

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 2822

HB

57

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 04 2006
SENATE FINANCE COMMITTEE

DATE: 4/23/06

FURTHER:

DATE TURNED
IN TO OFFICE: 5/4/06

Finance Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 57(FIN)

HB 57 SALE OF STATE LAND TO ADJACENT LANDOWNERS

"An Act relating to the sale of certain state land to adjacent landowners."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
<input type="checkbox"/> Same Title
<input type="checkbox"/> New Title
SCS House Bill:
<input type="checkbox"/> Same Title
<input type="checkbox"/> Technical Title Change
<input type="checkbox"/> New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DNR	4/4/06		✓		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>G. Bunker</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT
MAY 04 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1 **CORRECTED**
 Bill Version: SSHB 57
 (H) Publish Date: 3/27/06

Revision Date/Time (Note if correction): 04/04/06 Dept. Affected: Natural Resources
 Title: Sale of State Land to Adjacent Landowners RDU: Resource Development
 Component: Claims, Permits and Leases
 Sponsor: Rep. Weyhrauch
 Requester: (H) FIN Component No.: 2460

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING						

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

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL						

Estimate of any current year (FY2006) cost: 00
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation would allow DNR to convey title to an isolated parcel of state owned land, through negotiated sale to an adjacent land owner at fair market value, if the parcel is smaller than 20 acres and is completely enclosed by property owned by the adjacent land owner.

 Other than a small but indeterminate amount of revenue expected to be generated from the sale of an anticipated small number of parcels, there is no anticipated significant fiscal impact associated with this proposed legislation. DMLW's existing preference right staff will process these additional preference rights sales, as DMLW received a budget increment for these purposes starting in FY06

Prepared by: Dick Mylius, Acting Director Phone: 907-269-8625
 Division: Mining, Land & Water Date/Time: 4/4/2006
 Approved by: Michael L. Menge, Commissioner Date: 4/4/2006
 Agency: Natural Resources

ALASKA STATE LEGISLATURE

Representative Bruce Weyhrauch

HOUSE DISTRICT 4



ALASKA
STATE CAPITOL
JUNEAU, ALASKA
99801-1182

(907) 465-3744
FAX (907) 465-2273

HB 57

Sponsor Statement

" An Act relating to the sale of certain land to adjacent landowners "

House Bill 57 would authorize the State of Alaska, through the Department of Natural Resources (DNR) Director of Lands, to negotiate the sale of state lands smaller than 20 acres at fair market value to an adjacent landowner provided the state property is completely enclosed by the adjacent landowner. The bill would not mandate DNR to sell state property under such circumstances, but would grant it the ability to allow a landowner to purchase the state land the property encompasses.

Created: Tony Harvey

Printed: 3/14/06

HB-57

REASONS FOR WANTING A NEGOTIATED SALE OF 13 ACRES OF State LAND
FOR THE RECORD

MY NAME IS JOHN SCHNABEL A RESIDENT OF HAINES ALASKA SINCE 1939 LESS 4 YRS IN THE NAVY.

I WISH TO PURCHASE 13 ACRES OF STATE LAND WITHOUT AN OUTCRY AUCTION. ^{BECAUSE}
MY PAST EXPERIENCE OF FORTY PLUS YEARS IN THE FOREST INDUSTRY OF S.E. ALASKA
HAS MADE ME AWARE THAT ANYONE CAN COMEFORWARD AND BID FOR A PARCEL OF LAND I
HAVE ELECTED TO LEASE OR PURCHASE WITHOUT HAVING TO PAY THE UP FRONT COSTS
FOR SURVEY,LEGAL RESEARCH, ADVERTISING ,TITLE INSURANCE ETC. ^{plus my TIME.}

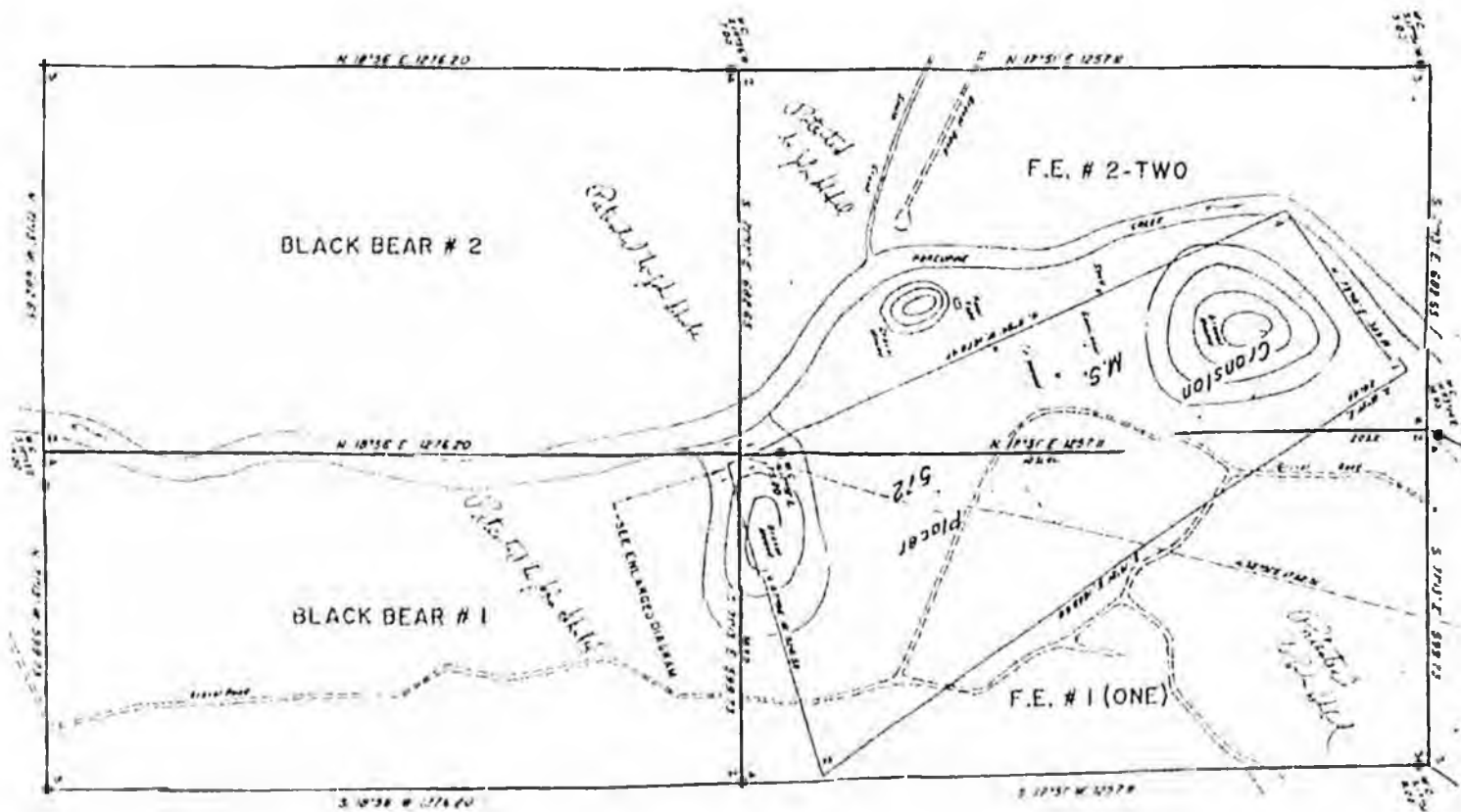
I AM IN THE PROCESS OF DEVELOPING THE EIGHTY ACRES I OWN THAT COMPLETELY
SURROUNDS A PARCEL OF STATE LAND IN AN EFFORT TO CONTRIBUE TO THE LOCAL ECONOMY
BY MAKING IT INTO A TOURIST DESTINATION. THE TOURIST EXPECTS, OTHER THAN PANNING
FOR GOLD, A WILDERNESS EXPERIENCE WHEN HIKING OVER MY EIGHTY ACRES WITHOUT BEING
DISTURBED BY SOME ACTIVITY IN THE CENTER OF MY PROPERTY. I HAVE INVESTED OVER
ONE MILLION DOLLARS TO DATE TO BRING THIS INTO REALITY.AND NEED THIS PARCEL TO
AVOID CONFLICT. IN THE FUTURE.

I HAVE NO PROBLEM WITH THE DEDICATION OF ACCESS THROUGH THIS STATE LAND TO
COMPLY WITH TRAIL DESIGNATION #2477 ^{or} I AM HOPEFUL THIS TRANSFER CAN BE ACCOMPLISHED
THIS YEAR.

CONFERENCE 11PM FEB

Ph. - 1-888-295-4546

MS 2506 ALASKA



HB

61

HFIN

FILE

moved passed 5-3

24-LS0281\G.1

Luckhaupt
3/16/05

~~WITHDRAWN~~ 3/17/05

AMENDMENT # 1

REP STOLTZE

OFFERED IN THE HOUSE

TO: CSHB 61(L&C)

- 1 Page 1, line 1:
- 2 Delete "licensing for a Calcutta pool as a game of chance"
- 3 Insert "Calcutta pools and crane classics as authorized forms of charitable
- 4 gaming"
- 5
- 6 Page 1, line 9, following "animal classics,":
- 7 Insert "crane classics,"
- 8
- 9 Page 2, line 1, following "animal classics,":
- 10 Insert "crane classics,"
- 11
- 12 Page 2, line 7, following "animal classics,":
- 13 Insert "crane classics,"
- 14
- 15 Page 2, line 13:
- 16 Delete "a new paragraph"
- 17 Insert "new paragraphs"
- 18
- 19 Page 2, line 19:
- 20 Delete "event."
- 21 Insert "event;"
- 22
- 23 Page 2, following line 19:

1 Insert a new paragraph to read:

2 "(47) "crane classic" means a game of chance in which a prize of money is awarded

3 for the closest guess of the time of arrival of the first sandhill crane to a particular place."

