

AK LEGISLATURE FINANCE COMMITTEES FILES 2007-2008 3313

195

1 raffles, lotteries, pull-tab games, ice classics, race classics, rain classics, goose
2 classics, mercury classics, deep freeze classics, canned salmon classics, salmon
3 classics, king salmon classics, dog mushers' contests, snow machine classics, fish
4 derbies, animal classics, crane classics, cabbage classics, and contests of skill are each
5 a different type of activity.

6 * Sec. 3. AS 05.15.180(b) is amended to read:

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

17 * Sec. 4. AS 05.15.640(a) is amended to read:

18 (a) A person may not use broadcasting to promote or conduct a charitable
19 gaming activity under this chapter except that a person may use (1) broadcasting to
20 promote a fish derby or a type of classic [OR SWEEPSTAKES] defined in
21 AS 05.15.690, or (2) radio or television broadcasting to promote a charitable
22 raffle and lottery. In this subsection, "broadcasting" includes television and radio
23 transmission by 2,500 megahertz, microwave video and audio programming, slow-
24 scan television programming, and programming by way of [] satellite, cable,
25 teletype, or facsimile transmission and distribution methods; "raffle and lottery" has
26 the meaning given in AS 05.15.690.

27 * Sec. 5. AS 05.15.690 is amended by adding a new paragraph to read:

28 (48) "cabbage classic" means a game of chance where a prize of
29 money is awarded for the closest guess of the weight of the winning cabbage at the
30 Giant Cabbage Weigh-Off at the Alaska State Fair in Palmer operated and
31 administered by the Palmer Rotary Club.

SESSION ADDRESS:
Alaska State Capitol
Juneau, Alaska 99801-1182
(907) 465-4925
Fax: (907) 465-3517
Toll Free: 1-800-821-4925

Senator Gary Stevens
Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
Fax: (907) 486-5264

Sponsor Statement SB 59

“An Act relating to the use of broadcasting to promote raffles and lotteries”

SB 59 would afford an equal playing field for Alaska's broadcasters. Alaska Statute prohibits broadcasters from airing truthful and non-misleading advertisements of lawful “charitable gaming activity.” SB 59 would avoid a likely constitutional challenge to the Statute.

As it stands now, AS 05.15.640(a) bans, but only via radio and television, the advertising of lawful charitable gaming or conduct. Newspapers are free to advertise the very same activity and conduct that radio and television stations may not advertise.

In addition, the statute also impedes positive governmental interests. ABA member stations cannot assist deserving not-for-profit organizations in their efforts to raise money to meet their goals.

AS 05.15.640(a) may well deny broadcasters equal protection under the Federal and State Constitutions since the act prohibits, without rational basis, the broadcast media from engaging in conduct which is allowed by the print media, namely the carriage of third party advertising promoting a lawful “charitable gaming activity.”

As an example of the current misguided law, local church raffles cannot be promoted by local radio and TV stations. Boy Scout fundraisers involving raffles may not be included in public service announcements. Not-for-profit groups such as the Boys and Girls Club are excluded from promoting fundraisers involving games of chance using radio and TV. Even various statewide fundraising events such as the Iditarod may not be promoted by broadcasters, thus reducing the organizations fundraising ability.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3667 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 22, 2007

SUBJECT: Sectional Summary - SB 59 (Work Order No. 25-LS0410\A)

TO: Senator Gary Stevens

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1. Amends AS 05.15.640(a) to allow radio and television broadcasting to promote raffles and lotteries.

GPL:med
07-035.med



Alaska Broadcasters Association

AN ALASKAN CORPORATION

700 W 41st Avenue #102 Anchorage, AK 99503

P: 907-258-2424

F: 907-258-2414

Email: akba@gci.net

January 25, 2007

Senator Gary Stevens
State Capitol Room 103
Juneau, AK 99801-1182

Dear Senator Stevens:

Thank you for your introduction of SB 59 as a solution to the disparate treatment currently being imposed on Alaska's broadcasters by existing Alaska Statute.


As you know, Alaska Statute §05.15.640(a) bans, but only via radio and television, the advertising of charitable raffles and lotteries. Newspapers are free to advertise the very same activity that radio and television stations may not.

In fact, the current law actually impedes positive governmental interests by prohibiting Alaska's broadcasters from assisting nonprofit organizations in their efforts to raise money to reach their goals. This restriction is simply flawed policy.

This unwarranted restriction in Alaska law, removed from Federal Law many years ago, means that raffles cannot be promoted by organizations such as the VFW, the Boys and Girls Club, and other local nonprofits through the means of broadcasting.

On behalf of all broadcasters in Alaska, we appreciate and support your willingness to seek this amendment to allow each of us, through the power of radio and television broadcasting, to better serve our communities in their fundraising efforts.

Sincerely,


Scott Smith
President

Senator Gary Stevens
Majority Leader of the Senate
State Capitol, Room 103
Juneau, Alaska 99801-1182

February 8th 2007

RE: LETTER OF SUPPORT SENATE BILL 59 Introduction charitable raffles and lotteries

Dear Senator Stevens,

Due to unforeseen a work related situation today (February 8th 2007 at 2:00PM) during the legislative teleconference at 2:00PM I was not able to (testify) in support of (SB 59) related to Charitable raffles and Lotteries. I would like to provide my letter of support for the following reasons. I have been involved for several years in the Ketchikan Running Club, Rotary 2000, Big Brothers Big Sisters, Team Diabetes Pennock Swim, Ketchikan Youth Court, Ketchikan Lions Club, Revilla Island Prevention Coalition, and Ketchikan Chamber of Commerce. While not all of these organizations run raffles they are connected in many ways to those who do run raffles.

The reality is that budgets are tight everywhere and will become tighter. Businesses have a long-term plan if they want to survive. Non-profits need to think like business people, and diversify their funding sources too. Many non-profits don't have (a service or product) to sell so they use raffles to generate funds for the non-profit programs and projects. Raffles also allows youth and adult a chance to give their pitch on their organization. The better they can promote the raffle the better the outcome. The great thing about raffles too is it allows everyone to make their own decision whether or not to purchase a raffle ticket.

Today, more than ever with both parents and single parents including myself, working sometime (2 or more) jobs to make ends meet because of the simple cost of increases in day to day living and medical expenses there is a need for many non-profits more than ever. These non-profit programs serve important purposes in our communities. They enhance the quality of our lives and sometimes give us the assets that are missing in our fast paced lives.

