

HB

509

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 509(L&C)
 (H) Publish Date: 2/24/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Alaska Gaming Commission RDU Revenue Programs & Services
 Component Tax Division
 Sponsor Representative Kott
 Requester: House Labor & Commerce Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	616.0	616.0	616.0	616.0	616.0	616.0
Travel	39.0	39.0	39.0	39.0	39.0	39.0
Contractual	35.8	35.8	35.8	35.8	35.8	35.8
Supplies	8.0	8.0	8.0	8.0	8.0	8.0
Equipment	8.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	707.3	698.8	698.8	698.8	698.8	698.8

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	159.0	150.5	150.5	150.5	150.5	150.5
1005 GF/Program Receipts	548.3	548.3	548.3	548.3	548.3	548.3
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	707.3	698.8	698.8	698.8	698.8	698.8

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	8	8	8	8	8	8
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Meyers Phone 269-6620
 Division Tax Division Date/Time 2/23/04 2:03 PM
 Approved by: _____ Date 2/23/2004
 Agency Department of Revenue

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 509(L&C)

ANALYSIS CONTINUATION

The proposed legislation provides for the transfer of the current charitable gaming program to a newly formed Alaska Gaming Commission in the Department of Revenue. The Gaming Commission consists of seven members appointed by the governor. The commissioners do not receive a salary but they are required to meet quarterly and receive per diem and travel expenses. The Commission is required to hire an executive director to oversee the program.

The fiscal note identifies the costs associated with administering the current charitable gaming unit, plus the costs associated with the Commission and the hiring of an executive director. Funding for the current charitable gaming unit falls within the Tax Division and consists of \$548.3 of General Fund Program Receipts reflected in this note and is contained in the Governor's FY 2005 Budget. It is anticipated that these funds will be made available to the Alaska Gaming Commission to administer the program.

The legislation creates a state gaming fund in the general fund. It also requires that the commission shall have an audit of the books and accounts of the commission performed at least once a year by certified public accountants. The charitable gaming unit has not had this audit requirement in the past and it is estimated that the cost will be \$25,000 and are reflected in contractual.

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ANALYSIS: (Attach a separate page if necessary)

Prepared by: Larry Meyers Phone 269-6620
Division Tax Division Date/Time 2/23/04 2:03 PM
Approved by: _____ Date 2/23/2004
Agency Department of Revenue

FISCAL NOTE #1

STATE OF ALASKA
2004 LEGISLATIVE SESSION

BILL NO. CSHB 509(L&C)

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The proposed legislation provides for the transfer of the current charitable gaming program to a newly formed Alaska Gaming Commission in the Department of Revenue. The Gaming Commission consists of seven members appointed by the governor. The commissioners do not receive a salary but they are required to meet quarterly and receive per diem and travel expenses. The Commission is required to hire an executive director to oversee the program.

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2004 HOUSE FINANCE COMMITTEE VOTE SHEET

CS HB 509
Version U

DATE: 3.4.04

Amendment: _____

MEMBER	Favor	Oppose
MEYER		
MOSES	X	
STOLTZE		X
CHENAULT	X	
CROFT	X	
FATE	X	
FOSTER	X	
HAWKER	X	
JOULE	X	
HARRIS	X	
WILLIAMS	X	

Yea 9

Nay 1

Adopted
2.25.04

23-LS1768\S.1
Luckhaupt
2/25/04

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 509(), Draft Version "S"

1 Page 4, line 31:

2 Delete "and other employees of the commission are"

3 Insert "is"

4

5 Page 8, line 25, through page 9, line 4:

6 Delete all material and insert:

7 "* Sec. 7. AS 39.25.110 is amended by adding a new paragraph to read:

8 (40) the executive director of the Alaska Gaming Commission."

23-LS1768\S
Luckhaupt
2/25/04

2.25.04

CS FOR HOUSE BILL NO. 509()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to establishing the Alaska Gaming Commission."**

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

3 *** Section 1. AS 04.11.370(c) is amended to read:**

4 (c) If the board receives notice from the Alaska Gaming Commission
5 [DEPARTMENT OF REVENUE] that a licensee or permittee has violated a provision
6 of AS 05.15 related to gambling, the board

7 (1) may suspend the license or permit; and

8 (2) shall suspend the license or permit for a period of at least 30 days if
9 the offense is the person's second or subsequent violation of AS 05.15 related to
10 gambling.

11 *** Sec. 2. AS 05.15.010 is amended to read:**

12 **Sec. 05.15.010. Alaska Gaming Commission [DEPARTMENT OF**
13 **REVENUE] to administer chapter. The Alaska Gaming Commission in the**
14 **Department of Revenue shall administer this chapter.**

15 *** Sec. 3. AS 05.15.690 is amended by adding a new paragraph to read:**

1 (46) "commissioner" means the Alaska Gaming Commission.

2 * Sec. 4. AS 05 is amended by adding a new chapter to read:

3 **Chapter 18. Alaska Gaming Commission.**

4 **Article 1. Administration.**

5 **Sec. 05.18.010. Creation of commission.** (a) The Alaska Gaming
6 Commission is established for the purpose of generating revenue for the state and
7 regulating gaming activities in the state. The commission is established in the
8 Department of Revenue. The commission consists of seven members appointed by the
9 governor, subject to confirmation by the legislature. One member shall be appointed
10 from each of the four judicial districts of the state. Three members shall be at-large
11 members. Not more than three of the seven members may be members of the same
12 political affiliation or party. One member of the commission must have at least five
13 years' experience in law enforcement, and one member must be a certified public
14 accountant. The members of the commission shall elect one member to serve as chair
15 of the commission.