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 61(L&C)
(H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
Title Charitable Gaming; Calcutta Pools RDU Revenue Programs & Services 509
Sponsor Representatives McGuire and Ramras Component Tax Division
Requester (H) L&C Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Ful-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* We do not know how many Calcutta pools may be conducted by qualifying organizations as a result of passage of this bill. Consequently, it is not possible for us to estimate the revenue effects with any degree of accuracy. However, it is likely that the revenue amount would be relatively small. For Calendar year 2003, the estimated revenue to the state from all game types, except for pulltabs and bingo, was less than \$50,000. This does not include revenue from licenses and permits because in most cases Calcutta games would be offered by qualifying organizations that already have gaming licenses and permits. There are at least three states that define Calcuttas as legal gambling: Wyoming, North Dakota and Montana. North Dakota limits the Calcuttas to amateur and professional sports. Total after-prize income in North Dakota for Calcuttas was \$33,916 for FY 2004. This is prior to any deductions for expenses. The other two states do not collect revenue from the Calcuttas.

Prepared by: Larry Meyers Phone 269-1011
Division: Tax Division Date/Time 1/28/05 3:33 PM
Approved by: Jerry Burnett Special Assistant to the Commissioner Date 1/28/2005
Agency: Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 61(L&C)
(H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
Title Charitable Gaming; Calcutta Pools RDU Revenue Programs & Services 509
Component Tax Division
Sponsor Representatives McGuire and Ramras
Requester (H) L&C Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

* We do not know how many Calcutta pools may be conducted by qualifying organizations as a result of passage of this bill. Consequently, it is not possible for us to estimate the revenue effects with any degree of accuracy. However, it is likely that the revenue amount would be relatively small. For Calendar year 2003, the estimated revenue to the state from all game types, except for pulltabs and bingo, was less than \$50,000. This does not include revenue from licenses and permits because in most cases Calcutta games would be offered by qualifying organizations that already have gaming licenses and permits. There are at least three states that define Calcuttas as legal gambling: Wyoming, North Dakota and Montana. North Dakota limits the Calcuttas to amateur and professional sports. Total after-prize income in North Dakota for Calcuttas was \$33,916 for FY 2004. This is prior to any deductions for expenses. The other two states do not collect revenue from the Calcuttas.

Prepared by: Larry Meyers Phone 269-1011
Division: Tax Division Date/Time 1/28/05 3:33 PM
Approved by: Jerry Burnett, Special Assistant to the Commissioner Date 1/28/2005
Agency: Department of Revenue

Adopted

3-16-05

24-LS0281VF
Luckhaupt
3/4/05

CS FOR HOUSE BILL NO. 61()

no objection

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES MCGUIRE, Ramras

*— adopted —
amendment to title*

3/17/05

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to licensing for a Calcutta pool as a game of chance."**

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

3 *** Section 1. AS 05.15.080(a) is amended to read:**

4 (a) A municipality or a qualified organization issued a permit under this
5 chapter shall file a report with the department by the 45th day following each calendar
6 quarter in which the permittee had gross receipts of \$50,000 or more from activities
7 authorized under this chapter. The report must include the type of activity conducted,
8 the date and location of the activity, the amount of gross receipts, the amount of
9 authorized expenses, the value of prizes awarded, the amount of net proceeds, and
10 other information the department may require. However, if the only activity
11 conducted by a municipality or qualified organization during a calendar quarter is a
12 raffle or lottery or a Calcutta pool, then the municipality or qualified organization is
13 not required to file a report under this subsection until the raffle or lottery or a
14 Calcutta pool is completed.

15 *** Sec. 2. AS 05.15.080 is amended by adding a new subsection to read:**

1 (c) A permittee that conducts a Calcutta pool shall file a report for each pool
2 conducted on a form prescribed by the department that lists

3 (1) the date of the pool and the event;

4 (2) the amount of wagers;

5 (3) the amount of prizes distributed to the winners of the pool;

6 (4) the amount and nature of each expense;

7 (5) the amount remaining after the payment of the prizes and expenses;

8 (6) any other information that the department requests or requires.

9 * Sec. 3. AS 05.15.100(a) is amended to read:

10 (a) The department may issue a permit to a municipality or qualified
11 organization. The permit gives the municipality or qualified organization the privilege
12 of conducting bingo, raffles and lotteries, pull-tab games, ice classics, race classics,
13 rain classics, goose classics, mercury classics, deep freeze classics, canned salmon
14 classics, salmon classics, king salmon classics, dog mushers' contests, snow machine
15 classics, fish derbies, animal classics, Calcutta pools, and contests of skill.

16 * Sec. 4. AS 05.15.100(c) is amended to read:

17 (c) The department may issue an operator's license to a natural person to
18 conduct an activity permitted under this chapter, other than a Calcutta pool, on
19 behalf of a municipality or a qualified organization. The department may also issue an
20 operator's license to a municipality or a qualified organization to conduct an activity,
21 other than a Calcutta pool, on behalf of another municipality or qualified
22 organization.

23 * Sec. 5. AS 05.15.160(d) is amended to read:

24 (d) The total amount of authorized expenses that may be incurred under (a) of
25 this section in connection with any gaming activity other than pull-tabs or Calcutta
26 pools may not exceed 90 percent of the adjusted gross income from that gaming
27 activity.

28 * Sec. 6. AS 05.15.160 is amended by adding a new subsection to read:

29 (e) The total amount of expenses that may be incurred and prizes that may be
30 awarded under (a) of this section in connection with a Calcutta pool may not exceed
31 70 percent of the pool of wagers.

1 * Sec. 7. AS 05.15.180(b) is amended to read:

2 (b) With the exception of raffles, lotteries, bingo games, pull-tab games, race
3 classics, rain classics, goose classics, mercury classics, deep freeze classics, dog
4 mushers' contests, snow machine classics, canned salmon classics, salmon classics,
5 animal classics, Calcutta pools, and king salmon classics, an activity may not be
6 licensed under this chapter unless it existed in the state in substantially the same form
7 and was conducted in substantially the same manner before January 1, 1959. A snow
8 machine classic may not be licensed under this chapter unless it has been in existence
9 for at least five years before the licensing. An animal classic may not be licensed
10 under this chapter unless it was in existence before November 1, 2002.

11 * Sec. 8. AS 05.15.180 is amended by adding a new subsection to read:

12 (h) A Calcutta pool may not be conducted for elementary, secondary, or post-
13 secondary school sporting events or for youth organization events. A permittee may
14 not accept a wager on a competitor in a Calcutta pool unless the competitor is 18 years
15 of age or older. A person may not place a wager on a competitor in a Calcutta pool
16 unless the competitor is 18 years of age or older. A Calcutta pool may not be
17 conducted unless the rules for the pool are publicly posted and available to all
18 participants in the pool.

19 * Sec. 9. AS 05.15.690 is amended by adding a new paragraph to read:

20 (46) "Calcutta pool" means a game of chance where a prize of money
21 is awarded from a pool of wagers on a contest of skill limited to amateur and
22 professional sporting events in the state in which those who wager bid at auction for
23 the exclusive right to purchase or wager upon a particular contestant or entrant in the
24 event.

conceptual title change

Amendment 3 - HB 61

adopted - 3/17/05

An Act making Calcutta pools an authorized form of charitable gaming.

withdrawn

AMENDMENT

2 Stoltze

OFFERED IN THE HOUSE

TO: CSHB 61(), Draft Version "F"

1 Page 1, line 1:

2 Delete "licensing for a Calcutta pool as a game of chance"

3 Insert "authorizing golf-event Calcutta pools as a charitable gaming game of
4 chance"

5

6 Page 3, line 22:

7 Delete "sporting"

8 Insert "golfing"

24-LS0281\F
Luckhaupt
3/4/05

CS FOR HOUSE BILL NO. 61()

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MCGUIRE, Ramras

A BILL

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23 the exclusive right to purchase or wager upon a particular contestant or entrant in the
24 event.

Alaska State Legislature

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (307) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax (907) 269-0249



Chair, Judiciary Committee
Vice-Chair, House Committee on
Economic Development,
Trade and Tourism

Member
Oil & Gas Committee

Representative Lesil McGuire *House District 28*

SPONSOR STATEMENT

HB 61

"An Act relating to licensing for a Calcutta pool as a game of chance."

Alaska State law authorizes the Department of Revenue to issue permits to a municipality or qualified organization to conduct games of chance for charitable purposes. This bill would simply add "Calcutta pool" to the to the list of games of chance and give eligible organizations the opportunity to hold such events as a method of charitable fundraising.

The intent of HB 61 is to protect this traditional game of chance, which is strongly supported by many Alaskans and the charity organizations that rely on funds raised by this event. Organizations such as CIRC held Calcutta pools during their annual CIRC Golf Classic since 1983. In 2001, the last year the CIRC Calcutta Pool operated, the CIRC Golf Classic raised \$852,000 for programs focusing on youths and education. The Boys and Girls Club and the Alaska Academic Decathlon were two organizations that benefited from the Calcutta Pool fundraisers.

The Calcutta fundraising mechanism was discontinued in 2002 when the Department of Revenue construed state law as prohibiting Calcutta events as a method of charitable giving. Calcutta pools are a time-honored method of charitable fundraising uniquely suited to golfing events. They have been employed not just by CIRC, but also by other prominent charitable organizations throughout the State. Calcutta pools raise substantial amounts of money for charitable purposes, and certainly present no more harm to the public than other charitable giving activities, including "rat races," classics, and pull tabs which are already legal under the current state law.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



DOYON FOUNDATION

1 Doyon Place, Suite 300, Fairbanks, Alaska 99701

Verbal Testimony in support of proposed House Bill 61 Doyon Foundation

Thank you for the invitation to speak to proposed House Bill 61 regarding Calcutta's. For the record, my name is Sharon McConnell Gillis, Executive Director of Doyon Foundation in Fairbanks.