These programs make people feel good and they give adults, seniors, teenagers, and kids an improved quality of life. Many sports teams, senior programs, civil groups, and a wide-range of different non-profits rely on raffles to balance their operating budgets. During a time of decreased funds from Federal and State Grants many of us have depended on these local fundraisers to assure we can keep our doors open, send a child on a sports event, debate, or drama event, and generate funds for Senior programs, Homeless Shelter, or Youth programs.

SB 59 will allow raffles to be advertised on the radio and television. This will allow us not only to thank everyone who was involved, but promote it in an effective and professional manner. There is no better time than now to help keep programs in solid positions to reassure our children, teenagers, and adults that we care about the quality of life they have in their communities. It is an awesome opportunity to streamline our fundraising efforts when other funds sources are drying up.

I leave you with these thoughts as these show the impact raffles have on our programs.

----" A little person beams and raves about the opportunity have a Big in their life who took time to come each week to school. The quiet child is glowing with happiness that someone cares-that someone remembers to follow through—someone did not let them down."
Big Brothers Big Sisters Raffle

----"A youth court member sticks youth court out for 5 years --graduates high school after struggling in a single family home for years. Not only did that member learn leadership and public speaking skills, took part in countless hours of community service projects, but lead a sport team at school, graduated with honors, and had a chance to go to college."
Ketchikan Youth Court Raffle

----"The sky lights up with brilliant fireworks and a family of four watches from the 3rd Ave. The fireworks doesn't last more than 15 minutes, but just for those simple moments a family enjoys together time."
Ketchikan Lions Club Raffle

----"Diabetic Educator Janet takes the opportunity to gives a support group training to teenagers and kids. Those moments when they think they are all (alone) gives them hope that there are others out there fighting the same thing."
Team Diabetes Raffle Fundraiser

----A soccer team member comes up smiling about a successful win. Dirtying and wet, but smiling because of enough people supported their fundraiser and they get to go to the finals." ---These are just samples of simple thoughts I have heard over the years)
Raffle for Soccer, Wrestling, Or Swim Team

Thank you for your time and consideration of this important SB 59. It will allow us to continue to work we all do to make each community a wonderful place to live.

Sincerely,

Gretchen Klein

Affiliations and Memberships

Ketchikan Youth Court Director

8 years

Alaska Community Services Program Manager

3 years

Ketchikan Lions Club Member

9 years

Ketchikan Chamber of Commerce Member

6 years

Team Diabetes for Running and Swimming Annual Fundraiser

7 years

Ketchikan Running Club Member

15 years

Rotary 2000 Member

3 years

Big Brothers Big Sisters of Ketchikan Friend of Program

5 years

Association for the Education of Young Children Liaison Ketchikan

2034 First Ave

Ketchikan, Alaska 99901

907 225-2072

Doug Letch

From: Sen. Gary Stevens
Sent: Thursday, February 08, 2007 10:08 AM
To: Doug Letch
Subject: FW: Letter In support of HB116 and SB59

-----Original Message-----

From: Alaska Broadcasters Association [mailto:akba@gci.net]
Sent: Thursday, February 08, 2007 9:58 AM
To: David Scott; Sen. Gary Stevens
Cc: clark gruening; egan@ptialaska.net
Subject: Letter In support of HB116 and SB59

----- Original Message -----

From: "Ric Schmidt" <rschmidtknom@nome.net>
To: "Alaska Broadcasters Association" <akba@gci.net>
Sent: Monday, February 05, 2007 4:48 PM
Subject: Raffle ad story from KNOM

Darlene:

In the first week of January, when the thermometer was routinely dipping below -20, I received a call from Winnifred in Kotlik.

She politely asked if the folks in Kotlik could announce a charitable raffle on KNOM AM & FM.

She said that the city office needed a monitor heater and due to the lack of city funds the citizens had put together a raffle to collectively raise enough money to purchase the desperately needed heater.

I was forced by Alaska State law to tell her NO! I told her that newspapers are allowed to promote this type of effort, but we are not!

She said that the best way to raise the money was this raffle and the best way to promote it, would be announcing it on KNOM.

I apologized to her, and honestly...I was embarrassed!

Here was a community that didn't look to the state or federal government for help.

They were raising the money themselves, and state law was preventing them from standing on their own and buying a monitor heater for their city office.

I would hope that the people of Alaska can work to help communities like Kotlik, help themselves, without restricting their efforts through outdated laws and regulations.

We can't ask people to stand up and help, if we don't give them the tools to succeed.

Thank you for your interest in this sad story. I hope the future brings bright promise to all Alaskans.

Ric Schmidt
KNOM General Manager

I have her phone number if we want to contact her for any reason. I'd prefer to make the contact, so she has a frame of reference for this issue. Thanks. Ric

Emily Stancliff

From: Glen Anderson [glen.anderson@nnbradio.com]
Sent: Thursday, February 08, 2007 5:52 AM
To: Rep. Jay Ramras
Subject: Hi from Glenner

Hi Jay!

Hope all is going well in the city of rain.

I am sending this e-mail in hopes of gaining support for House Bill 116 in regards to advertising gaming and lottery for charitable organizations on TV and Radio. As I am sure you are aware, there is currently a double standard regarding this issue. While the advertisement of charitable gaming and raffles are legal in print form, they are still illegal in our media even though no other form of media does more for charitable organizations than radio. From United Way to FRA, Big Brothers/Big Sisters to RCPC, we constantly receive countless Public Service announcements for various fundraisers and charities which we can not do anything about due to the fact that they are using some form of games of chance. We air more than 50 PSA's per week per station) both recorded and live each and every week over the airwaves. Unfortunately, most charities use some form of gaming, lottery or raffle to raise funds and we can not help them.

Is there a monetary gain for the industry? Of course there is, one that Newspapers and magazines have used successfully for years. It is time to level the playing field.