16 (b) Members serve staggered terms of three years. A member may be
17 reappointed but may not serve for more than six years.

18 (c) A member of the commission does not receive a salary for service on the
19 commission but is entitled to per diem and travel expenses authorized for members of
20 boards and commissions under AS 39.20.180.

21 (d) A member of the commission may not have a pecuniary interest in a
22 contract or agreement entered into by the commission.

23 (e) A person may not serve as a member of the commission if that person

24 (1) has been convicted of

25 (A) a felony; or

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

28 (2) is an elected official of the state or of a political subdivision of the
29 state;

30 new : (3) holds a license, permit, or registration under AS 05.15; or

31 new : (4) holds a license or permit under AS 04.11.

1 (f) A person may not serve as a member of the commission until the
2 investigation required under AS 18.65.080(b) is completed.

3 (g) Four members of the commission constitute a quorum for the transaction of
4 business.

5 (h) The governor may remove a member for cause, including incompetence,
6 neglect of duty, or misconduct in office. A member being removed for cause shall be
7 given a copy of the charges and afforded an opportunity to publicly present a defense in
8 person or by counsel upon not less than 10 days' notice. If a member is removed for
9 cause, the governor shall file with the lieutenant governor a complete statement of all
10 charges made against the member and the governor's findings based on the charges,
11 together with a complete record of the proceedings.

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

14 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
15 the call of the chair, at the request of a majority of the members, or at a regularly
16 scheduled time set by the commission.

17 (b) An action of the commission is not binding unless taken at a meeting
18 where four or more of the members are present and vote in favor of the action.

19 **Sec. 05.18.030. Duties and powers of commission** (a) The commission
20 shall

21 (1) enter into contracts and agreements necessary to carry out the
22 provisions of this chapter;

23 (2) adopt regulations necessary to carry out the provisions of this
24 chapter;

25 (3) administer, regulate, and enforce the charitable gaming laws under
26 AS 05.15;

27 (4) recommend policy direction for the operation and administration of
28 gaming activities in Alaska;

29 (5) report to the governor and the legislature each quarter on the
30 gaming activities authorized and on the total revenue, prize disbursement, and other
31 expenses for the preceding quarter;

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(6) report to the governor and the legislature each year on authorized gaming activities, including a full and complete statement of revenue, prize disbursement, and other expenses, and recommendations for changes in this chapter;

(7) report to the governor and the legislature as frequently as the commission determines necessary on conclusions from the analysis of the reaction of state residents to gaming activities, and on matters that require changes in the law to prevent violations or evasions of this chapter or to correct undesirable conditions in connection with the operation or administration of gaming activities;

(8) monitor the operation of gaming throughout the state; and

(9) study and investigate the operation and administration of gaming laws of other states and of federal laws that affect gaming activities.

(b) The commission may participate with other states in multi-state gaming activities if permitted by the legislature.

Sec. 05.18.040. Regulations. The commission shall adopt regulations under AS 44.62 (Administrative Procedure Act) to establish

(1) the types of gaming activities to be conducted if those activities are permitted under AS 05.18.100;

(2) the places and locations where gaming activities may be conducted; and

(3) all matters necessary or desirable to carry out this chapter and AS 05.15, to operate gaming activities efficiently and economically, and to make the participation in gaming activities and the distribution of prizes convenient.

Sec. 05.18.050. Executive director and employees. (a) The commission shall employ an executive director who is qualified by training and experience to conduct the day-to-day work of the commission. The director may not engage in another profession or occupation.

(b) Subject to the approval of the commission, the director may appoint deputies required to carry out the functions and duties of the commission. The director may appoint professional, technical, and clerical employees necessary to perform the duties of the commission.

Amendment #1 (c) The director ^{is} ~~and other employees of the commission are~~ in the exempt

1 service under AS 39.25.110.

2 (d) The commission may not employ a person who has been convicted,
3 including conviction based on a guilty plea or plea of nolo contendere, of an offense
4 that disqualifies a person from being a member of the commission.

5 **Sec. 05.18.060. Duties of director.** The director shall

- 6 (1) supervise the operation and administration of gaming activities;
7 (2) act as secretary to the commission;
8 (3) contract with agents and contractors to engage in or conduct or
9 operate gaming activities;
10 (4) meet at least quarterly with the commission on the operation and
11 administration of gaming activities;
12 (5) make available for inspection by the commission, upon request, all
13 books, records, files, and other information and documents of the commission;
14 (6) advise the commission and make recommendations to improve the
15 operation and administration of gaming in the state;
16 (7) suspend or revoke a contract issued under this chapter for a
17 violation of this chapter or the regulations adopted under this chapter;
18 (8) subject to the approval of the commission, enter into contracts for
19 the operation and administration of gaming activities, except that agent contracts are
20 not subject to the approval of the commission;
21 (9) provide each month to the commission a full and complete
22 statement of the revenue, prize disbursements, and other expenses for the preceding
23 month; and
24 (10) administer and enforce the charitable gaming laws in AS 05.15.

25 **Sec. 05.18.070. Subpoenas.** (a) The director or the commission may
26 subpoena witnesses and documents in a matter over which the commission has
27 jurisdiction, control, or supervision. The director or the commission may administer
28 oaths and affirmations to persons whose testimony is required.

