager located in Juneau, one Investigator located in Fairbanks, a Chief of Gaming Compliance located in Anchorage, and a Licensing Examiner located in Juneau.

The bill establishes a five-member Alaska Gaming Commission giving it the authority to license, regulate and enforce gaming statutes and regulations.

Charitable gaming activity in the state has rapidly grown beyond the capacity of the current staff, especially in the area of audits and investigations. Presently, the gaming program has only two investigators which is woefully inadequate given the number of permittees and the geographical size of the state. While the two auditors may conduct desk audits at their workstations and obtain documentation by way of correspondence, the number of audits that can be accomplished during the year is limited by the growing number of permittees, operators and distributors. We are, therefore, submitting a fiscal note requesting funding for an additional investigator and auditor. Also contained in the fiscal note is a request for funding of an Executive Director (based on our recommendation in the bill analysis), a Secretary to be utilized for Commission business and during their meeting(s), and a Records and Licensing Supervisor to oversee the licensing staff. We feel if this Commission is to effectively administer this program, they must be provided with the proper staff to do it. Without these positions, there is no reason to consider this legislation. You cannot accomplish the mandate of the law without being able to administer proper enforcement.

The \$399.1 required includes \$30.0 in travel to fund the cost of widespread travel to various communities and for Commission meetings quarterly, as well as \$50.0 to purchase the necessary workstations, computers and software. The required \$5.0 for equipment for FY 93 through FY 97 represents computer upgrades and programming. This is based on the assumption that charitable gaming will steadily increase as more and more charitable organizations search for other sources of revenue in light of other sources becoming less available.

With the additional auditor and investigator positions, we estimate that \$75.0 in additional revenue will be generated the first year. While the amount of funds generated is considerably less than projected costs, other gaming revenue sources will more than compensate for the difference. Additionally, with the amount of travel that will be required to effectively administer this program, the auditors and investigators can also use the opportunity to educate the licensees and strive towards voluntary compliance. During FY 91, the Gaming program generated \$1.6 million in revenue.

FISCAL NOTE ATTACHMENT  
SB 4

OPERATING EXPENDITURES

	<u>Position</u>	<u>Range</u>	<u>Cost</u>	<u>Subtotal</u>
<u>Personal Services:</u>				
	Executive Director	26	\$90.1	
	Investigator III	18	\$56.4	
	Auditor III	18	\$56.4	
	Records and Licensing Supervisor	16	\$50.0	
	Secretary I	10	\$36.2	
				\$289.1
<u>Travel:</u>				
	Five-Commission Members		\$15.0	
	Executive Director		\$ 5.0	
	Investigator		\$ 5.0	
	Auditor III		\$ 5.0	
				\$ 30.0
<u>Contractual:</u>				
	Lease Space			\$ 20.0
	Public Notices, Printing and Postage			\$ 5.0
<u>Supplies:</u>				
	Executive Director		\$ 1.0	
	Investigator III		\$ 1.0	
	Auditor III		\$ 1.0	
	Licensing Supervisor		\$ 1.0	
	Secretary		\$ 1.0	
				\$ 5.0
<u>Equipment:</u>				
	Executive Director		\$10.0	
	Investigator III		\$10.0	
	Auditor III		\$10.0	
	Licensing Supervisor		\$10.0	
	Secretary I		\$10.0	
				\$ 50.0
	<b>TOTAL COST</b>			<b>\$399.1</b>

Travel for the commissioners is based on the assumption that they will meet on a quarterly basis.

Equipment represents the cost for a workstation and computer.

Lease Space is for locating the Gaming staff into their own office space. Currently located in Occupational Licensing on the 9th floor of the State Office in 450 sq. ft., this space is inadequate for current needs and, with the increase demand with the commission, new space is a requirement.

REQUEST FOR NEW HIRE

POSITION TITLE: Executive Director  
RANGE/STEP: 26a  
SERVICE: Partially Exempt  
TYPE OF POSITION: PFT  
STAFF MONTHS: 12 Months

TYPE OF EXPENDITURE:

PERSONAL SERVICES:

Salary: \$67.8  
Benefits \$22.3

Total Personal Services: \$ 90.1

TRAVEL: \$ 5.0  
COMMODITIES:\* \$ 1.0  
EQUIPMENT: \$10.0

Total Cost \$106.1

FUNDING SOURCE:

Funding source is general fund \$106.1

POSITION DUTIES:

- o Implement the policies and procedures of the Alaska Gaming Commission.

IMPACT TO DIVISION/PROGRAM IF POSITION IS NOT FILLED:

The policies and procedures of the Alaska Gaming Commission will not be readily implemented.