Doyon Foundation is a 501 (c) (3) private Foundation established in 1989 by Doyon, Limited, the regional Native corporation for Interior Alaska. Our mission is "to promote self-reliance and the economic and social well-being of Doyon's shareholders and descendents and to strengthen our Native culture and heritage through education."

To accomplish our mission, Doyon Foundation provides scholarships for higher education to over 300 students each year totaling some \$350,000. To award this amount the Foundation relies on a yearly contribution from Doyon, Limited and revenue from corporate and individual donors. We also hold various fundraisers throughout the year to help sustain our scholarship programs. As you can imagine, student tuition can be expensive and the amounts we award do not nearly fund the student's needs.

Doyon Foundation does have a State of Alaska gaming permit that allows us to hold raffles. This has proven very beneficial to raise needed funds. However, if Calcuttas were legal, the amount raised could be substantially more, which in turn would mean more scholarship dollars that we could provide to Alaska Natives.

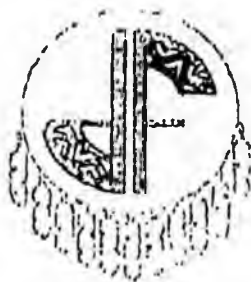
Therefore Doyon Foundation is in support of House Bill 61. Legalizing Calcutta's would provide an additional revenue stream for non-profits such as Doyon Foundation.

Thank you for this opportunity to address your committee.

Respectfully submitted,

Sharon McConnell Gillis

Sharon McConnell Gillis
Executive Director



DOYON FOUNDATION

1 Doyon Place, Suite 300, Fairbanks, Alaska 99701

Doyon Foundation Written Testimony Proposed House Bill 61

Thank you for this opportunity to speak to proposed House Bill 61 regarding Calcutta's. For the record, my name is Sharon McConnell Gillis, Executive Director of Doyon Foundation in Fairbanks.

Doyon Foundation is a 501 (c) (3) private Foundation established in 1989 by Doyon, Limited, the regional Native corporation for Interior Alaska. Our mission is "to promote self-reliance and the economic and social well-being of Doyon's shareholders and descendents and to strengthen our Native culture and heritage through education."

To accomplish our mission, Doyon Foundation provides scholarships for higher education to over 300 students each year totaling some \$350,000. To award this amount the Foundation relies on a yearly contribution from Doyon, Limited and revenue from corporate and individual donors. Tuition and living costs are high and the amounts awarded do not nearly fund the student's needs.

Doyon Foundation does have a State of Alaska gaming permit that allows us to hold raffles. This has proven very beneficial to raise needed funds for our scholarship programs. However, if Calcuttas were legal, the amount raised could be substantially more, which in turn would mean more scholarship dollars that we could provide.

Therefore, legalizing Calcutta's would provide an additional revenue stream for non-profits such as Doyon Foundation.

Thank you.

Respectfully submitted,

Sharon McConnell Gillis
Sharon McConnell Gillis
Executive Director

HB

61

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT

MAY 5 2005

SENATE FINANCE
COMMITTEE

DATE: 4/29/05

FURTHER:

DATE TURNED
IN TO OFFICE:

5 May 2005

Finance Committee considered CS FOR HOUSE BILL NO. 61(FIN)

HB 61 GAMING: CALCUTTA POOLS & CRANE CLASSICS

"An Act relating to Calcutta pools and crane classics as authorized forms of charitable gaming."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous S CS CS HB 61 (L&C)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

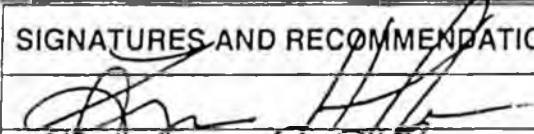
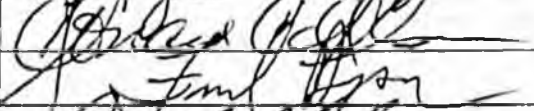
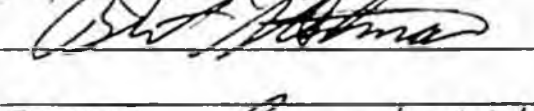
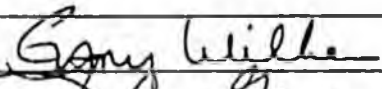
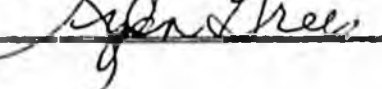
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
Rev.	4/14/05		+		#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
		✓	✓	
		✓		
COCHAIR: 	✓			
COCHAIR: 	✓			

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SCS CSHB 61(L&C)
(S) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title: Charitable Gaming; Calcutta Pools RDU: Taxation and Treasury
Component: Tax
Sponsor: Representatives McGuire, Ramras, F. Foster
Requester: (S) L&C Component No.: 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*

CAPITAL EXPENDITURES	*	*	*	*	*	*
-----------------------------	----------	----------	----------	----------	----------	----------

CHANGE IN REVENUES ()	3.0	3.0	3.0	3.0	3.0	3.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
(see attached)

Prepared by: Larry Meyers, Deputy Director Phone: 907-269-6620
Division: Tax Division Date/Time: 4/14/05 12:47 PM
Approved by: Jerry Burnett Date: 4/14/2005
Agency: Department of Revenue

FISCAL NOTE # 2

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SCS CSHB 61(L&C)

ANALYSIS CONTINUATION

Please see below for a discussion of revenue and costs.

REVENUE

There are three U.S. states which expressly allow calcutta pools: Montana, Wyoming, and North Dakota. Of these, the only state that maintains statistics on its calcutta pools is North Dakota. North Dakota's statutes regarding calcutta pools are very similar to CSHB 61. For instance, both North Dakota and CSHB 61 regulate calcutta pools as games of chance; both stipulate an age requirement of 18 or over; both limit calcutta pools to amateur and professional sporting events held in the state; and both disallow calcuttas for youth events or academic sporting events. Calcuttas also compete with bingo and pull tabs in both states. In addition, Alaska's adult population (18+) of 467,206 is very close to North Dakota's 495,411 adults.

Although there are many similarities between the structure of the calcutta games and the potential gaming population in both states, there is one significant difference. North Dakota has at least five Indian casinos in addition to bingo, pull-tabs and calcuttas, and is bordered by three states (Minnesota, South Dakota and Montana) with casino gambling or video lottery terminals; Alaska has none. For this reason, we believe the introduction of calcutta gambling has the potential to have the biggest impact on charitable gaming since the legalization of pull-tabs in 1988. For instance, it is theoretically possible to have as many calcuttas on a single major Alaskan sporting event such as the Iditarod, as there are organizations holding gaming permits (approximately 1,250).

In FY 2004, gross proceeds from North Dakota's calcuttas were \$204,679. If we assume the same level of calcutta pools in Alaska, calcutta net proceeds going to qualified organizations would be (\$204,679 x 30%) \$61,404. New revenue to Alaska would be \$614 (the 1% of net proceeds fee). Clearly, even if calcutta pools were significantly more popular in Alaska than in North Dakota, revenue to the state would still be very small. For every million dollars wagered on a calcutta, Alaska's revenue would increase by \$3,000. However, the same amount of wagers would increase the net proceeds of qualified organizations by \$300,000.

EXPENSES

Initially, we expect that the passage of this legislation will generate great interest in its fundraising potential and result in the issuance of approximately 700 additional permits, considerable staff time dealing with numerous inquiries regarding licensing, accounting issues, and game rules, as well as, audits, complaints, and on site inspections.

If Calcuttas are as popular as projected, we will need to add an Administrative Clerk III, at an annual cost of \$48,900 for personal services, \$1,000 for supplies, and \$3,567 for contractual services.

ALASKA STATE LEGISLATURE

Session
State Capitol Building, Room 118
Juneau, Alaska 99801-1182
Phone (907) 465-2995
Fax (907) 465-6592

Interim
716 West Fourth Avenue, Suite 430
Anchorage, Alaska 99501
Phone (907) 269-0250
Fax (907) 269-0249



REPRESENTATIVE LESLIE MCGUIRE
HOUSE DISTRICT 28

Chair
Judiciary Committee

Member
House Leadership
Rules Committee
Health, Education
& Social Services
Committee
Oil & Gas Committee
Military & Veterans'
Affairs Committee

SECTIONAL ANALYSIS HB 61

"An Act relating to Calcutta pools and crane classics as a form of charitable gaming"

Section 1 – Amends AS 05.15.080(a) by adding a Calcutta pool as an exception for *not* submitting a report to the department if a Calcutta pool is, in fact, the only activity conducted by the qualified organization. (Or a Calcutta pool added to page 1, line 13 and page 2)

Section 2 – Amends AS 05.15.080 by adding a new subsection. The purpose of this subsection is to require those holding Calcutta pools to file a report for each pool conducted on a form prescribed by the Department of Revenue.

Section 3 – Amends AS 05.15.100(a) by adding crane classics, Calcutta pools (added to page 2, line 17) to the list of activities that are permitted by the Department of Revenue if the municipality or organization qualifies to hold such an activity.

Section 4 – Amends AS 05.15.100(c) by clarifying that an operator's license may not be issued to any person to conduct a Calcutta pool. The Calcutta pool must be overseen by an individual who is directly involved with the organization holding the permit. (Other than a Calcutta pool, was added to page 2, line 21 and page 2, line 24)

Section 5 – Amends AS 05.15.115(e) by adding crane classics (added to page 3, line 1) to distinguish the difference between these particular activities among others listed in this section.

Section 6 – Amends AS 05.15.160(d) by adding or Calcutta pools (page 3, lines 4 & 5) to the types of activities that are not under a category a gaming activity that may not exceed 90 percent of the adjusted gross income from that activity. (this is further clarified in the next section)

Section 7 – Amends AS 05.15.160 by adding a new subsection (e) that clarifies that the total amount of expenses that may be incurred and prizes that may be awarded in connection with a Calcutta pool may not exceed 50 percent of the pool of wagers.

Therefore, guaranteeing the permittee/charity receive no less than 30 percent of the pool of wagers/money raised.