29 (b) If a person fails to obey a subpoena, or if a person refuses to answer a
30 relevant question or to exhibit a document when ordered to do so by the director or the
31 commission, the director or the commission may apply to the superior court for an

1 order directing the person to comply with the subpoena or the order. The court may
2 order the person to comply.

3 **Article 2. Gaming Activities.**

4 **Sec. 05.18.100. Gaming activities.** The commission may not authorize a
5 gaming activity unless that activity is authorized by the legislature in this section. The
6 commission may not authorize a charitable gaming activity unless that activity is
7 authorized under AS 05.15.

8 **Article 3. Miscellaneous Provisions.**

9 **Sec. 05.18.300. State gaming fund and appropriations.** There is created in
10 the general fund the state gaming fund. The state gaming fund consists of all revenue
11 received from gaming activities and all other money credited or transferred to the fund
12 from another fund or source.

13 **Sec. 05.18.310. Audit.** The commission shall have an audit of the books and
14 accounts of the commission performed at least once in each year by certified public
15 accountants. The Legislative Budget and Audit Committee shall annually perform
16 post-audits of the commission and report to the legislature. The commission may have
17 special audits performed at any time on its own motion or at the request of the
18 director. The commission shall file a copy of each audit with the commissioner of
19 revenue and the legislature.

20 **Sec. 05.18.320. Prohibited acts.** (a) A person may not

21 (1) knowingly act as an agent or sell a gaming product unless the
22 person has a contract with the commission to be an agent, or is an employee of an
23 agent and sells gaming products or awards gaming prizes under the supervision of the
24 agent;

25 (2) knowingly sell a gaming product at a price greater than that fixed
26 by the commission;

27 (3) knowingly sell or offer to sell a gaming product to a person under
28 21 years of age;

29 (4) knowingly present a counterfeit or altered gaming product for
30 payment or transfer a counterfeit or altered gaming product to another person to
31 present for payment;

1 (5) with intent to defraud, falsely make, alter, forge, utter, pass or
2 counterfeit a gaming product; or

3 (6) impersonate a representative of the commission.

4 (b) A contractor, an agent, the governor, or an officer or employee of the
5 commission may not purchase a gaming product, receive a gaming prize, or participate
6 in a gaming activity.

7 (c) An agent or contractor may not knowingly withhold funds owed to the
8 commission.

9 (d) This section does not prohibit a person from giving a gaming product to
10 another person of any age.

11 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

12 **Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract
13 under this chapter may not assign the contract without the approval of the commission.

14 **Sec. 05.18.340. Penalty.** A person that violates AS 05.18.320 or 05.18.330 is
15 guilty of a class C felony.

16 **Sec. 05.18.350. Statement of odds.** Each gaming product must indicate the
17 odds of winning a prize in the particular gaming activity represented by the product.

18 **Article 4. General Provisions.**

19 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
20 otherwise,

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

22 (2) "director" means the executive director of the commission;

23 (3) "gaming product" means a ticket, receipt, card, or other item,
24 except a prize, received by a person from an agent or an employee of an agent as
25 evidence of participation in a gaming activity under this chapter;

26 (4) "operation and administration" includes accounting, sales,
27 promotion, and security;

28 (5) "person" has the meaning given in AS 01.10.060 and also includes
29 an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or
30 representative capacity, whether appointed by a court or otherwise, and a department,
31 commission, agency, or instrumentality of the state, including a municipality and an

1 agency or instrumentality of a municipality.

2 * Sec. 5. AS 11.66.280(2) is amended to read:

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

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

13 (B) playing an amusement device that

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

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

19 (C) an activity authorized by the Alaska Gaming Commission
20 [DEPARTMENT OF REVENUE] under AS 05.15 or AS 05.18;

21 * Sec. 6. AS 18.65.080 is amended by adding a new subsection to read:

22 (b) The Department of Public Safety shall investigate and ascertain whether a
23 person appointed by the governor to serve as a member of the Alaska Gaming
24 Commission has been convicted of a crime set out in AS 05.18.010(e).

25 * Sec. 7. AS 39.25.110(11) is ~~amended to read:~~ *Amendment # 1*

26 (11) ~~the officers and employees of the following boards, commissions,~~
27 ~~and authorities:~~

28 (A) ~~[REPEALED]~~

29 (B) ~~Alaska Permanent Fund Corporation;~~

30 ~~(C) Alaska Industrial Development and Export Authority;~~ *long way*

31 ~~(D) Alaska Commercial Fisheries Entry Commission;~~

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- ~~(D) [(E)] Alaska Commission on Postsecondary Education;~~
- ~~(E) [(F)] Alaska Aerospace Development Corporation;~~
- ~~(F) [(G)] Alaska Natural Gas Development Authority;~~
- (G) Alaska Gaming Commission;

* Sec. 8. AS 39.50.200(b) is amended by adding a new paragraph to read:

(58) Alaska Gaming Commission (AS 05.18).

* Sec. 9. AS 05.15.690(9) is repealed.

* Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to read:

REVISOR INSTRUCTION. The revisor of statutes is instructed to change references to the "commissioner" and "department" in AS 05.15 to "commission" unless it is clear from the context that "commissioner" refers to a commissioner other than the commissioner of revenue and "department" refers to a department other than the Department of Revenue.

L

Alaska State Legislature

Session: (Jan-May)
State Capitol, Room 208
Juneau, AK 99801-1182
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Fax (907) 465-2819



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Pete Kott
Speaker of the House

Sponsor Statement

HB 509

"An Act relating to establishing the Alaska Gaming Commission."