Thanks Jay

Glen Anderson
Operations Manager
New Northwest Broadcasters
Fairbanks, Alaska
KXLR/KCBF/KWLF/KUWL/KEAR
(907)451-5910
Cell:907-378-2796

Emily Stancliff

From: Hutton, Pete [PeteHutton@clearchannel.com]
Sent: Thursday, February 08, 2007 12:25 PM
To: Rep. Jay Ramras
Subject: House bill 116

Jay, we would really like to see your support for this bill. thanks
Pete Hutton
General Manager
Clear Channel Radio-Fairbanks
KFBX-AM~KIAK-FM~KAKQ-FM~KKED-FM
907 450-1023-direct
907 450-1094-fax
907 347-7136-cell



LII / Legal Information Institute

U.S. Code collection

TITLE 18 > PART I > CHAPTER 61 > § 1304

[Prev](#) | [Next](#)

§ 1304. Broadcasting lottery information

How Current is This?

Whoever broadcasts by means of any radio or television station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined under this title or imprisoned not more than one year, or both.

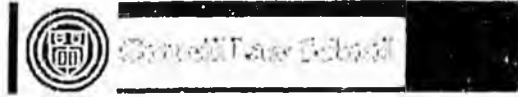
Each day's broadcasting shall constitute a separate offense.

Search this title:

- Notes
- Updates
- Parallel authorities (CFR)
- Your comments

[Prev](#) | [Next](#)

LII has no control over and does not endorse any external Internet site that contains links to or references LII.



LII / Legal Information Institute

U.S. Code collection

TITLE 18 > PART I > CHAPTER 61 > § 1307

[Prev](#) | [Next](#)

§ 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries

How Current is This?

(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to—

(1) an advertisement, list of prizes, or other information concerning a lottery conducted by a State acting under the authority of State law which is—

(A) contained in a publication published in that State or in a State which conducts such a lottery; or

(B) broadcast by a radio or television station licensed to a location in that State or a State which conducts such a lottery; or

(2) an advertisement, list of prizes, or other information concerning a lottery, gift enterprise, or similar scheme, other than one described in paragraph (1), that is authorized or not otherwise prohibited by the State in which it is conducted and which is—

(A) conducted by a not-for-profit organization or a governmental organization; or

(B) conducted as a promotional activity by a commercial organization and is clearly

Search this title:

Notes
Updates
Parallel authorities (CFR)
Your comments

occasional and ancillary to the primary business of that organization.

(b) The provisions of sections 1301, 1302, and 1303 shall not apply to the transportation or mailing—

(1) to addresses within a State of equipment, tickets, or material concerning a lottery which is conducted by that State acting under the authority of State law; or

(2) to an addressee within a foreign country of equipment, tickets, or material designed to be used within that foreign country in a lottery which is authorized by the law of that foreign country.

(c) For the purposes of this section (1) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States; and (2) "foreign country" means any empire, country, dominion, colony, or protectorate, or any subdivision thereof (other than the United States, its territories or possessions).

(d) For the purposes of subsection (b) of this section "lottery" means the pooling of proceeds derived from the sale of tickets or chances and allotting those proceeds or parts thereof by chance to one or more chance takers or ticket purchasers. "Lottery" does not include the placing or accepting of bets or wagers on sporting events or contests. For purposes of this section, the term a "not-for-profit organization" means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.

Prev | Next

LII has no control over and does not endorse any external Internet site that contains links to or references LII.

Legislative Research Services

Alaska State Legislature
Legislative Affairs Agency
Division of Legal and Research Services

State Capitol, Juneau, AK 99801
Phone: 907-465-3991
Fax: 907-465-3908

February 19, 2007

Memorandum

TO: Representative Johansen

FROM: Chuck Burnham, Legislative Analyst

RE: States Prohibiting Broadcast Media Promotion of Charitable Gaming
LRS Report 07.112

You asked for a list of states' laws that, like Alaska Statute § 05.15.640, prohibit advertising of charitable gaming through television and radio broadcasts.¹

Our research found just one state—New York—that appears to completely prohibit advertising of charitable gaming through broadcast media. Although New York General Municipal Law § 195-e does not directly ban television and radio broadcasting of such advertisements, the law appears to limit organizations licensed to conduct charitable gaming to highly specified methods of advertisement, as follows:

A licensee may advertise the conduct of games of chance to the general public by means of newspaper, circular, handbill and poster, and by one sign not exceeding sixty square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first aid or rescue squad in and throughout the community served by such volunteer fire company or such first aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as "Games of chance" or "Las Vegas Night", the name of the authorized organization conducting such games, the license number of the authorized organization as assigned by the clerk or department and the date, location and time of the event.

We assume that the omission of radio and television broadcasts from the provisions above to mean that those methods of advertising are not permitted.

¹ As you know, federal law at 18 U.S.C. 1304 prohibits broadcast advertising of games of chance through radio and television. Although this law still exists on paper, the Supreme Court in 1999 found the law, and the related Federal Communication Commission regulations restricting advertisements related to gambling, in states where such gambling is legal, violated constitutional free speech protections. We include, as Attachment A, the Supreme Court's decision in *Greater New Orleans Broad. Ass'n v. United States*, 527 U.S. 173.

A number of other states prohibit broadcast advertising of certain types of charitable gaming. For instance, Maryland prohibits virtually all mass media advertising of "bingo" games. Other states, Rhode Island for instance, allow advertising of bingo, but limit those advertisements to print media only.²

I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.

² We include, as Attachment B, the relevant laws of New York, Maryland, and Rhode Island. Although we believe our research to be thorough, there may be other states' laws that prohibit broadcast advertising of charitable gaming but were not located by our search due to variations in construction and wording.

Attachment A

*Greater New Orleans Broad. Ass'n. v. United States, 527 U.S.
173.*

3 of 10 DOCUMENTS

GREATER NEW ORLEANS BROADCASTING ASSOCIATION, INC., ETC., ET
AL., PETITIONERS v. UNITED STATES ET AL.

No. 98-387

SUPREME COURT OF THE UNITED STATES

527 U.S. 173; 119 S. Ct. 1923; 144 L. Ed. 2d 161; 1999 U.S. LEXIS 4010; 67
U.S.L.W. 4451; 27 Media L. Rep. 1769; 99 Cal. Daily Op. Service 4633; 99 Daily
Journal DAR 5900; 16 Comm. Reg. (P & F) 162; 1999 Colo. J. C.A.R. 3436; 12 Fla. L.
Weekly Fed. S 352

April 27, 1999, Argued

June 14, 1999, Decided

PRIOR HISTORY: ON WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT.

DISPOSITION: 149 F.3d 334, reversed.