Section 8 – Amends AS 05.15.180(b) by adding crane classics, Calcutta pools (page 3, line 16) to the list of activities that can be licensed by the department if they were not in existence before January 1, 1959.

Section 9 – Amends AS 05.15.180 by adding a new subsection (h). This subsection clarifies that Calcutta pools may not be conducted for elementary, secondary, postsecondary, or youth organization sporting events. The organization holding the Calcutta pool may not accept a wager on a competitor unless the competitor is at least 18 years of age. And a person may not place a wager on a competitor unless the competitor is 18 years of age or older. This subsection also clarifies that a Calcutta pool may not be conducted unless the rules for a Calcutta pool are publicly posted and available to all participants in the pool. And only one Calcutta pool can be conducted per event and the Calcutta pool permits are limited to the organization conducting the event. *For example, the only Iditarod Committee can hold a Calcutta for the Iditarod.*

Section 10 – Amends 05.15.690 by adding new paragraphs that clearly define a Calcutta pool and crane classic.

THE
FOLLOWING
DOCUMENT(S)
ARE
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*Calcutta's
(for future
legislative change)*

State of Alaska
Department of Revenue
Tax-Division-Gaming Group
State Office Building
PO Box 110420
Juneau, Alaska 99811-0420

July 15, 2004

To: Vicki Otto
ANCSA Regional CLOs
Fax: 907-265-4528

From: Jeff Prather
Fax: 907-465-3098

I am writing in response to your fax of this morning.

A Calcutta is not an authorized gaming activity under AS 05.15.

It is my understanding that a Calcutta is an illegal gambling activity in Alaska (unless the Calcutta can be structured to meet certain criteria - see the attached copy of an Attorney General Memorandum regarding the fundamental characteristics of gambling dated April 2, 2004).

Please be advised that it is a violation of AS 05.15 for a permitted organization to conduct an unauthorized gaming activity.

cc: Gary Dodson, Chief of Investigations

MEMORANDUM

State of Alaska
Department of Law

To: Scott Nordstrand
Deputy Attorney General
Department of Law
Office of the Attorney General

Date: April 2, 2004

File No:

Tel. No.: (907) 465-3600

Fax: (907) 465-2539

From: Michael A. Barnhill MB
Assistant Attorney General
Commercial and Fair Business Section

Subject: Fundamental characteristics
of gambling

The purpose of this memo is to identify the fundamental characteristics of gambling. The definition of gambling in Alaska is found in the criminal code, but this statutory definition both relies upon and is informed by the common law of gambling. Thus, this memo will discuss both the statutory and common law definitions of gambling.

Gambling has long been held to exist at common law when one "pays for a chance to obtain a prize." *State v. Pinball Machines*, 404 P.2d 923, 925 (Alaska 1965). In 1978, the legislature relied upon this common law definition of gambling to craft a new definition of gambling for purposes of the criminal code. See Commentary on the Alaska Revised Criminal Code, SCS HB 661 at 112 (June 12, 1978). Gambling is currently defined in statute to mean:

that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the person's control or influence, upon an agreement or understanding that that person or someone else will receive something of value in the event of a certain outcome. . . .

AS 11.06.280(2). According to the Commentary, "the definition includes any activity that brings a profit based on chance and includes ordinary lotteries." Commentary on the Alaska Revised Criminal Code, SCS HB 661 at 113 (June 12, 1978). The statutory elements of gaming are therefore as follows:

1. the staking or risking of something of value
2. upon a contest of chance

Scott Nordstrand
Re: Fundamental characteristics of gambling

April 2, 2004
Page 2

3. with the agreement or understanding
4. that someone will get something of value as profit

Where the Alaska definition requires an "agreement or understanding," the cases at common law often require similar concepts of a *purpose*, reason or inducement. In other words, the purpose, reason or inducement for payment must be to obtain a prize. If the reason for paying is something other than getting a prize, then the activity is not gambling.¹

An appellate court in Illinois discussed this purpose element in a case from 1939:

The controlling fact in the determination of whether a given scheme or business is a lottery is determined by the nature of the appeal which the business makes to secure the patronage of its customers. If the controlling inducement is the lure of an uncertain prize, then the business is a lottery.

Kent v. City of Chicago, 22 N.E.2d 799 (Ill. App. 1939) (emphasis added), quoted by, *G.A. Carney, Ltd. v. Brzeczek*, 453 N.E.2d 756, 760 (Ill. App. 1983). This opinion has been cited with approval in past opinions of this office. See Inf. Op. Att'y Gen. at 4 (663-00-0212, Oct. 17, 2000); Inf. Op. Att'y Gen. at 11 (663-93-0004, Sept. 2, 1992).

Moreover, the cases suggest that the purpose must be to win something more than what is placed at risk: "It may be true that the player receives the value of the money he deposits in the slot, but he stands a chance to get twenty times its value, and it is the pressure of this chance that continues the progress of the game and makes it a game of chance." *Alexander v. City of Atlanta*, 179 S.E.177, 178 (Ga. 1905), quoted by Inf. Op. Att'y Gen. at 9 (663-93-0004, Sept. 2, 1992). According to Am. Jur. 2d, "The vice of various gambling games or projects lies in the payment of money for the opportunity to win more money by a scheme of chance." 38 Am. Jur. 2d *Gambling* § 245 (1959) (emphasis added). In other words, it is not gaming unless the participant "has a chance of gain and takes a risk of loss." *Id.* This concept is echoed in the legislative history to the current definition of gambling: "the definition includes any activity that brings a profit based on chance and includes ordinary lotteries." Commentary on the Alaska Revised Criminal Code, SCS HB 661 at 113 (June 12, 1978) (emphasis added).

¹ Although this memorandum discusses the concept of "purpose," it is not intended to express an opinion on the specific culpable mental state required for any criminal offense—a topic governed by statute and Alaska case law. Later in this memorandum is a discussion of the concept of inducement in terms of what can be subjectively or objectively determined. This, too, it is not intended to express an opinion on whether a subjective or objective standard is required for any criminal offense.

Scott Nordstrand
Re: Fundamental characteristics of gambling

April 2, 2004
Page 3

In summary, if the purpose, understanding or agreement with respect to an activity is to pay for the chance to make a profit, then the activity is gambling under Alaska law. If any of the required elements is lacking, the activity is not gambling.

Accordingly, we can conceive of a variety of activities that do not constitute gambling under Alaska law. For instance, many charitable organizations host fundraising dinners at which door prizes are given away. For most participants, the purpose or controlling inducement for attendance at such a function is to contribute to a worthy cause—not to win a door prize. But the concept of controlling inducement or purpose is often subjective, and may depend on the varying motivations of individual participants. However, from an objective standpoint, if the ticket to get into the dinner costs \$20, the fair market value of the dinner is \$10 and the maximum value of any door prize is \$10, there is no possibility of profit to the participant in this scenario—regardless of the motivation or expectation of the participants that they may win a door prize. In such a case, we do not think the activity meets the definition of gambling under Alaska law.

Other kinds of fundraising events in Alaska have other inducements in addition to contributing to a worthy cause. For example, there may be entertainment and refreshments, or the participants may have the opportunity to meet a person of some prominence. It is difficult or impossible to place a value on these types of inducements. If, in addition, the fundraising event also awards door prizes equal to or less than the price of admission, we do not think such events fall into the category of gambling.

We note the possibility, however, that there may be events (either fundraising events or commercial operations) in which contests of chance are bundled with lodging, hunting, fishing or other activities that ordinarily come at some cost and the value of the possible prize is quite high. Thus, the purpose of the participants may not be able to be objectively determined, and the contests of chance could constitute gambling. But if the maximum value derived by the participants is necessarily less than the fee to participate, the definition of gambling has not been met. For example, if a participant pays \$2000 to attend a fundraising event at a ski resort, the actual value of the food, lodging and entertainment of the event is \$1500 and the maximum amount of prizes that can be awarded to the participant is \$400, then the event is probably not gambling. The operators of such games of chance would be well-advised to maintain careful records, and to be prepared to demonstrate to state or municipal officials that the value of the inducements provided does not exceed the cost of participating.

We recognize that the variation in fact patterns are infinite. Thus, this memorandum should be treated as a general enforcement guideline only. Where the inducements to participating in an event are substantial, and thus the purpose in participating may be unclear, the facts should be reviewed on a case-by-case basis before enforcement action is begun. However, as was noted in a previous opinion, it has been

Scott Nordstrand

April 2, 2004

Re: Fundamental characteristics of gambling

Page 4

the longstanding policy of the Department of Law not to provide legal advice to private persons or businesses, and this is especially important in areas that may implicate criminal laws such as gambling. See Inf. Op. Att'y Gen. at 1 (663-01-0183, May 22, 2001). When existing contests of chance are changed or new contests developed, the operators frequently contact government officials seeking legal opinions as to whether the contests are illegal gambling. Despite the best efforts of investigators and government attorneys, the advice provided in these situations often leaves a question unanswered and is sometimes imprecise. We do not wish to become so involved with structuring contests of chance that we become, in essence, legal advisors to the gaming industry.

MAB:mi

SENATE COMMITTEE REPORT

DATE: 3/29/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4/29/05

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 61(FIN)

HB 61 GAMING: CALCUTTA POOLS & CRANE CLASSICS

"An Act relating to Calcutta pools and crane classics as authorized forms of charitable gaming."

and recommends:

- be replaced with S CS CSHB 61 (LEC)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- CS Senate Bill:**
 Same Title
 New Title
- SCS House Bill:**
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	4/19/05	✓	1		2

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:

	DO PASS	DO NOT PASS	NO REC	AMEND
Ellis <i>[Signature]</i>			X	
Davis <i>[Signature]</i>			↑ X	
B. Stevens <i>[Signature]</i>	✓			
CHAIR: Seekins <i>[Signature]</i>	✓			

HB

64

HFIN

FILE

Representative Mike Hawker

Alaska State Legislature



House Bill 64 Sponsor Statement

Session:

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim:

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

Member:

House Finance Committee
Legislative Budget
& Audit Committee

House District 32:

Eagle River
Anchorage
Rambow
Indian
Bird
Girdwood
Portage
Whittier
Sunrise
Hope

"An Act extending the termination date for the Board of Public Accountancy; and providing for an effective date."