House Bill 509 establishes the Alaska Gaming Commission in statute. The Alaska Gaming Commission will regulate all forms of gaming activity in Alaska. This includes current forms, and additional forms that may be authorized by the legislature under AS 15.15.100.

Gaming activity currently allowed in AS 05.15.100 includes bingo, raffles, lotteries, pull-tab games, "classic" fish derbies and contests of skill. If, sometime in the future, additional forms of gaming become legal in Alaska, it will be critical that appropriate regulatory oversight be in place.

The goal of HB 509 is to put the regulatory framework in place by establishing the Alaska Gaming Commission within the Department of Revenue. This bill establishes parameters for a seven-member commission appointed by the governor and confirmed by the legislature. The bill clearly specifies commission make-up, qualifications for commissioners, meeting times, and powers and duties.

HB 509 makes it clear that the commission may not authorize a charitable gaming activity unless that activity is authorized under AS 05.15. This bill only gives the commission tools necessary to administer gaming once the legislature and governor adopt activity into law.

We respectfully request the committee consider to HB 509 and passes it from committee.

Adopted
3.4.04

23-LS1768\U.1
Luckhaupt
3/4/04

AMENDMENT |

OFFERED IN THE HOUSE

TO: CSHB 509(), Draft Version "U"

Adopted FIN
CS
Work Draft U

and
Am 1
Am 2

- 1 Page 3, following line 25:
- 2 Insert a new subsection to read:
- 3 "(c) The voting members of the commission may exclude the ex officio members
- 4 from executive sessions otherwise permitted by law."

Adopted
3.4.04

23-LS1768U.2
Luckhaupt
3/4/04

AMENDMENT

2

OFFERED IN THE HOUSE

TO: CSHB 509(), Draft Version "U"

- 1 Page 6, line 5, following "if":
- 2 Insert "that participation and those activities are"

Adopted
3.4.04

23-LS1768\U
Luckhaupt
3/3/04

CS FOR HOUSE BILL NO. 509()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

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

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4 (c) If the board receives notice from the Alaska Gaming Commission
5 [DEPARTMENT OF REVENUE] that a licensee or permittee has violated a provision
6 of AS 05.15 related to gambling, the board

7 (1) may suspend the license or permit; and

8 (2) shall suspend the license or permit for a period of at least 30 days if
9 the offense is the person's second or subsequent violation of AS 05.15 related to
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12 Sec. 05.15.010. Alaska Gaming Commission [DEPARTMENT OF
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15 * Sec. 3. AS 05.15.690 is amended by adding a new paragraph to read:

1 (46) "commission" means the Alaska Gaming Commission.

2 * Sec. 4. AS 05 is amended by adding a new chapter to read:

3 **Chapter 18. Alaska Gaming Commission.**

4 **Article 1. Administration.**

5 **Sec. 05.18.010. Creation of commission.** (a) The Alaska Gaming
6 Commission is established for the purposes of generating revenue for the state and
7 regulating gaming activities in the state. The commission is established in the
8 Department of Revenue. The commission consists of five voting members and two
9 exofficio nonvoting members appointed by the governor, subject to confirmation by
10 the legislature. One voting member shall be appointed from each of the four judicial
11 districts of the state. One voting member shall be an at-large member. Not more than
12 three of the seven members may be members of the same political affiliation or party.
13 One voting member of the commission must have at least five years' experience in law
14 enforcement and one voting member must be a certified public accountant. One
15 exofficio member of the commission must hold a permit or license under AS 05.15
16 and one exofficio member must hold a license or permit under AS 04.11. The voting
17 members of the commission shall elect one voting member to serve as chair of the
18 commission.

19 (b) The voting members serve staggered terms of three years. The exofficio
20 members serve nonstaggered three-year terms. A member may be reappointed but
21 may not serve for more than six years.

22 (c) A member of the commission does not receive a salary for service on the
23 commission but is entitled to per diem and travel expenses authorized for members of
24 boards and commissions under AS 39.20.180.

25 (d) A member of the commission may not have a pecuniary interest in a
26 contract or agreement entered into by the commission.

27 (e) A person may not serve as a voting member of the commission if that person

28 (1) has been convicted of

29 (A) a felony; or

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

1 (2) is an elected official of the state or of a political subdivision of the
2 state;

3 (3) holds a license, permit, or registration under AS 05.15; or

4 (4) holds a license or permit under AS 04.11.

5 (f) a person may not serve as an exofficio member of the commission if that
6 person has been convicted of a crime listed in (e)(1) of this section or is an elected
7 official of the state or of a political subdivision of the state.

8 (g) A person may not serve as a member of the commission until the
9 investigation required under AS 18.65.080(b) is completed.

10 (h) Three voting members of the commission constitute a quorum for the
11 transaction of business.

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

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

21 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
22 the call of the chair, at the request of a majority of the voting members, or at a
23 regularly scheduled time set by the commission.

24 (b) An action of the commission is not binding unless taken at a meeting
25 where three or more of the voting members are present and vote in favor of the action.