SYLLABUS: Title 18 U.S.C. § 1304 and an implementing Federal Communications Commission (FCC) regulation prohibit, *inter alia*, radio and television broadcasters from carrying advertising about privately operated commercial casino gambling, regardless of the station's or casino's location. In *United States v. Edge Broadcasting Co.*, 509 U.S. 418, 125 L. Ed. 2d 345, 113 S. Ct. 2696, this Court upheld the constitutionality of § 1304 as applied to advertising of Virginia's lottery by a broadcaster in North Carolina, where no such lottery was authorized. Petitioners -- representing New Orleans area broadcasters -- wish to run advertisements for private commercial casinos that are lawful and regulated in Louisiana and Mississippi, and they filed this suit for a declaration that § 1304 and the FCC's regulation violate the First Amendment as applied to them. The District Court utilized the test for assessing commercial speech restrictions set out in *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n of N. Y.*, 447 U.S. 557, 566, 65 L. Ed. 2d 341, 100 S. Ct. 2343, and granted the Government's cross-motion for summary judgment. The Court of Appeals affirmed.

Held: Section 1304 may not be applied to advertisements of lawful private casino gambling that are broadcast by

petitioners' radio or television stations located in Louisiana, where such gambling is legal. Pp. 9-22.

(a) *Central Hudson's* four-part test asks (1) whether the speech at issue concerns lawful activity and is not misleading and (2) whether the asserted governmental interest is substantial; and, if so, (3) whether the regulation directly advances the governmental interest asserted and (4) whether it is not more extensive than is necessary to serve that interest. The four parts of the *Central Hudson* test are not entirely discrete; all are important and, to a certain extent, interrelated. While some advocate a more straightforward and stringent test, *Central Hudson*, as applied in the Court's more recent commercial speech cases, provides an adequate basis for decision in this case. Pp. 9-10.

(b) All parties agree that petitioners' proposed broadcasts constitute commercial speech, and that they would satisfy the first part of the *Central Hudson* test: Their content is not misleading and concerns lawful activities, *i.e.*, private casino gambling in Louisiana and Mississippi. In addition, the interests asserted by the Government are "substantial": (1) reducing the social costs associated with casino and other forms of gambling; and (2) assisting States that restrict or prohibit casino and other forms of gambling. However, that conclusion is by no means self-evident, since, in the judgment of both Congress and many state legislatures, the social costs that support the suppression of gambling are offset, and sometimes outweighed, by countervailing policy

527 U.S. 173, *176; 119 S. Ct. 1923, **1926;
144 L. Ed. 2d 161, ***170; 1999 U.S. LEXIS 4010

1

Through most of the 19th and the first half of the 20th centuries, Congress adhered to a policy that not only discouraged the operation of lotteries and similar schemes, but forbade the dissemination of information concerning such enterprises by use of the mails, even when the lottery in question was chartered by a state legislature. n1 Consistent with this Court's earlier view that commercial advertising was unprotected by the First Amendment, see *Valentine v. Chrestensen*, [****1927**] 316 U.S. 52, 54, 86 L. Ed. 1262, 62 S. Ct. 920 (1942), we found that the notion that "lotteries . . . are supposed to have a demoralizing influence upon the people" provided sufficient justification for excluding circulars concerning such enterprises from the federal postal system. *Ex parte Jackson*, 96 U.S. 727, [***177**] 736-737, 24 L. Ed. 877 (1878). We likewise deferred to congressional judgment in upholding the similar exclusion for newspapers that contained either lottery advertisements or prize lists. *In re Rapier*, 143 U.S. 110, 134-135, 36 L. Ed. 93, 12 S. Ct. 374 (1892); see generally *Edge*, 509 U.S. at 421-422; *Lottery Case*, 188 U.S. 321, 47 L. Ed. 492, 23 S. Ct. 321 (1903). The current versions of these early antilottery statutes are now codified at 18 U.S.C. §§ 1301-1303.

n1 See, e.g., Act of Mar. 2, 1895, 28 Stat. 963 (prohibiting the transportation in interstate or foreign commerce, and the mailing of, tickets and advertisements for lotteries and similar enterprises); Act of Mar. 2, 1827, § 6, 4 Stat. 238 (restricting the participation of postmasters and assistant postmasters in the lottery business); Act of July 27, 1868, § 13, 15 Stat. 196 (prohibiting the mailing of any letters or circulars concerning lotteries or similar enterprises); Act of July 12, 1876, § 2, 19 Stat. 90 (repealing an 1872 limitation of the mails prohibition to letters and circulars concerning "illegal" lotteries); Anti-Lottery Act of 1890, § 1, 26 Stat. 465 (extending the mails prohibition to newspapers containing advertisements or prize lists for lotteries or gift enterprises).

[**1. EdHR2] [2] Congress extended its restrictions on lottery-related information to broadcasting as communications technology made that practice both possible and profitable. It enacted the statute at issue in this case as § 316 of the Communications Act of 1934, 48

Stat. 1088. Now codified at 18 U.S.C. § 1304 ("Broadcasting lottery information"), the statute prohibits radio and television broadcasting, by any station for which a license is required, of

"any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes."

The statute provides that each day's prohibited broadcasting constitutes a separate offense punishable by a fine, imprisonment for not more than one year, or both. *Ibid.* Although § 1304 is a criminal statute, the Solicitor General informs us that, in practice, the provision traditionally has been enforced by the Federal Communications Commission (FCC), which imposes administrative sanctions on radio and television licensees for violations of the agency's implementing regulation. See 47 CFR § 73.1211 (1998); Brief for Respondents 3. Petitioners [****171**] now concede that the broadcast ban in § 1304 and the FCC's regulation encompasses advertising for privately owned casinos -- a concession supported by the broad language of the statute, our precedent, and the [***178**] FCC's sound interpretation. See *FCC v. American Broadcasting Co.*, 347 U.S. 284, 290-291, 98 L. Ed. 699, 74 S. Ct. 593, and n. 8 (1954).

During the second half of this century, Congress dramatically narrowed the scope of the broadcast prohibition in § 1304. The first inroad was minor: In 1950, certain not-for-profit fishing contests were exempted as "innocent pastimes . . . far removed from the reprehensible type of gambling activity which it was paramount in the congressional mind to forbid." S. Rep. No. 2243, 81st Cong., 2d Sess., p. 2 (1950); see Act of Aug. 16, 1950, ch. 722, 64 Stat. 451, 18 U.S.C. § 1305.