House Bill 64 extends the sunset date of the Board of Public Accountancy (BOPA) until June 30, 2009, in accordance with recommendations of the Legislative Auditor.

The board consists of five certified public accountants and two public members. Board members are appointed by the Governor and confirmed by the Legislature. The board adopts regulations to carry out the laws governing the practice of public accountancy in Alaska. It makes final licensing decisions and takes disciplinary action against people who violate the licensing laws.

The board has been working proactively with the Alaska Society of Certified Public Accountants (ASCPA) and individual CPAs to bring Alaska into conformance with national professional testing standards and to make Alaska more attractive to multi-state businesses by making our accountancy statutes more consistent with the American Institute of the Certified Public Accountants Uniform Accountancy Act.

The legislative auditor has concluded the BOPA meets the statutory requirements of public need and is in compliance with AS 08.01.065(c), which requires occupational licensing fees to cover the regulatory costs of that occupation. A letter from the ASCPA, the accountants' professional organization, endorsing reauthorization of the BOPA is included in the bill package.

Accordingly, the best interests of Alaska's business and professional communities will be served by your support of this reauthorization.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 64
(H) Publish Date: 1/24/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Extend Board of RDU Occupational Licensing (117)
Public Accountancy Component Occupational Licensing
Sponsor HAWKER, Stoltze
Requester House Labor and Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	51.6	51.6	51.6	51.6	
Travel	0.0	19.5	19.5	19.5	19.5	
Contractual	0.0	54.9	54.9	54.9	54.9	
Supplies	0.0	1.0	1.0	1.0	1.0	
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	127.0	127.0	127.0	127.0	

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1156)	0.0	127.0	127.0	127.0	127.0	
----------------------------------	------------	--------------	--------------	--------------	--------------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	127.0	127.0	127.0	127.0	
TOTAL	0.0	127.0	127.0	127.0	127.0	

Estimate of any current year (FY2005) cost: 127.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Public Accountancy to June 30, 2009. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2006 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2006 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone: (907) 465-2144
Division: Occupational Licensing Date/Time: 1/21/05 12:27 PM
Approved by: Edgar Blatchford, Commissioner Date: 1/21/2005
Agency: Commerce, Community & Economic Development

THE
FOLLOWING
DOCUMENT(S)
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ALASKA SOCIETY OF CPAs
811 W. TUDOR #105
ANCHORAGE, AK 99503
(907) 562-4134
800-478-4334
FAX (907) 562-4075

January 14, 2005

Representative Mike Hawker
State Capital, Room 502
Juneau, AK 99801-1182

Honorable Mike Hawker:

I would like to inform the State Legislature that the Alaska Society of Certified Public Accountants would like you to reauthorize the Alaska State Board of Accountancy.

If you have any questions regarding this, please feel free to contact me at anytime in Anchorage at 907-272-1421.

Sincerely,

Donovan W. Rulien, CPA
Chairman of the Legislative Committee
Past President of the Alaska Society of Certified Public Accountants

November 5, 2004

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF PUBLIC ACCOUNTANCY

October 25, 2004

Audit Control Number

08-20027-05

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(1), the Board of Public Accountancy is scheduled to terminate on June 30, 2005 and has one year in which to conclude its administrative operations. We recommend that the legislature extend the board's termination date to June 30, 2009.

Article IX, Section 14 of the Alaska Constitution, requires that the position of Legislative Auditor be filled by a certified public accountant (CPA). Likewise, the professional staff at the Division of Legislative Audit are either licensed or are pursuing licensure as CPAs. Since the board is responsible for licensing and regulating CPAs, our agency does not meet the independence standard required by generally accepted government auditing standards. Therefore, we are disclosing our lack of independence and the resulting lack of adherence to that auditing standard.

Except for the issue related to the independence standard discussed above, the audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Public Accountancy (BOPA). As required by AS 44.66.050(a), the legislative committees of reference are to consider this report during the legislative oversight process involved in determining if the board should be reestablished. Currently, AS 08.03.010(c)(1) states that the board will terminate on June 30, 2005. If the legislature does not extend the termination date for the board, BOPA will have one year to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of certified public accountants.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction, and under our supervision, conducted a majority of this review. We are satisfied that the contractor's work was competent and sufficient. The other auditor is subject to the licensing and regulatory oversight of the Board of Public Accountancy. However, neither the other auditor nor our agency is independent as to the licensing and oversight of the board. Government audit standards require that any time the auditor is not free both in fact and appearance from personal, external, or organizational impairments, the "...impairment should be reported in the scope section of the audit report." This lack of independence is so noted.

Our audit reviewed the operations and activities of the Board of Public Accountancy for the period FY 01 through FY 04.

During the course of our examination, we reviewed and evaluated the following:

1. Compliance with statutes and regulations related to the certification of public accountants. Our evaluation addressed considerations of applications, testing of candidates, and continuing education necessary for a certified public accountant to maintain their license in good standing.
2. Minutes of meetings of the Board of Public Accountancy.
3. Annual reports issued by the board.
4. Complaints filed with the Division of Occupational Licensing.
5. The contract between the National Association of State Boards of Accounting, the American Institute of Certified Public Accountants, and a private corporation - Thomson Prometric related to the administration of the Uniform Certified Public Accountant Examination.
6. We also conducted interviews with employees of the Division of Occupational Licensing within the Department of Commerce, Community, and Economic Development.
7. We attended a teleconference of a subcommittee of the board charged with trying to arrange for additional testing sites in Alaska for CPA licensure applicants.
8. Other documents deemed pertinent.

ORGANIZATION AND FUNCTION

The Board of Public Accountancy is established under the authority of AS 08.04.010. The seven member board is appointed by the governor to four-year staggered terms.

Board Membership

Five of the members must be certified public accountants or public accountants currently licensed in the State of Alaska. Two members represent the general public. See the listing to the right for board members as of June 24, 2004.

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as certified public accountants.

Board Duties

The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

The board charged by statute with granting a certificate of "Certified Public Accountant" (CPA) to individuals at least 19 years of age and of good moral character that:

1. Have satisfied the applicable education requirements;
2. Have passed written examination requirements; and,
3. Have provided evidence of satisfactory work experience.

The Department of Commerce, Community, and Economic Development, Division of Occupational Licensing

The Department of Commerce, Community, and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Public Accountancy. Administrative assistance includes budgetary services and functions

Board of Public Accountancy (As of June 24, 2004)

Professional Members

Steven R. Tarola, Chair, CPA
Marjorie J. Kaiser, CPA
Sandra R. Wilson, CPA
Dan F. Kennedy, CPA

Public Member

Laura Welles

such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Commerce, Community, and Economic Development, with the concurrence of the Board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing (OccLic) with the authority to act on its own initiative or in response to a complaint. OccLic may:

1. Conduct an investigation if it appears a person is engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Public Accountancy (BOPA) should be extended. The board is serving a public interest by operating in an effective manner in its licensing and regulation of certified public accountants and public accountants. The board is acting in the public interest by promoting the competence and integrity of those who hold themselves out to the public as certified public accountants (CPAs) or public accountants (PAs).

The board continues to make regulation changes, improving its effectiveness of monitoring CPAs and PAs licensed in the State of Alaska; making sure they are competent and capable of maintaining the integrity of the profession. The board is proactively attempting to restore testing sites to Juneau and Fairbanks for the Uniform Certified Public Accountant Examination – which have been closed with the implementation of a new testing process by the American Institute of Certified Public Accountants.

Alaska Statute 08.03.010(c)(1) requires the Board of Public Accountancy be terminated on June 30, 2005. Under AS 08.03.020, if the termination date is not extended by the legislature, the board will have a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2009.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

BOPA should continue to be proactive in providing better access to its primary licensing examination – the Uniform Certified Public Accountant Examination (CPA Exam).

In 2004, the manner in which the CPA Exam is administered in Alaska was changed. Previously, the examination was administered twice a year at a minimum of three testing sites typically located in Anchorage, Fairbanks, and Juneau. The examination spread over two and one-half days; although individuals, who passed previous segments, only had to sit for the parts they had yet to successfully pass.

In 2004, in conjunction with changes of format and structure that were made nationally by the American Institute of Certified Public Accounts (AICPA), the examination was changed to an all-computerized format that could be taken in whole or in parts up to three, and eventually four, times a year. By increasing the availability of the examination across the full year, access for applicants was improved. However, as the new testing regimen was implemented in Alaska, this improved access was offset to a large degree by the restriction in the number of available testing sites. Under the new testing regimen, applicants can only take the examination at one test site located in Anchorage.

Such circumstances make taking the examination much more expensive for applicants in the Interior and Southeast Alaska. Applicants from these regions must now travel to Anchorage, arrange for transportation and accommodations, in addition of having to pay a higher examination fee.

Administration of the examination is beyond the direct control of BOPA.

The board has reported, and we confirmed, that the current testing arrangements are beyond its direct control. The examination was in effect privatized, and the manner in which it is administered is subject to the necessity of a private sector corporation, Thomson Prometric, to make an operating profit.

The manner and number of locations involved with administration of the licensing examination are set under terms of a contract between Thomson Prometric,¹ the National

¹ Thomson Prometric is a subsidiary of the Thomson Corporation which states on its website that it is a "leading global provider of integrated information solutions to business and professional customers." One of the more recognizable "brand names" of the Thomson Corporation is Westlaw, publisher and provider of legal and regulatory research information.