26 **Sec. 05.18.030. Duties and powers of commission.** The commission shall

27 (1) ente. into contracts and agreements necessary to carry out the
28 provisions of this chapter;

29 (2) adopt regulations necessary to carry out the provisions of this
30 chapter;

31 (3) administer, regulate, and enforce the charitable gaming laws under

1 AS 05.15;

2 (4) recommend policy direction for the operation and administration of
3 gaming activities in Alaska;

4 (5) report to the governor and the legislature each quarter on the
5 gaming activities authorized and on the total revenue, prize disbursement, and other
6 expenses for the preceding quarter;

7 (6) report to the governor and the legislature each year on authorized
8 gaming activities, including a full and complete statement of revenue, prize
9 disbursement, and other expenses, and recommendations for changes in this chapter;

10 (7) report to the governor and the legislature as frequently as the
11 commission determines necessary on conclusions from the analysis of the reaction of
12 state residents to gaming activities, and on matters that require changes in the law to
13 prevent violations or evasions of this chapter or to correct undesirable conditions in
14 connection with the operation or administration of gaming activities;

15 (8) monitor the operation of gaming throughout the state; and

16 (9) study and investigate the operation and administration of gaming
17 laws of other states and of federal laws that affect gaming activities.

18 **Sec. 05.18.040. Regulations.** The commission shall adopt regulations under
19 AS 44.62 (Administrative Procedure Act) to establish

20 (1) the types of gaming activities to be conducted if those activities are
21 permitted under AS 05.18.100;

22 (2) the places and locations where gaming activities under this chapter
23 may be conducted; and

24 (3) all matters necessary or desirable to carry out this chapter to
25 operate gaming activities efficiently and economically, and to make the participation
26 in gaming activities and the distribution of prizes convenient.

27 **Sec. 05.18.050. Executive director and employees.** (a) The commission
28 shall employ an executive director who is qualified by training and experience to
29 conduct the day-to-day work of the commission. The director may not engage in
30 another profession or occupation.

31 (b) Subject to the approval of the commission, the director may appoint

1 deputies required to carry out the functions and duties of the commission. The
2 director may appoint professional, technical, and clerical employees necessary to
3 perform the duties of the commission.

4 (c) The director is in the exempt service under AS 39.25.110. ←

5 (d) The commission may not employ a person who has been convicted,
6 including conviction based on a guilty plea or plea of nolo contendere, of an offense
7 that disqualifies a person from being a member of the commission.

8 **Sec. 05.18.060. Duties of director.** The director shall ←

9 (1) supervise the operation and administration of gaming activities;

10 (2) act as secretary to the commission;

11 (3) meet at least quarterly with the commission on the operation and
12 administration of gaming activities;

13 (4) make available for inspection by the commission, upon request, all
14 books, records, files, and other information and documents of the commission;

15 (5) advise the commission and make recommendations to improve the
16 operation and administration of gaming in the state;

17 (6) suspend or revoke a contract issued under this chapter for a
18 violation of this chapter or the regulations adopted under this chapter;

19 (7) provide each month to the commission a full and complete
20 statement of the revenue, prize disbursements, and other expenses for the preceding
21 month; and

22 (8) administer and enforce the charitable gaming laws in AS 05.15.

23 **Sec. 05.18.070. Subpoenas.** (a) The director or the commission may
24 subpoena witnesses and documents in a matter over which the commission has
25 jurisdiction, control, or supervision. The director or the commission may administer
26 oaths and affirmations to persons whose testimony is required.

27 (b) If a person fails to obey a subpoena, or if a person refuses to answer a
28 relevant question or to exhibit a document when ordered to do so by the director or the
29 commission, the director or the commission may apply to the superior court for an
30 order directing the person to comply with the subpoena or the order. The court may
31 order the person to comply.

1 **Article 2. Gaming Activities.**

2 **Sec. 05.18.100. Gaming activities.** (a) The commission may not authorize a
3 gaming activity unless that activity is authorized by the legislature in this section.

4 (b) The commission may participate with other states in multi-state gaming
5 activities if permitted by the legislature.

6 **Article 3. Miscellaneous Provisions.**

7 **Sec. 05.18.300. State gaming fund and appropriations.** There is created in
8 the general fund the state gaming fund. The state gaming fund consists of all revenue
9 received from gaming activities and all other money credited or transferred to the fund
10 from another fund or source.

11 **Sec. 05.18.310. Audit.** The commission shall have an audit of the books and
12 accounts of the commission performed at least once in each year by certified public
13 accountants. The Legislative Budget and Audit Committee shall annually perform
14 post-audits of the commission and report to the legislature. The commission may have
15 special audits performed at any time on its own motion or at the request of the
16 director. The commission shall file a copy of each audit with the commissioner of
17 revenue and the legislature.

18 **Sec. 05.18.320. Prohibited acts.** (a) A person may not

19 (1) knowingly act as an agent or sell a gaming product unless the
20 person has a contract with the commission to be an agent, or is an employee of an
21 agent and sells gaming products or awards gaming prizes under the supervision of the
22 agent;

23 (2) knowingly sell or offer to sell a gaming product to a person under
24 21 years of age;

25 (3) knowingly present a counterfeit or altered gaming product for
26 payment or transfer a counterfeit or altered gaming product to another person to
27 present for payment;

28 (4) with intent to defraud, falsely make, alter, forge, utter, pass or
29 counterfeit a gaming product; or

30 (5) impersonate a representative of the commission.

31 (b) A contractor, an agent, the governor, or an officer or employee of the

1 commission may not purchase a gaming product, receive a gaming prize, or participate
2 in a gaming activity under this chapter.

3 (c) An agent or contractor may not knowingly withhold funds owed to the
4 commission.

5 (d) In this section, "knowingly" has the meaning given in AS 11.81.900.

6 **Sec. 05.18.330. Assignment of contracts.** A person that enters into a contract
7 under this chapter may not assign the contract without the approval of the commission.