Subsequent exemptions were more substantial. Responding to the growing popularity of State-run lotteries, in 1975 Congress enacted the provision that gave rise to our decision in *Edge*. 509 U.S. at 422-423; Act of Jan. 2, 1975, 88 Stat. 1916, 18 U.S.C. § 1307; see also § 1953(b)(4). With subsequent modifications, that amendment now exempts advertisements of State-conducted lotteries from the nationwide postal restrictions in §§ 1301 and 1302, and from the broadcast restriction in § 1304, when "broadcast by a radio or television station licensed to a location in . . . a State

527 U.S. 173, *181; 119 S. Ct. 1923, **1928;
144 L. Ed. 2d 161, ***172; 1999 U.S. LEXIS 4010

75-76-3, 97-33-25 (1972); see also La. Rev. Stat. Ann. §§ 27:202B-27:202D, 27:205(4), 27:205(12)-27:205(14), 27:210B (1999).

Petitioners brought this action against the United States and the FCC in the District Court for the Eastern District of Louisiana, praying [***173] for a declaration that § 1304 and the FCC's regulation violate the First Amendment [**1929] as applied to them, and for an injunction preventing enforcement of the statute and the rule against them. After noting that all parties agreed that the case should be decided on their cross-motions for summary judgment, the District Court ruled in favor of the Government. 866 F. Supp. 975, 976 (1994). The Court applied the standard for assessing commercial speech restrictions set out in *Central Hudson Gas & Elec. Corp. v. Public Serv. Comm'n of N. Y.*, 447 U.S. 557, 566, 65 L. Ed. 2d 341, 100 S. Ct. 2343 (1980), and concluded that the restrictions at issue adequately advanced the Government's "substantial interest (1) in protecting the interest of nonlottery states and (2) in reducing participation in gambling and thereby minimizing the social costs associated therewith." 866 F. Supp. at 979. The Court pointed out that federal law does not prohibit the broadcast of all information about casinos, such as advertising that promotes a casino's amenities rather than its "gaming aspects," and observed that advertising for state-authorized casinos in Louisiana and Mississippi was actually "abundant." *Id.* at 980.

A divided panel of the Court of Appeals for the Fifth Circuit agreed with the District Court's application of *Central Hudson*, and affirmed the grant of summary judgment to the Government. 69 F.3d 1296, 1298 (1995). The panel majority's description of the asserted governmental interests, although more specific, was essentially the same as the District Court's:

"First, section 1304 serves the interest of assisting states that restrict gambling by regulating interstate activities such as broadcasting that are beyond the powers of the individual states to regulate. The second [*182] asserted governmental interest lies in discouraging public participation in commercial gambling, thereby minimizing the wide variety of social ills that have historically been associated with such activities." *Id.* at 1299.

The majority relied heavily on our decision in *Posadas de Puerto Rico Associates v. Tourism Co. of P.*

R., 478 U.S. 328, 92 L. Ed. 2d 266, 106 S. Ct. 2968 (1986), see 69 F.3d at 1300-1302, and endorsed the theory that, because gambling is in a category of "vice activity" that can be banned altogether, "advertising of gambling can lay no greater claim on constitutional protection than the underlying activity," *id.* at 1302. In dissent, Chief Judge Politz contended that the many exceptions to the original prohibition in § 1304 -- and that section's conflict with the policies of States that had legalized gambling -- precluded justification of the restriction by either an interest in supporting anticasinio state policies or "an independent federal interest in discouraging public participation in commercial gambling." *Id.* at 1303-1304.

While the broadcasters' petition for certiorari was pending in this Court, we decided 44 *Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 134 L. Ed. 2d 711, 116 S. Ct. 1495 (1996). Because the opinions in that case concluded that our precedent both preceding and following *Posadas* had applied the *Central Hudson* test more strictly, *id.* at 509-510 (opinion of STEVENS, J.); *id.* at 531-532 (O'CONNOR, J., concurring in judgment) -- and [***174] because we had rejected the argument that the power to restrict speech about certain socially harmful activities was as broad as the power to prohibit such conduct, see *id.* at 513-514 (opinion of STEVENS, J.); see also *Rubin v. Coors Brewing Co.*, 514 U.S. 476, 482-483, n. 2, 131 L. Ed. 2d 532, 115 S. Ct. 1585 (1995) -- we granted the broadcasters' petition, vacated the judgment of the Court of Appeals, and remanded the case for further consideration. 519 U.S. 801 (1996).

On remand, the Fifth Circuit majority adhered to its prior conclusion. 149 F.3d 334 (1998). The majority recognized [*183] that at least part of the *Central Hudson* inquiry had "become a tougher standard for the state to satisfy," *id.* at 338, but held that § 1304's restriction on speech sufficiently advanced the asserted governmental interests and was not "broader than necessary to control participation in casino gambling," *id.* at 340. Because the Court of Appeals for the Ninth Circuit reached a contrary conclusion in *Valley Broadcasting Co. v. United States*, 107 F.3d 1328, cert. denied, 522 U.S. 1115, 140 L. Ed. 2d 114, 118 S. Ct. 1050 (1998), as did a Federal District Court in *Players Int'l, Inc. v. United States*, 988 F. Supp. 497 (DNJ 1997), we again granted the broadcasters' petition for certiorari. 525 U.S. (1999). We now reverse.

527 U.S. 173, *185; 119 S. Ct. 1923, **1931;
144 L. Ed. 2d 161, ***LEdHR7A; 1999 U.S. LEXIS 4010

contributes to corruption and organized crime; underwrites bribery, narcotics trafficking, and other illegal conduct; imposes a regressive tax on the poor; and "offers a false but sometimes irresistible hope of financial advancement." Brief for Respondents 15-16. With respect to casino gambling, the Solicitor General states that many of the associated social costs stem from "pathological" [***176] or "compulsive" gambling by approximately 3 million Americans, whose behavior is primarily associated with "continuous play" games, such as slot machines. He also observes that compulsive gambling has grown along with the expansion of legalized gambling nationwide, leading to billions of dollars in economic costs; injury and loss to these [*186] gamblers as well as their families, communities, and government; and street, white-collar, and organized crime. *Id.* at 16-20.