Association of State Boards of Accounting (NASBA),² and the AICPA. Under the contract, Prometric is only required to provide a minimum of one testing site in Alaska. Prometric reports that setup costs involved in providing necessary electronic security over the examination to meet AICPA standards,³ along with operating costs involved with keeping a testing site open throughout the year, make it cost-prohibitive to have more sites in a state such as Alaska – given the level of demand statewide for taking the CPA Exam. From Prometric's perspective, there is just not enough volume to provide them with a profit from opening additional test sites.

According to the BOPA, it took NASBA intervention with AICPA and Prometric to maintain at least one testing site in Alaska.⁴ Essentially, the AICPA has turned the availability of the CPA Exam into a profit-driven decision. The result, particularly in Alaska, has been to develop a restrictive practice that may unduly limit access to the profession which could be adverse to the public interest if the supply of CPAs become restricted.

BOPA has been proactive to make the CPA Exam available at more test sites in Alaska.

BOPA has adopted a resolution requesting that more testing sites be made available in Alaska for the CPA Exam. BOPA is actively working with NASBA, negotiating on the board's behalf, to modify the existing contract to provide for more test sites. The board, representatives of the University of Alaska, the state professional society, CPA firms – as well as individual CPAs – recognized the problems involved with having only one test site in Alaska. Individually, and in tandem, some of these groups have been trying to work with NASBA and Prometric to set up an additional testing site.

A central tenet of occupational licensing is that regulatory boards for given professions primarily exist to provide public and consumer protection without unduly restricting or limiting entry into the regulated profession. Accordingly, the board must continue to be proactive, and NASBA should be proactive with the AICPA, to be sure the licensing procedures conform with the public policy objectives of occupational regulation and oversight.

² NASBA represents 54 boards of accounting throughout the United States and its possessions. The organization includes accounting licensing board from 49 states, the Illinois board of examiners (which determines who may sit for the CPA examination), and the Illinois Public Accountant Registration Committee (which determines who is licensed to be a CPA), the District of Columbia, Virgin Islands, and Guam.

³ In correspondence with us, the BOPA chair comments that the CPA exam is "the most secure exam of any professional exam and its passage is renowned and sought after worldwide."

⁴ In correspondence with us, the BOPA chair observed there are "a half dozen other states including Hawaii, Montana, and Idaho who have only one test site where long distances must be traveled. No state has been successful in getting Prometric to increase testing sites where they did fit the profitability clauses in [the contract between NASBA, Prometric, and the AICPA]."

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

As discussed in Recommendation No. 1, BOPA implemented a testing procedure for its primary licensing examination – the Uniform CPA Examination. The new examination is a 14-hour test divided into four sections: Auditing and Attestation; Financial Accounting and Reporting; Regulation; and, Business Environment and Concepts.

The computer-based Uniform CPA Examination is offered the first two months of each calendar quarter. Subject to availability of test site capacity, applicants can now take examinations four times in a calendar year as opposed to the previous twice-a-year schedule. This makes taking the examination more accessible to individuals seeking licensure as a CPA by examination.

In Alaska, this advantage is offset to a large degree by having the testing site limited to one location within the State. The board's actions and options regarding this area are discussed further in Recommendation No. 1 of this letter.

Additionally, in response to national concern over ethics violations by Certified Public Accountants, the board unanimously supported regulation changes that would require four hours of continuing professional education in ethics during the preceding 24 months for license renewal.

The board also put in place regulations mandating a peer review process for practitioners who issue audits and various other attestation services. Such a requirement installs a quality control mechanism on auditing firms and practitioners that should contribute to higher audit integrity by the state's CPAs.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

As discussed in Recommendation No. 1, although the adoption of the new computer-based CPA examination provided greater accessibility for applicants seeking licensure by examination by making the examination available up to four times a year, the current

restriction to a single testing site in Anchorage limits the accessibility of individuals in Interior and Southeast Alaska due to the expense involved of getting to, and staying at, the Anchorage test site.

Alaska Statute 08.01.065(c) states, "...that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." As shown in the financial schedule below, BOPA is in a surplus situation at the end of FY 04 and fees appear to appropriately cover the board's projected FY 05 operating costs.

Licensing and renewal fees for licensees were increased in fiscal year 2000 from \$180 to \$220. This increase was necessary at the time to ensure the deficit was repaid and the total fees collected approximated the overall regulatory costs for the occupation. Based upon our analysis of the summary schedule on the following page, BOPA licensing fees are adequate in order to cover the regulatory costs of the profession.

State of Alaska Board of Public Accountancy FY 02 - FY 04 Schedule of License Revenues and Board Expenditures (Unaudited)			
	<u>FY 04</u>	<u>FY 03</u>	<u>FY 02</u>
Revenue	\$ <u>301,200</u>	\$ <u>119,800</u>	\$ <u>320,300</u>
Direct Expenditures			
Personal Services	51,600	37,600	40,000
Travel	19,500	26,900	20,600
Contractual	54,900	80,000	73,900
Supplies	<u>100</u>	<u>200</u>	<u>100</u>
Total Direct Expenditures	126,100	144,700	134,600
Indirect Expenditures	<u>68,200</u>	<u>62,500</u>	<u>46,700</u>
Total Expenditures	194,300	207,200	181,300
Net Income (Loss)	<u>106,900</u>	<u>(87,400)</u>	<u>139,000</u>
Beginning Cumulative Surplus (Deficit)	84,200	171,600	32,600
Ending Cumulative Surplus (Deficit)	\$ <u>191,100</u>	\$ <u>84,200</u>	\$ <u>171,600</u>

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The board testified in favor of 2003 legislation relating to the examination process. Such legislation was necessary in order for the State to implement the new computer-based Uniform CPA Examination process. While change in the examination process doubles the number of opportunities an applicant has to test in one year, this advantage is offset by having only one test site available in Alaska. For further discussion, see Recommendation No. 1 of this letter.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

The location, date, and time of upcoming board meetings and notices of proposed changes in regulations are published in the *Anchorage Daily News*, the board's internet website and the State's on-line public notice internet website. The State also offers a subscription service whereby the State will e-mail the subscriber requested public notices.

The board's meeting agendas consistently set aside time for the board to take public comment. Minutes from the meetings of the board reflect public participation throughout the meeting. Proposed regulations are often circulated to those affected by the proposed regulations through professional trade journals, public notice advertisement, or direct mail correspondence from the Division of Occupational Licensing (OceLic).

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Public notices of proposed regulations are published in major newspapers. Overall, meetings are adequately advertised and time is set aside for public testimony.

Major proposed regulation changes were circulated throughout the professional community by either direct-response mailing to the affected license holders or providing the proposed changes to the State's accounting organizations. Feedback resulted in changes to the proposed regulations addressing the profession's concerns. The Alaska Society of Certified Public Accountants has requested the board's support for legislation sought by the Society.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.

In the 35-month period between July 1, 2001 and late May 2004, OccLic's investigative section conducted 25 investigations involving complaints related to licensees, or applicants for licensure, of BOPA. Five investigations originated from complaints made by CPA clients, while another three complaints were received from the general public. The remaining 17 complaints stemmed from internal OccLic application and renewal procedures. All complaints were ranked as a low priority by OccLic's investigation section.

In June 2004, 13, or just over half, of the complaints were still open. Six of those 13 complaints had been open for longer than 120 days. We reviewed five of these six complaints in detail. Four of the five complaints had no evidence of having any investigative activity for the last 90 days. Based on our review, we concluded the public inquiries and complaints regarding BOPA activities were not being resolved efficiently.

Efficiency issues related to investigations are being evaluated in another audit report. This report addresses the history, and evaluates the effectiveness, of the State's overall sunset process.

No complaints or investigations specifically involving the actions and activities of BOPA were received, or undertaken by, either the Office of the Ombudsman or the Office of Victim's Rights within the past three fiscal years.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We did not find any evidence that the board was not complying with state personnel practices, including affirmative action in qualifying applicants. In no instance did the board deny an applicant a license based on personal attributes.

The extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public.

The application process for licensing, followed by BOPA's OccLic staff, appears reasonable and appropriate. The board relies on a national exam for testing of qualified applicants. Additional educational requirements and experience hours are also required before an

applicant can be approved for licensure. After the initial licensing period, continuing education is required and adequately monitored by the board.

Listed below is a summary of new licenses and permits issued by the board for the period under review. This information was compiled from annual reports issued by the board.

New Permits Issued (Exclusive of Renewals)	FY01	FY02	FY03	FY 04	Current Licenses (as of June 30, 2004)
Certified Public Accountants	58	50	35	69	831
Resident Partnerships, Corporations and Limited Liability Companies	8	6	3	5	82
Nonresident General Permits	3	6	8	11	32

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interest of the public and to comply with the factors enumerated in AS 44.66.050.

The board, with the assistance of AICPA and NASBA, has recognized the need to evaluate and explore implementation of a "substantial equivalency" concept to simplify the licensing of applicants from other jurisdictions by reciprocity. This will allow Certified Public Accountants to practice across state lines in states that meet Uniform Accountancy Act Standards.

Nationally, the public accounting profession continually considers issues that may have an impact on industry standards. The board continues to be active in addressing these issues ensuring certified public accountants licensed in the State of Alaska are represented.

BOPA believes that, to effectively address these issues and serve the best interest of the public, it is essential for participation and attendance to be encouraged at National forums sponsored by the AICPA and NASBA. Travel costs for board members have been restricted in recent years. This has led board members to seek financial support from other sources enabling them to travel to national conferences regarding the licensing of CPAs. Participation in nationwide issues should be a primary responsibility of the Board of Public Accountancy.



OFFICE OF THE COMMISSIONER

Juneau, Alaska 99801

December 30, 2004

Pat Davidson
Legislative Auditor
Legislative Budget and Audit Committee
Division of Legislative Audit
P.O. Box 11, Juneau
Juneau, AK 99801

RE: Board of Public Accounting

Dear Mr. Davidson:

We are pleased to report to you our annual report to the Board of Public Accounting (BOPA) Legislative Audit Panel.