8 **Sec. 05.18.340. Penalty.** A person that violates AS 05.18.320 or 05.18.330 is
9 guilty of a class C felony.

10 **Sec. 05.18.350. Statement of odds.** Each gaming product must indicate the
11 odds of winning a prize in the particular gaming activity represented by the product.

12 **Article 4. General Provisions.**

13 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
14 otherwise,

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

16 (2) "director" means the executive director of the commission;

17 (3) "gaming product" means a ticket, receipt, card, or other item,
18 except a prize, received by a person from an agent or an employee of an agent as
19 evidence of participation in a gaming activity under this chapter;

20 (4) "operation and administration" includes accounting, sales,
21 promotion, and security;

22 (5) "person" has the meaning given in AS 01.10.060 and also includes
23 an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or
24 representative capacity, whether appointed by a court or otherwise, and a department,
25 commission, agency, or instrumentality of the state, including a municipality and an
26 agency or instrumentality of a municipality.

27 * **Sec. 5.** AS 11.66.280(2) is amended to read:

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

1 "gambling" does not include

2 (A) bona fide business transactions valid under the law of
3 contracts for the purchase or sale at a future date of securities or commodities
4 and agreements to compensate for loss caused by the happening of chance,
5 including contracts of indemnity or guaranty and life, health, or accident
6 insurance;

7 (B) playing an amusement device that

8 (i) confers only an immediate right of replay not
9 exchangeable for something of value other than the privilege of
10 immediate replay; and

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

13 (C) an activity authorized by the Alaska Gaming Commission
14 [DEPARTMENT OF REVENUE] under AS 05.15 or AS 05.18;

15 * Sec. 6. AS 18.65.080 is amended by adding a new subsection to read:

16 (b) The Department of Public Safety shall investigate and ascertain whether a
17 person appointed by the governor to serve as a member of the Alaska Gaming
18 Commission has been convicted of a crime set out in AS 05.18.010(e).

19 * Sec. 7. AS 39.25.110 is amended by adding a new paragraph to read:

20 (40) the executive director of the Alaska Gaming Commission.

21 * Sec. 8. AS 39.50.200(b) is amended by adding a new paragraph to read:

22 (58) Alaska Gaming Commission (AS 05.18).

23 * Sec. 9. AS 05.15.690(9) is repealed.

24 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 REVISOR INSTRUCTION. The revisor of statutes is instructed to change references
27 to the "commissioner" and "department" in AS 05.15 to "commission" unless it is clear from
28 the context that "commissioner" refers to a commissioner other than the commissioner of
29 revenue and "department" refers to a department other than the Department of Revenue.

Hidden Treasures MBP
Juneau Montessori Center, Southeast Alaska Friends of the Montessori, Juneau
Dance Unlimited. 750 St. Ann's Ave. Douglas, AK 99824

Questions: HB509

House finance committee
Honorable Chairman and members of the Committee
State Capitol
Juneau, AK 9821

03/04/04

Sec. 05.18.010, line 5. Creation of commission.

"The Alaska Gaming Commission is established for the purposes of generating revenue for the state and regulating gaming activities in the state.

What does "generating revenue," mean?

- Does it mean find new ways to expand gambling? Study these new ways and present them to the legislature?
- Does it mean study and present ways to increase taxation of existing forms of gambling? Is that not what SB102 does?
- Does it mean study gambling outside of the current context of "charitable" gaming that being gaming for the benefit of non-profit groups?
- Does it mean to direct the "Gaming Commission" to actively study, promote, and help the legislature approve and implement means of gambling that are solely meant to help generate revenue for the general fund?
- Does it mean that all gambling activity in the state should be viewed within the context of a form of voluntary taxation with the purpose of generating revenue for the state?
- Does this phrase "generating revenue for the state" not actively imply that the state sanctions gambling, which is a vice, and encourages its citizens to participate in gambling activity for the good of the general fund? Will the state for the "purpose of generating revenue" advertise and promote gambling? For example, the state actively encourages the sale of its fisheries products would the same apply for gambling products?
- Does this imply that the state views gambling as a means of "creating" wealth when it has long been established that gambling only "transfers" wealth?

- **Sec. 05.18.010, line 5. Creation of commission.**

“The Alaska Gaming Commission is established *for the purposes of generating revenue for the state* and regulating gaming activities in the state.

What does regulating gaming activities mean?

- Does it mean increasing enforcement if the commission sees a need for more enforcement? Will the commission have the power to actually finance any additional enforcement it may deem necessary? This bill currently according to the CS does not add any new enforcement or audit personnel to the gaming unit, which will presumably be moved under the new commission.
- Does this exclusion of new funding for personnel imply that the committee and sponsor feel there is already adequate enforcement of the existing gaming statutes? Currently there are two actual enforcement officers who may also be tasked with the tobacco tax stamp enforcement.
- Will regulation become even more politicized if it is moved to “exempt” status regarding its top personal as is not currently the case and placed under an appointed commission?
- Does regulation and revenue creation under the same “tent” inherently create a conflict? For example, imagine the conflicts that may arise if the Liquor Control Board was tasked with the additional duties of not only “regulating” alcohol sales but also tasked with “generating” revenue for the general fund through encouraging more consumption of alcohol thus more tax revenue?
- Will any regulators or personnel under the Gaming Commission be allowed to help with other duties within the dept. of revenue? If not, will this commission create bureaucratic inefficiencies at precisely the time when more efficiency is being actively pursued?

Sec. 05.18.030. line 17 through 11 Duties and powers of the commission.