REQUEST FOR NEW HIRE

POSITION TITLE: Investigator III  
RANGE/STEP: 18a  
SERVICE: Classified  
TYPE OF POSITION: PFT  
STAFF MONTHS: 12 Months

TYPE OF EXPENDITURE:

PERSONAL SERVICES:

Salary: \$40.5  
Benefits \$15.9

Total Personal Services: \$56.4

TRAVEL: \$ 5.0  
COMMODITIES: \$ 1.0  
EQUIPMENT: \$10.0

Total Cost \$72.4

FUNDING SOURCE:

Funding source is general fund \$72.4

POSITION DUTIES:

- o Conduct investigations of permit or license violations and complaints.
- o Conduct inspections of premises, observe gaming activity to ensure compliance with statutes and regulations.
- o Issue Notices of Violations when appropriate and necessary.
- o Educate the participants with regard to statutes and regulations.
- o Assist the participants by providing the correct forms, and answering inquiries.
- o Occasionally assist the auditor(s) in gathering information/documentation.

IMPACT TO DIVISION/PROGRAM IF POSITION IS NOT FILLED:

Because of the numerous number of permittees and licensees, the expanse of the state, and the limited funding for travel purposes, many complaints and/or allegations could not be investigated.

REQUEST FOR NEW HIRE

POSITION TITLE: Auditor III  
RANGE/STEP: 18a  
SERVICE: Classified  
TYPE OF POSITION: PFT  
STAFF MONTHS: 12 Months

TYPE OF EXPENDITURE:

PERSONAL-SERVICES:

Salary: \$40.5  
Benefits \$15.9

Total Personal Services: \$56.4

TRAVEL: \$ 5.0  
COMMODITIES: \$ 1.0  
EQUIPMENT: \$10.0

Total Cost \$72.4

FUNDING SOURCE:

Funding source is general fund \$72.4

POSITION DUTIES:

- o Plan, organize and complete audits of permittees, operators and distributors.
- o Provide technical assistance to permittees, operators and distributors.
- o Provide information to inquiring persons regarding statutes and regulations.
- o Assist the investigator(s) when necessary.

IMPACT TO DIVISION/PROGRAM IF POSITION IS NOT FILLED:

Because of the numerous number of permittees and licensees, the expanse of the state, and the limited funding for travel purposes, many audits could not be done.

## REQUEST FOR NEW HIRE

POSITION TITLE: Records and Licensing Supervisor  
RANGE/STEP: 16a  
SERVICE: Classified  
TYPE OF POSITION: PFT  
STAFF MONTHS: 12 Months

### TYPE OF EXPENDITURE:

#### PERSONAL SERVICES:

Salary:	\$35.5
Benefits	\$14.5

Total Personal Services:	\$50.0
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COMMODITIES:	\$ 1.0
EQUIPMENT:	\$10.0

Total Cost	\$61.0
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#### FUNDING SOURCE:

Funding source is general fund	\$61.0
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### POSITION DUTIES:

- o Supervise and monitor the licensing of permittees, operators and distributors.
- o Direct and guide procedures for actual issuance of permits and licenses and computer entry of same. Responsible for the overall recording and establishment of the licensing record and maintenance of these records.
- o Provide information to the public and organizations regarding application of statutes, regulations and policies.
- o Responsible for form control and review of public handouts and applications to ensure proper format and content.

### IMPACT TO DIVISION/PROGRAM IF POSITION IS NOT FILLED:

Responsibility for the day-to-day operations will be shouldered by either the Gaming Program Manager or the Executive Director.

REQUEST FOR NEW HIRE

POSITION TITLE: Secretary I  
RANGE/STEP: 10b  
SERVICE: Classified  
TYPE OF POSITION: PFT  
STAFF MONTHS: 12 Months

TYPE OF EXPENDITURE:

PERSONAL SERVICES:

Salary: \$24.6  
Benefits \$11.6

Total Personal Services: \$36.2

COMMODITIES: \$ 1.0  
EQUIPMENT: \$10.0

Total Cost \$47.2

FUNDING SOURCE:

Funding source is general fund \$47.2

POSITION DUTIES:

- o Open and process incoming applications, financial statements and correspondence.
- o Responsible for maintaining records/files for the Executive Director and Commission members.
- o Responsible for arrangement of transportation and accommodations of the entire staff. Make arrangements for meetings and notify the participants.
- o Responsible for transcribing minutes of meetings and distributing the written records to the appropriate parties.

IMPACT TO DIVISION/PROGRAM IF POSITION IS NOT FILLED:

These duties would have to be fulfilled by a current staff member. The current staff is already overburdened, and the quality and quantity of work would decline.