Our report is available at the following link: [http://www.dca.state.ak.us](#)

Recommendation No. 1:

Board members should be required to provide a written report to the Legislative Audit Panel regarding their activities.

The Board should also be required to provide a written report to the Legislative Audit Panel regarding the activities of the Board.

We recommend that the Board should be required to provide a written report to the Legislative Audit Panel regarding their activities.

Members of the Board should be required to provide a written report to the Legislative Audit Panel regarding their activities.

Please inform me if the BOPA report is available to the ALPA, ASBA and Finance Panel.

As to the 10 PY's regarding the option of utilizing CPA Examination Services in NASBA owned services for the processing of 10 PY's and applications and administration of the CPA examination.

And

Lastly, we request the Board strongly support attendance at national conference meetings related to this program. In the past three years, several Institute that we have contacted have been provided to the Board for their dates at these forums.

Thank you appreciate the opportunity to comment.

Sincerely,

Edgar Blitchford

Edgar Blitchford
Executive Director

10/12/2006
10/12/2006

Steven R. Tarola, CPA
P.O. Box 2074, Homer, Alaska 99603
907-235-3610 (Home/Fax) 907-399-3393 (Cell Phone) starola@xyz.net (E-mail)

December 21, 2004

Pat Davidson, CPA, Legislative Auditor
Division of Legislative Audit
Alaska State Legislature
P.O. Box 113300
Juneau, Alaska 99811-3300

Dear Ms. Davidson:

Thank you for giving me the chance to respond to the Preliminary Report of the Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Public Accountancy, October 25, 2004.

I am pleased to see that you are recommending that the termination date for the Board of Public Accountancy (BOPA) should be extended. I concur with your findings and recommendation regarding the Uniform Certified Public Accountant Examination (CPA Exam) as well as the rest of the Report.

It is unfortunate that the change to the computerized CPA Exam restricted access and increased expense for rural applicants in Alaska. There are, however, new rules under the computerized exam which provide some significant benefits to applicants. These are as follows:

- Applicants no longer have to take all un-passed sections of the exam each time they sit, which saves exam re-take costs and allows them to concentrate on individual sections.
- Applicants are able to condition (keep) any single passed exam section rather than having to initially pass two sections in order to condition under the written exam.
- Pass rates have increased dramatically under the computerized exam, which allows some applicants to save costs by not having to sit for the exam as many times as required under the written exam.

- Applicants now have flexibility to schedule the timing of the exam to fit their situation, while under the written exam the test was given only twice a year on specific dates.
- Applicants may take the exam at any testing center they chose in the United States, Guam, Puerto Rico, or the U.S. Virgin Islands.
- Applicants are able to take the exam in a medium they are familiar with rather than paper and pencil.

Please let me know if you have any questions.

Respectfully yours,



Steven R. Tarola, Chair
Alaska Board of Public Accountancy

HB

64

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAR 09 2005
SENATE FINANCE
COMMITTEE

DATE: 2/16/05

FURTHER:

DATE TURNED
IN TO OFFICE: 03/09/05

Finance Committee considered HOUSE BILL NO. 64

HB 64 EXTEND BOARD OF PUBLIC ACCOUNTANCY

"An Act extending the termination date for the Board of Public Accountancy; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DCCED	1/21/05			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: _____				

MAR 09 2005

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 64
(H) Publish Date: 1/24/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title: Extend Board of RDU: Occupational Licensing (117)
Public Accountancy Component: Occupational Licensing
Sponsor: HAWKER, Stoltze
Requester: House Labor and Commerce Component No.: 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	51.6	51.6	51.6	51.6	
Travel	0.0	19.5	19.5	19.5	19.5	
Contractual	0.0	54.9	54.9	54.9	54.9	
Supplies	0.0	1.0	1.0	1.0	1.0	
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	127.0	127.0	127.0	127.0	

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1156)	0.0	127.0	127.0	127.0	127.0	
------------------------------------	------------	--------------	--------------	--------------	--------------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services	0.0	127.0	127.0	127.0	127.0	
TOTAL	0.0	127.0	127.0	127.0	127.0	

Estimate of any current year (FY2005) cost: 127.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Board of Public Accountancy to June 30, 2009. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Board to conclude its affairs. FY 2006 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2006 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone: (907) 465-2144
Division: Occupational Licensing Date/Time: 1/21/05 12:27 PM
Approved by: Edgar Blatchford, Commissioner Date: 1/21/2005
Agency: Commerce, Community & Economic Development

Representative Mike Hawker

Alaska State Legislature

House Bill 64 Sponsor Statement

"An Act extending the termination date for the Board of Public Accountancy; and providing for an effective date."

House Bill 64 extends the sunset date of the Board of Public Accountancy (BOPA) until June 30, 2009, in accordance with recommendations of the Legislative Auditor.

The board consists of five certified public accountants and two public members. Board members are appointed by the Governor and confirmed by the Legislature. The board adopts regulations to carry out the laws governing the practice of public accountancy in Alaska. It makes final licensing decisions and takes disciplinary action against people who violate the licensing laws.

The board has been working proactively with the Alaska Society of Certified Public Accountants (ASCPA) and individual CPAs to bring Alaska into conformance with national professional testing standards and to make Alaska more attractive to multi-state businesses by making our accountancy statutes more consistent with the American Institute of the Certified Public Accountants Uniform Accountancy Act.

The legislative auditor has concluded the BOPA meets the statutory requirements of public need and is in compliance with AS 08.01.065(c), which requires occupational licensing fees to cover the regulatory costs of that occupation. A letter from the ASCPA, the accountants' professional organization, endorsing reauthorization of the BOPA is included in the bill package.

Accordingly, the best interests of Alaska's business and professional communities will be served by your support of this reauthorization.

Session

State Capitol
Juneau, AK 99801
907 465-4949 direct
800 478-4950 toll free
907 465-4979 fax

Interim

716 W 4th Avenue
Anchorage, AK 99501
907 269-0244 office
907 269-0248 fax

Member

House Finance Committee
Legislative Budget
& Audit Committee

Home District 32

Eagle River
Anchorage
Rainbow
Indian
Bud
Candlewood
Portage
Whittier
Sunrise
Hope



ALASKA SOCIETY OF CPAs
341 W TUDOR #105
ANCHORAGE, AK 99503
(907) 562-4334
800-478-4334
FAX (907) 562-4025

January 14, 2005

Representative Mike Hawker
State Capital, Room 502
Juneau, AK 99801-1182

Honorable Mike Hawker:

I would like to inform the State Legislature that the Alaska Society of Certified Public Accountants would like you to reauthorize the Alaska State Board of Accountancy.

If you have any questions regarding this, please feel free to contact me at anytime in Anchorage at 907-272-1421.

Sincerely,

Donovan W. Rylien, CPA
Chairman of the Legislative Committee
Past President of the Alaska Society of Certified Public Accountants

November 5, 2004

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE, COMMUNITY,
AND ECONOMIC DEVELOPMENT
BOARD OF PUBLIC ACCOUNTANCY

October 25, 2004

Audit Control Number

08-20027-05

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given board, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(1), the Board of Public Accountancy is scheduled to terminate on June 30, 2005 and has one year in which to conclude its administrative operations. We recommend that the legislature extend the board's termination date to June 30, 2009.

Article IX, Section 14 of the Alaska Constitution, requires that the position of Legislative Auditor be filled by a certified public accountant (CPA). Likewise, the professional staff at the Division of Legislative Audit are either licensed or are pursuing licensure as CPAs. Since the board is responsible for licensing and regulating CPAs, our agency does not meet the independence standard required by generally accepted government auditing standards. Therefore, we are disclosing our lack of independence and the resulting lack of adherence to that auditing standard.

Except for the issue related to the independence standard discussed above, the audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are set out on page one of this report.

Pat Davidson, CPA
Legislative Auditor

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OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Board of Public Accountancy (BOPA). As required by AS 44.66.050(a), the legislative committees of reference are to consider this report during the legislative oversight process involved in determining if the board should be reestablished. Currently, AS 08.03.010(c)(1) states that the board will terminate on June 30, 2005. If the legislature does not extend the termination date for the board, BOPA will have one year to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the board should be extended.
2. To determine if the board is operating in the public interest.
3. To determine if the board has exercised appropriate regulatory oversight of certified public accountants.

The assessment of the operations and performance of the board was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the board.

Scope and Methodology

Another auditor at our direction, and under our supervision, conducted a majority of this review. We are satisfied that the contractor's work was competent and sufficient. The other auditor is subject to the licensing and regulatory oversight of the Board of Public Accountancy. However, neither the other auditor nor our agency is independent as to the licensing and oversight of the board. Government audit standards require that any time the auditor is not free both in fact and appearance from personal, external, or organizational impairments, the "...impairment should be reported in the scope section of the audit report." This lack of independence is so noted.

Our audit reviewed the operations and activities of the Board of Public Accountancy for the period FY 01 through FY 04.

During the course of our examination, we reviewed and evaluated the following:

1. Compliance with statutes and regulations related to the certification of public accountants. Our evaluation addressed considerations of applications, testing of candidates, and continuing education necessary for a certified public accountant to maintain their license in good standing.
2. Minutes of meetings of the Board of Public Accountancy.
3. Annual reports issued by the board.
4. Complaints filed with the Division of Occupational Licensing.
5. The contract between the National Association of State Boards of Accounting, the American Institute of Certified Public Accountants, and a private corporation – Thomson Prometric related to the administration of the Uniform Certified Public Accountant Examination.
6. We also conducted interviews with employees of the Division of Occupational Licensing within the Department of Commerce, Community, and Economic Development.
7. We attended a teleconference of a subcommittee of the board charged with trying to arrange for additional testing sites in Alaska for CPA licensure applicants.
8. Other documents deemed pertinent.

ORGANIZATION AND FUNCTION

The Board of Public Accountancy is established under the authority of AS 08.04.010. The seven member board is appointed by the governor to four-year staggered terms.