- Is not this entire section the cart before the horse i.e., creating infrastructure for something that does not exist?
- For example, item 1. “enter into contracts and agreements” would this not only be implicit of contracts regarding an expansion of gambling like EGM’s or Lottery?
- Item (2) “adopt regulations” Would this mean that a future date if the state were to approve a Lottery or EGM’s the commission would be tasked and be free without legislative oversight to write all the regulations as well as be tasked with generating revenue?

- Item (4) "recommend policy direction for the operation and administration of gaming activities in Alaska" Does this imply that gaming is to be a state run enterprise?
- Item (5) through (9) Are these lines taken directly from another states reporting requirements for EGM's or a lottery?

Sec. 05.18.040. line 12-19 Regulations.

- Is it the intention of this committee and the sponsor to give away legislative powers and let the commission determine the "types" of gaming activity as well as the "locations" where these gaming activities may take place?

Sec. 05.18.060. line 02-20 Duties of the director.

- Is this language directly from another states statutes for the duties of a executive director of EGM's or a lottery and is this not creating a paid position for which there is no task as of yet?

Sec. 05.18.100. lines 1-5 Gaming activities.

- Does this language imply that the sponsor and this committee are intending that the legislature may want to simply delegate "class" forms of gaming like Class 1, Class 2, Class 3, etc. and then give away its powers to the commission to figure out the details?

Sec. 05.18.300. line 7-10 State gaming fund and appropriations.

- Why a specific fund within the general fund? Is this a tool to potentially earmark some of these funds and will that potentially create constitutional problems?

Sec. 05.18.320. line 18- 09 Prohibited acts.

- Item (1) would this imply that all current permit holders will now have to also become "agents" and sell pull tabs, bingo paper, raffle tickets, fish derby tickets, etc under "contract" with the state?
- "This section does not prohibit a person from giving a gaming product to another person of any age." (gaming product defined as a ticket, receipt, card or other item except a prize..... under sec 05.18.900) does this mean one could sit and play pull tabs with ones child if one was giving them the tickets?

These are just a few questions surrounding this legislation. I am certain a trained independent legal eye could present hundreds of others. The ultimate question is two

fold. Why would the legislature move legislation seemingly written and created to regulate and derive revenue from something that does not yet exist? This is tantamount to buying and tailoring a suite for your own funeral at the age of 21. There is no way to predict what the legislature may deem appropriate in the future this legislation only succeeds in tying their hands before any discussion of the future is even on the table. Secondly if the intent of this legislation is to strengthen regulation why not keep the non-political gaming unit and add enforcement and audit personnel?

I would urge you to slow down and carefully consider all the ramifications of this legislation before advancing it to the floor.

Sincerely,

David Sanden

Please enter into the record my testimony to the House Finance Committee

Committee on HB 509 , Dated : 02/25/2004

On completion of public testimony I faxed my concerns as to Pull-Tab and Bingo Operators and C.H.A.R. , Cabernet Hotel and Restaurant Association as to representing the gaming industry on the Alaska Gaming Commission.

In returning home I contacted the officers of Alaska Non-Profit Charitable Organization as to testimony of Mr. Wright, representing someone else, non stated, and the testimony of C.H.A.R. Cabernet Hotel and Restaurant Association.

Mr. Wright is one of the largest operators of gaming, representing permit holders, in the entire state of Alaska. C.H.A.R. is an organization representing themselves as to be members of the gaming industry in being a vendor for non profit organizations, that the permit holders are ultimately responsible for the permit's liabilities, and not the vendor themselves.

Accountability for the permit is subject to revocations of the permit and or fines or reimbursement for restitution, is the responsibility of the permit holder and not the operator or vendor. Basically saying, operators or vendors are for profit and not the charities, in sharing the liabilities of suspension of the permit, fines or penalties accessed against the permit holder.

Alaska Non-Profit Charitable Organization, represents charitable organizations that use some of the proceeds of charitable gaming for their organization, the community programs that are supported by that organization, community charities, and community members with physical or financial need. Helping in time of need that may not be covered by any other community charities.

Our organization represents charitable organization's permit holders, that are the heart of and purpose of the charitable gaming industry. Not for profit, political influence, or benefit of other non-profits of non charitable nature.

We represent permit holders, but do not hold a permit. We are state wide in all 4 regions considered by this bill and are not politically affiliated.

We are the organizations in support of our communities, charities, and the proceeds of our permit holders to go into our communities and not a non charity organization with special interests.

SB 331 has been introduced this session that qualifies organizations for charitable gaming and if passed, would bring into question just what organizations C.H.A.R. and commercial operators represent. Maybe they would be disqualified from portions of charitable gaming and could only represent a part of the gaming industry. The permits they represent maybe for non-profit organizations , but not charitable non-profits.

Please consider Alaska Non-Profit Charitable Organization and organizations like us, to represent charitable gaming industry on the Alaskan Gaming Commission.

Thank You for Your consideration in this matter.

Ed J. Moeglein *Ed J. Moeglein*

Legislative Liaison to: Alaska Non-Profit Charitable Organization

P.O. Box 3942 Soldotna, Alaska. 99669

907) 262-7477

Page 1 of 1

NATIONAL ASSOCIATION OF FUNDRAISING TICKET MANUFACTURERS

246 IRIS PARK PLACE
1885 UNIVERSITY AVENUE WEST
SAINT PAUL, MINNESOTA 55104

PHONE 651-644-4710 • FAX 651-644-5904

February 25, 2004

Honorable Members
House Finance Committee
Alaska State Capitol
Juneau, AK 99801-1182

Dear Committee Members:

I am writing on behalf of the National Association of Fundraising Ticket Manufacturers (NAFTM) a non-profit trade association of manufacturers of charity gaming supplies. The individual companies of NAFTM are licensed by and doing business in the State of Alaska. I am writing regarding H.B. 509, as substituted by the Labor and Commerce Committee, and would appreciate your consideration of the following concerns.