[***LEdHR7B] [7B]

n4 Brief for Respondents 12, 15, 28. We will concentrate on the Government's contentions as to "casino gambling": They are the focus of the Government's argument and are more closely linked to the speech regulation at issue, thereby providing a more likely basis for upholding § 1304 as applied to these broadcasters and their proposed messages.

[***LEdHR1D] [1D] We can accept the characterization of these two interests as "substantial," but that conclusion is by no means self-evident. No one seriously doubts that the Federal Government may assert a legitimate and substantial interest in alleviating the societal ills recited above, or in assisting like-minded States to do the same. *Cf. Edge*, 509 U.S. at 428. But in the judgment of both the Congress and many state legislatures, the social costs that support the suppression of gambling are offset, and sometimes outweighed, by countervailing policy considerations, primarily in the form of economic benefits. n5 Despite its awareness of the potential [*187] social costs, Congress has not only sanctioned casino gambling for Indian tribes through tribal-state compacts, but has enacted other statutes that reflect approval of state legislation that authorizes a host of public and private gambling activities. See, e.g., 18 U.S.C. §§ 1307, 1953(b); 25 U.S.C. §§ 2701-2702, 2710(d); 28 U.S.C. § 3704(a). That Congress has generally exempted state-run lotteries and casinos from

federal gambling legislation reflects a decision to defer to, and even promote, differing gambling policies in different States. Indeed, in *Edge* we identified the federal interest furthered by § 1304's partial broadcast [**1932] ban as the "congressional policy of balancing the interests of lottery and nonlottery States." 509 U.S. at 428. Whatever its character in 1934 when § 1304 was adopted, the federal policy of discouraging gambling in general, and casino gambling in particular, is now decidedly equivocal.

n5 Some form of gambling is legal in nearly every State. Government Lodging 192. Thirty-seven States and the District of Columbia operate lotteries. *Ibid.*; National Gambling Impact Study Commission, Staff Report: Lotteries 1 (1999). As of 1997, commercial casino gambling existed in 11 States, see North American Gaming Report 1997, Int'l Gaming & Wagering Bus., July 1997, pp. S4-S31, and at least 5 authorize state-sponsored video gambling, see *Del. Code Ann. Title 29, §§ 4801, 4803(f)-(g), 4820* (1974 and Supp. 1997); *Ore. Rev. Stat. § 461.215* (1998); *R. I. Gen. Laws § 42-61.2-2(a)* (1998); *S. D. Const. Art. III, § 25* (1999); *S. D. Codified Laws §§ 42-7A-4(4), (11A)* (1991); *W. Va. Code Ann. § 29-22A-4* (1999). Also as of 1997, about half the States in the Union hosted Class III Indian gaming (which may encompass casino gambling), including Louisiana, Mississippi, and four other States that had private casinos. United States General Accounting Office, Casino Gaming Regulation: Roles of Five States and the National Indian Gaming Commission 4-6 (May 1998) (including Indian casino gaming in five States without approved compacts); cf. National Gambling Impact Study Commission, Staff Report: Native American Gaming 2 (1999) (hereinafter Native American Gaming) (noting that 14 States have on-reservation Indian casinos, and that those casinos are the only casinos in 8 States). One count by the Bureau of Indian Affairs tallied 60 tribes that advertise their casinos on television and radio, Government Lodging 408, 435-437. By the mid-1990's, tribal casino-style gambling generated over \$ 3 billion in gaming revenue -- increasing its share to 18% of all casino gaming revenue, matching the total for the casinos in Atlantic City, New Jersey, and reaching

527 U.S. 173, *189; 119 S. Ct. 1923, **1933;
144 L. Ed. 2d 161, ***178; 1999 U.S. LEXIS 4010

[**LEdHR12B] [13B]

n6 The Government cites several secondary sources and declarations that it put before the Federal District Court in New Jersey and, as an alternative to affirming the judgment below, requests a remand so that it may have another chance to build a record in the Fifth Circuit. Remand is inappropriate for several reasons. First, the Government had ample opportunity to enter the materials it thought relevant after we vacated the Fifth Circuit's first ruling and remanded for reconsideration in light of *44 Liquormart*. Second, the Government's evidence did not convince the New Jersey court that § 1304 could be constitutionally applied in circumstances similar to this case, see *Players Int'l, Inc. v. United States*, 988 F. Supp. 497, 502-503, 506-507 (1997), and most of the sources that the Government cited in the New Jersey litigation were also presented to the Fifth Circuit, see Supplemental Brief for Appellees in No. 94-30732 (CA5), pp. iv-v. Indeed, the Government presented sources to the Fifth Circuit not provided to the New Jersey Court, and the Fifth Circuit relied on material that the Government had not proffered. In any event, as we shall explain, additional evidence to support the Government's factual assertions in this Court cannot justify the scheme of speech restrictions currently in effect.

[*190] [**LEdHRIG] [IG] [**LEdHR12B] [12B] We need not resolve the question whether any lack of evidence in the record fails to satisfy the standard of proof under *Central Hudson*, however, because the flaw in the Government's case is more fundamental: The operation of § 1304 and its attendant regulatory regime is so pierced by exemptions and inconsistencies that the Government cannot hope to exonerate it. See *Rubin*, 514 U.S. at 488. Under current law, a broadcaster may not carry advertising about privately operated commercial casino gambling, regardless of the location of the station or the casino. 18 U.S.C. § 1304; 47 CFR 73.1211(a) (1998). On the other hand, advertisements for tribal casino gambling authorized by state compacts -- whether operated by the tribe or by a private party pursuant to a management contract -- are subject to no such broadcast ban, even if the broadcaster is located in or broadcasts to a jurisdiction with the strictest of antigambling policies.

25 U.S.C. § 2720. Government-operated, nonprofit, and "occasional and ancillary" commercial casinos are likewise exempt. 18 U.S.C. § 1307(a)(2).