Board Membership

Five of the members must be certified public accountants or public accountants currently licensed in the State of Alaska. Two members represent the general public. See the listing to the right for board members as of June 24, 2004.

The board is responsible for safeguarding the public interest by ensuring the competence and integrity of those who hold themselves out to the public as certified public accountants.

Board Duties

The board evaluates the qualifications of candidates, administers examinations, issues certificates and licenses to practice, promulgates rules of professional conduct, and takes disciplinary action.

The board charged by statute with granting a certificate of "Certified Public Accountant" (CPA) to individuals at least 19 years of age and of good moral character that:

1. Have satisfied the applicable education requirements;
2. Have passed written examination requirements; and,
3. Have provided evidence of satisfactory work experience.

The Department of Commerce, Community, and Economic Development, Division of Occupational Licensing

The Department of Commerce, Community, and Economic Development, Division of Occupational Licensing provides administrative and investigative assistance to the Board of Public Accountancy. Administrative assistance includes budgetary services and functions

Board of Public Accountancy (As of June 24, 2004)

Professional Members

Steven R. Tarola, Chair, CPA
Marjorie J. Kaiser, CPA
Sandra R. Wilson, CPA
Dan F. Kennedy, CPA

Public Member

Laura Welles

such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notices of examinations and meetings.

Alaska Statute 08.01.065, mandates the Department of Commerce, Community, and Economic Development, with the concurrence of the Board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers the Division of Occupational Licensing (OccLic) with the authority to act on its own initiative or in response to a complaint. OccLic may:

1. Conduct an investigation if it appears a person is engaged or is about to engage in a prohibited professional practice.
2. Bring an action in Superior Court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

REPORT CONCLUSIONS

In our opinion, the termination date for the Board of Public Accountancy (BOPA) should be extended. The board is serving a public interest by operating in an effective manner in its licensing and regulation of certified public accountants and public accountants. The board is acting in the public interest by promoting the competence and integrity of those who hold themselves out to the public as certified public accountants (CPAs) or public accountants (PAs).

The board continues to make regulation changes, improving its effectiveness of monitoring CPAs and PAs licensed in the State of Alaska, making sure they are competent and capable of maintaining the integrity of the profession. The board is proactively attempting to restore testing sites to Juneau and Fairbanks for the Uniform Certified Public Accountant Examination – which have been closed with the implementation of a new testing process by the American Institute of Certified Public Accountants.

Alaska Statute 08.03.010(e)(1) requires the Board of Public Accountancy be terminated on June 30, 2005. Under AS 08.03.020, if the termination date is not extended by the legislature, the board will have a one-year period to administratively conclude its affairs. We recommend the legislature extend the board's termination date to June 30, 2009.

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

BOPA should continue to be proactive in providing better access to its primary licensing examination – the Uniform Certified Public Accountant Examination (CPA Exam).

In 2004, the manner in which the CPA Exam is administered in Alaska was changed. Previously, the examination was administered twice a year at a minimum of three testing sites typically located in Anchorage, Fairbanks, and Juneau. The examination spread over two and one-half days; although individuals, who passed previous segments, only had to sit for the parts they had yet to successfully pass.

In 2004, in conjunction with changes of format and structure that were made nationally by the American Institute of Certified Public Accounts (AICPA), the examination was changed to an all-computerized format that could be taken in whole or in parts up to three, and eventually four, times a year. By increasing the availability of the examination across the full year, access for applicants was improved. However, as the new testing regimen was implemented in Alaska, this improved access was offset to a large degree by the restriction in the number of available testing sites. Under the new testing regimen, applicants can only take the examination at one test site located in Anchorage.

Such circumstances make taking the examination much more expensive for applicants in the Interior and Southeast Alaska. Applicants from these regions must now travel to Anchorage, arrange for transportation and accommodations, in addition of having to pay a higher examination fee.

Administration of the examination is beyond the direct control of BOPA.

The board has reported, and we confirmed, that the current testing arrangements are beyond its direct control. The examination was in effect privatized, and the manner in which it is administered is subject to the necessity of a private sector corporation, Thomson Prometric, to make an operating profit.

The manner and number of locations involved with administration of the licensing examination are set under terms of a contract between Thomson Prometric,¹ the National

¹ Thomson Prometric is a subsidiary of the Thomson Corporation which states on its website that it is a "leading global provider of integrated information solutions to business and professional customers." One of the more recognizable "brand names" of the Thomson Corporation is Westlaw, publisher and provider of legal and regulatory research information.

Association of State Boards of Accounting (NASBA),² and the AICPA. Under the contract, Prometric is only required to provide a minimum of one testing site in Alaska. Prometric reports that setup costs involved in providing necessary electronic security over the examination to meet AICPA standards,³ along with operating costs involved with keeping a testing site open throughout the year, make it cost-prohibitive to have more sites in a state such as Alaska – given the level of demand statewide for taking the CPA Exam. From Prometric’s perspective, there is just not enough volume to provide them with a profit from opening additional test sites.

According to the BOPA, it took NASBA intervention with AICPA and Prometric to maintain at least one testing site in Alaska.⁴ Essentially, the AICPA has turned the availability of the CPA Exam into a profit-driven decision. The result, particularly in Alaska, has been to develop a restrictive practice that may unduly limit access to the profession which could be adverse to the public interest if the supply of CPAs become restricted.

BOPA has been proactive to make the CPA Exam available at more test sites in Alaska.

BOPA has adopted a resolution requesting that more testing sites be made available in Alaska for the CPA Exam. BOPA is actively working with NASBA, negotiating on the board’s behalf, to modify the existing contract to provide for more test sites. The board, representatives of the University of Alaska, the state professional society, CPA firms – as well as individual CPAs – recognized the problems involved with having only one test site in Alaska. Individually, and in tandem, some of these groups have been trying to work with NASBA and Prometric to set up an additional testing site.

A central tenet of occupational licensing is that regulatory boards for given professions primarily exist to provide public and consumer protection without unduly restricting or limiting entry into the regulated profession. Accordingly, the board must continue to be proactive, and NASBA should be proactive with the AICPA, to be sure the licensing procedures conform with the public policy objectives of occupational regulation and oversight.

² NASBA represents 54 boards of accounting throughout the United States and its possessions. The organization includes accounting licensing board from 49 states, the Illinois board of examiners (which determines who may sit for the CPA examination), and the Illinois Public Accountant Registration Committee (which determines who is licensed to be a CPA), the District of Columbia, Virgin Islands, and Guam.

³ In correspondence with us, the BOPA chair comments that the CPA exam is “the most secure exam of any professional exam and its passage is renowned and sought after worldwide.”

⁴ In correspondence with us, the BOPA chair observed there are “a half dozen other states including Hawaii, Montana, and Idaho who have only one test site where long distances must be traveled. No state has been successful in getting Prometric to increase testing sites where they did fit the profitability clauses in [the contract between NASBA, Prometric, and the AICPA].”

ANALYSIS OF PUBLIC NEED

The following analyses of board activities relate to the public need factors defined in AS 44.66.050(e). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

As discussed in Recommendation No. 1, BOPA implemented a testing procedure for its primary licensing examination – the Uniform CPA Examination. The new examination is a 14-hour test divided into four sections: Auditing and Attestation; Financial Accounting and Reporting; Regulation; and Business Environment and Concepts.

The computer-based Uniform CPA Examination is offered the first two months of each calendar quarter. Subject to availability of test site capacity, applicants can now take examinations four times in a calendar year as opposed to the previous twice-a-year schedule. This makes taking the examination more accessible to individuals seeking licensure as a CPA by examination.

In Alaska, this advantage is offset to a large degree by having the testing site limited to one location within the State. The board's actions and options regarding this area are discussed further in Recommendation No. 1 of this letter.

Additionally, in response to national concern over ethics violations by Certified Public Accountants, the board unanimously supported regulation changes that would require four hours of continuing professional education in ethics during the preceding 24 months for license renewal.

The board also put in place regulations mandating a peer review process for practitioners who issue audits and various other attestation services. Such a requirement installs a quality control mechanism on auditing firms and practitioners that should contribute to higher audit integrity by the state's CPAs.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

As discussed in Recommendation No. 1, although the adoption of the new computer-based CPA examination provided greater accessibility for applicants seeking licensure by examination by making the examination available up to four times a year, the current

restriction to a single testing site in Anchorage limits the accessibility of individuals in Interior and Southeast Alaska due to the expense involved of getting to, and staying at, the Anchorage test site.

Alaska Statute 08.01.065(c) states, "...that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." As shown in the financial schedule below, BOPA is in a surplus situation at the end of FY 04 and fees appear to appropriately cover the board's projected FY 05 operating costs.

Licensing and renewal fees for licensees were increased in fiscal year 2000 from \$180 to \$220. This increase was necessary at the time to ensure the deficit was repaid and the total fees collected approximated the overall regulatory costs for the occupation. Based upon our analysis of the summary schedule on the following page, BOPA licensing fees are adequate in order to cover the regulatory costs of the profession.

State of Alaska Board of Public Accountancy FY 02 - FY 04 Schedule of License Revenues and Board Expenditures (Unaudited)			
	<u>FY 04</u>	<u>FY 03</u>	<u>FY 02</u>
Revenue	\$ 301,200	\$ 119,800	\$ 320,300
Direct Expenditures			
Personal Services	51,600	37,600	40,000
Travel	19,500	26,900	20,600
Contractual	54,900	80,000	73,900
Supplies	100	200	100
Total Direct Expenditures	<u>126,100</u>	<u>144,700</u>	<u>134,600</u>
Indirect Expenditures	<u>68,200</u>	<u>62,500</u>	<u>46,700</u>
Total Expenditures	194,300	207,200	181,300
Net Income (Loss)	<u>106,900</u>	<u>(87,400)</u>	<u>139,000</u>
Beginning Cumulative Surplus (Deficit)	84,200	171,600	32,600
Ending Cumulative Surplus (Deficit)	\$ <u>191,100</u>	\$ <u>84,200</u>	\$ <u>171,600</u>