As a general matter, it appears that the bill is intended permit the as yet undetermined expansion of legal gambling in Alaska. This is evident by the first sentence of Section 05.18.010 which states that the "Alaska Gaming Commission is established for the purposes of generating revenue for the state and regulating gaming activities in the state" (Emphasis added). Because the commission is not a taxing authority, it appears that the commission is intended to authorize gaming activity that generates all or a portion of its revenue for the state (i.e. a lottery or electronic slot machines). With limited exception around the country, an agency charged with regulating gaming is typically not also an operator of gaming. The duties and responsibilities of an operator are not always consistent with the duties and responsibilities of a regulator and too often, conflicts emerge. In our view, charity gaming in particular is better regulated by a separate division within the Department of Revenue, not by an agency that may also be an operator of gaming activity that undoubtedly will conflict with charity gaming.

We are also concerned about what could be interpreted as a wholesale change or even elimination of charity gaming by this bill. Section 15.18.100 defines the gaming activities that may be authorized by the commission. While the commission is limited by those activities that are permitted by the legislature, there is nothing in the bill that would prohibit the commission from NOT authorizing charity gaming, or any other gaming activity authorized by legislative enactment. As to charity gaming, the bill only

prohibits the commission from authorizing charity gaming activity not permitted under AS 05.15. It does not require the commission to authorize it in the first instance. In other words, although the legislature has authorized charity gaming under AS 05.15, this bill could be read to enable the commission to prohibit that activity if it is a gaming activity the commission does not determine to be "appropriate". Indeed, the bill could be read to require the commission to affirmatively authorize charity gaming if that activity is to continue in Alaska.

If authorized, the activity then becomes subject to the provisions of Section 05.18. This is problematic. Section 05.18.320 requires a contract with the commission to be an agent to sell gaming product and gaming product may only be sold at a price fixed by the commission. Section 05.18.060 requires the director to contract with agents and contractors to "engage in or conduct or operate gaming activities". This suggests that contract, rather than licenses are required for the conduct of charity gaming." Section 05.18.350 requires the odds of winning a prize to be indicated in the particular gaming activity, represented by the product. This is not really possible in bingo, inaccurate with respect to pull-tabs (the odds change depending on the number of tickets sold) and not customary in other forms of gambling except ticket lotteries. Finally, Section 05.18.320 allows persons to give gaming products to persons of any age. We are committed to responsible gaming, and to permit our gaming products to be given to minors is inconsistent with our views.

It may be that the bill is intended to separate charity gaming from the other forms of gambling that will be permitted by the commission. However, as I have attempted to point out, there appear to be several areas of overlap. If this is the intent, we would suggest language that separates charity gaming from the other gaming activities that will be authorized by the commission, and perhaps even leaves the regulation of charity gaming to a separate division within the Department of Revenue as it currently exists.

Thank you for your consideration of these comments. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Mary B. Magnuson
Mary B. Magnuson
Legal Counsel

MBM/hls



Alaska State Legislature

Please enter into the record my testimony to the House Finance Committee
committee name

Committee on HB 509, dated 2/25/04
Page 1 of 2 bill # / subject public hearing date

Concerning representation on the Gaming Commission as to people in the industry to be appointed.

In the industry involves operators that operate many different permittees or permit holders, such as Mr. Wright that testified today on behalf of someone else today, as being one of the biggest operators of gaming in the State. Other establishments and organizations that act as vendors for local permit holders for ongoing fund raising effort such as C.H.A.R. that sell pull tabs for permits of their choosing.

Then there are establishments of organizations run by their members and employees that sell pull tabs or have bingo for their own fund raising efforts.

Charitable gaming is divided by non-profits and charitable non-profits that give charitable donations to the community and people in the community by ways of programs, education programs in the schools, scholarships, and many ways to provide - cont

Signed: Ed J. Moeglin
Testifier

Alaska Non-Profit Charitable Organization
Representing (optional)

PO Box 3942 Soldotna, Alaska, 99669
Address

907) 262-7477
Phone number



Alaska State Legislature

Please enter into the record my testimony to the House Finance Committee
committee name

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Alaska Non-Profit Charitable Organization is made up of permit holders that are true charitable non profit organizations. We are made up of V.F.W., Amvets, American Legion; Moose, Elks, Disabled American Veterans, Eagles and many others. With organizations State Wide and having State Departments, we jointly contribute to our Veterans, students and schools by providing scholarships and education programs, donations for participation in school funded and non funded programs such as Chase-Up, school travel for extra curricular activities. We also assist community members in time of natural disasters and terminal illnesses.

The Voice of Democracy contests, The Vet. Center, The VA, Domiciliary, Veterans picnic and Standdown, Community programs, community services, and a hand in time of need all come from proceeds of charitable gaming from our organizations.

Please consider us for a position on the Gaming Commission as a true charitable gaming organization and not just a non profit in the Gaming industry.

Signed:

Testifier

Alaska Non Profit Charitable Organization

Representing (optional)

P.O. Box 3942 Soldotna, Alaska 99669

Address

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Phone number