[**LEdHR12C] [12C] The FCC's interpretation and [**179] application of §§ 1304 and 1307 underscore the statute's infirmity. Attempting to enforce the underlying purposes and policy of the statute, the FCC has permitted broadcasters to tempt viewers with claims of "Vegas-style excitement" at a commercial "casino," if "casino" is part of the establishment's proper name and the advertisement can be taken to refer to the casino's amenities, [*191] rather than directly promote its gaming aspects. n7 While we can hardly fault the FCC in view of the statute's focus on the suppression of certain types of information, the agency's practice is squarely at odds with the governmental interests asserted in this case.

n7 See, e.g., *Letter to DR Partners*, 8 FCC Rcd 44 (1992); *In re WTMJ, Inc.*, 8 FCC Rcd 4354 (1993) (disapproving of the phrase "Vegas style games"); see also 2 *Record* 493, 497-498 (Mass Media Bureau letter to Forbes W. Blair, Apr. 10, 1987) (concluding that a proposed television commercial stating that the "odds for fun are high" at the sponsor's establishment would be lawful); *id.* at 492, 500-501.

From what we can gather, the Government is committed to prohibiting accurate product information, not commercial enticements of all kinds, and then only when conveyed over certain forms of media and for certain types of gambling -- indeed, for only certain brands of *casino* gambling -- and despite the fact that messages about the availability of such gambling are being conveyed over the airwaves by other speakers.

Even putting aside the broadcast exemptions for arguably distinguishable sorts of gambling that might also give rise to social costs about which the Federal Government is concerned -- such as state lotteries and parimutuel [*1934] betting on horse and dog races, § 1307(a)(1)(B); 28 U.S.C. § 3704(a) -- the Government presents no convincing reason for pegging its speech ban to the identity of the owners or operators of the advertised casinos. The Government cites revenue needs of States and tribes that conduct casino gambling, and notes that net revenues generated by the tribal casinos are dedicated to the welfare of the tribes and their members. See 25

527 U.S. 173, *194; 119 S. Ct. 1923, **1935;
144 L. Ed. 2d 161, ***LEdHR1H; 1999 U.S. LEXIS 4010

by the Government -- the derivative goal of "assisting" States with policies that disfavor private casinos -- adds little to its case. We cannot see how this broadcast restraint, ambivalent as it is, might directly and adequately further any *state* interest in dampening consumer demand for casino gambling if it ~~can~~ achieve the same goal with respect to the similar *federal* interest.

[***LEdHR11] [11] [***LEdHR19]
[19]Furthermore, even assuming that the state policies on which the Federal Government seeks to embellish are more coherent and pressing than their federal counterpart, § 1304 sacrifices an intolerable amount of truthful speech about lawful conduct when compared to all of the policies at stake and the social ills that one could reasonably hope such a ban to eliminate. The Government argues that petitioners' speech about private casino gambling should be prohibited in Louisiana because, "under appropriate conditions," 3 *Record* 628, citizens in neighboring States like Arkansas and Texas (which hosts tribal but not private commercial casino gambling) might hear it and make rash or costly decisions. To be sure, in order to achieve a broader objective such regulations may incidentally, even deliberately, restrict a certain amount of speech not thought to contribute significantly to the dangers with which the Government is concerned. See *Fox*, 492 U.S. at 480; cf. *Edge*, 509 U.S. at 429-430. n8 But Congress' choice here was neither a rough [*195] approximation of efficacy, nor a reasonable accommodation of competing State and private interests. Rather, the regulation distinguishes among the indistinct, permitting a variety of speech that poses the same risks the Government purports to fear, while banning messages unlikely to cause any harm at all. Considering the manner in which § 1304 and its exceptions operate and the scope of the speech it proscribes, the Government's second asserted interest provides no more convincing basis for upholding the regulation than the first.

n8 As we stated in *Edge*, "applying the restriction to a broadcaster such as [respondent] directly advances the governmental interest in enforcing the restriction in nonlottery States, while not interfering with the policies of lottery States like Virginia We judge the validity of the restriction in this case by the relation it bears to the general problem of accommodating the

policies of both lottery and nonlottery States." 509 U.S. at 429-430. The Government points out that *Edge* hypothesized that Congress "might have" held fast to a more consistent and broader antigambling policy by continuing to ban all radio or television advertisements for State-run lotteries, even by stations licensed in States with legalized lotteries. *Id.* at 428. That dictum does not support the validity of the speech restriction in this case. In that passage, we identified the actual federal interest at stake; we did not endorse any and all nationwide bans on nonmisleading broadcast advertising related to lotteries. As the Court explained, "Instead of favoring either the lottery or the nonlottery State, Congress opted to" accommodate the policies of both; and it was "this congressional policy of balancing the interests of lottery and nonlottery States" that was "the substantial governmental interest that satisfied *Central Hudson*." *Ibid.*

[***182]

VI

[***LEdHR11] [11] [***LEdHR20]
[20]Accordingly, respondents cannot overcome the presumption that the speaker and the audience, not the Government, should be left to assess the value of accurate and nonmisleading [*1936] information about lawful conduct. *Edenfield*, 507 U.S. at 767. Had the Federal Government adopted a more coherent policy, or accommodated the rights of speakers in States that have legalized the underlying conduct, see *Edge*, 509 U.S. at 428, this might be a different case. But under current federal law, as applied to petitioners and the messages that they wish to convey, the broadcast prohibition in 18 U.S.C. § 1304 and 47 CFR § 73.1211 (1998) violates the [*196] First Amendment. The judgment of the Court of Appeals is therefore

Reversed.

CONCUR BY: REHNQUIST; THOMAS

CONCUR:

CHIEF JUSTICE REHNQUIST, concurring.

Title 18 U.S.C. § 1304 regulates broadcast advertising of lotteries and casino gambling. I agree with

Attachment B

NY CLS Gen Mun § 195-e

Md. Crim. Law Code § 13-2612

R.I. Gen Laws § 11-19-32

NEW YORK CONSOLIDATED LAW SERVICE

GENERAL MUNICIPAL LAW

ARTICLE 9-A. LOCAL OPTION FOR CONDUCT OF GAMES OF CHANCE BY CERTAIN ORGANIZATIONS

NY CLS Gen Mun § 195-e (2006)

§ 195-e. Advertising games

A licensee may advertise the conduct of games of chance to the general public by means of newspaper, circular, handbill and poster, and by one sign not exceeding sixty square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first aid or rescue squad in and throughout the community served by such volunteer fire company or such first aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as "Games of chance" or "Las Vegas Night", the name of the authorized organization conducting such games, the license number of the authorized organization as assigned by the clerk or department and the date, location and time of the event.

HISTORY: Add, L 1976, ch 960, amd, L 1978, ch 574, § 12, eff Aug 23, 1978, L 1981, ch 94, § 1, eff July 11, 1981.

Laws 1978, ch 574, § 16, provides as follows:

§ 16. This act shall take effect on the thirtieth day after it shall have become a law. The board shall adopt rules prior to the effective date of this act to provide prompt implementation of the provisions of this act. Such rules may be adopted as emergency measures pursuant to paragraph (c) of subdivision two of section two hundred two of the state administrative procedure act and subdivision three of section one hundred one-a of the executive law and shall be effective on the date this act shall take effect.

General Laws of Rhode Island

TITLE 11. CRIMINAL OFFENSES
CHAPTER 19. GAMBLING AND LOTTERIES*R.I. Gen. Laws § 11-19-32 (2007)*

§ 11-19-32. Operation of bingo games

Any charitable organization approved by the department may promote, carry on, or conduct the game of bingo provided as follows:

- (1) The game is conducted by members of the organization.
- (2) No person in the actual or constructive management and control of the game receives any compensation for services connected to the game or receives any compensation from the gross receipts of the game.
- (3) The entire net receipts of the game are applied solely to the charitable purposes of the organization. All expenses deducted from gross receipts must be reasonable and related to the actual conduct of the game.
- (4) The total amount of all expenses deducted from the gross receipts shall not exceed twenty-five percent (25%) of the total annual gross receipts raised through bingo, not including monies raised through the sale of pull-tab lottery tickets.
- (5) The total prizes, in the form of cash and/or retail merchandise including prizes from winner-take-all games, which are offered or awarded do not exceed the sum of seven thousand five hundred dollars (\$ 7,500) in any one night.
- (6) The game is carried on or conducted not more than twice in any period of one calendar week under a license issued pursuant to the provisions of § 11-19-37.
- (7) That there be only one sponsor for each date of the proposed game and that the game shall be conducted only on the premises affiliated with the organization in conformance with rules and regulations.
- (8) That any building in which a game is played or conducted shall be used no more than three (3) times in any calendar week for conducting a game, and that no annex or subdivision of any building shall be permitted to be used to conduct a game in an attempt to increase the number of times the building may be used for bingo purposes.
- (9) The organization shall keep and maintain financial records relating to the game in accordance with rules and regulations and have the records available for inspection upon demand.
- (10) Payment of a prize in excess of two hundred fifty dollars (\$ 250) shall be made by check.
- (11) "Winner-take-all" games are prohibited, with the exception that each organization shall be permitted to play one optional "winner-take-all" game per night.
- (12) No person under the age of eighteen (18) years shall be permitted to play the game.
- (13) Notwithstanding any regulation to the contrary, any approved charitable organization conducting a lawful game of bingo pursuant to the provisions of this section shall be permitted to advertise their game in print media. As used in this chapter, "advertise" means an advertisement or announcement in print media containing the date, time, and place of the game, the charitable organization sponsoring and/or benefiting from the game, whether the game shall provide for a bonus building/prize pool, and the total amount of the prize pool as set forth in subdivision (14) of this section.
- (14) The game may provide for a bonus building prize pool which would start at five hundred dollars (\$ 500) and increase at one hundred dollar (\$ 100) increments each week until it reaches a maximum amount of one thousand dollars (\$ 1000).

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 1/19/07

FURTHER: Rules

Date of 5-Day Notice: 2/1/07
 (in accordance with Uniform Rule 23)

DATE TURNED
 IN TO OFFICE: 2/8/07

Labor and Commerce Committee considered SENATE BILL NO. 59

SB 59 BROADCASTING PROMOTING CHARITABLE GAMING

"An Act relating to the use of broadcasting to promote charitable raffles and lotteries."

and recommends:

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

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<hr/>	
HOUSE BILL:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

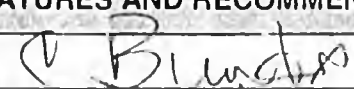
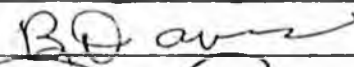
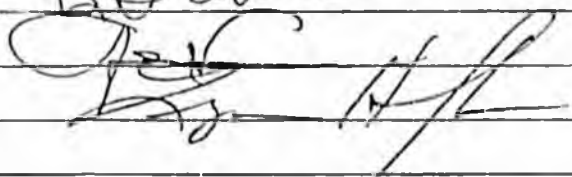
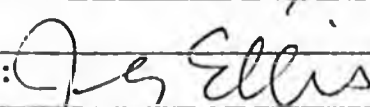
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REVENUE	2/3/07			✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Bunde	✓			
	DAVIS	✓			
	Hoffman	✓			
CHAIR: 	ELLIS	✓			

SENATE FINANCE COMMITTEE

SIGN-IN

SB 59-BROADCASTING PROMOTING CHARITABLE GAMING

NAME: PERMITS FEED Subject/Bill No: HR 59
Co./Dept./Title: PAK. BROADCASTERS ASSN Phone: 586-6037
Address: 1107 W. FULTON ST. ST. LOUIS Zip: 63101
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SCOTT SMITH

ABA

SB59

~~MIKE HOGAN~~

~~AKPS~~

~~LUWAMI~~

JAKE LIBBEY

PALMER ROTARY

SB59

* sorry printer problems.

Dennis Egan

THANK YOU FOR THE OPPORTUNITY TO TESTIFY IN SUPPORT OF SENATE BILL 59. SB59 AFFORDS A SOLUTION TO THE DISPARATE TREATMENT CURRENTLY BEING IMPOSED ON ALASKA'S BROADCASTERS BY CURRENT ALASKA STATUTE.

ALASKA STATUTE BANS, BUT ONLY VIA RADIO AND TELEVISION, THE ADVERTISING OF LAWFUL CHARITABLE GAMING OR CONDUCT. NEWSPAPERS AND RELATED MEDIA ARE FREE TO ADVERTISE THE VERY SAME ACTIVITY AND CONDUCT THAT RADIO AND TELEVISION STATIONS MAY NOT ADVERTISE.

RECOGNIZING THE UNFAIR BURDEN PLACED UPON BROADCASTERS, CONGRESS PASSED THE CHARITY GAMES ADVERTISING CLARIFICATION ACT OF 1988. IT HAS BEEN IN EFFECT SINCE 1990. CONGRESS OPENED TO DOOR FOR BROADCASTERS TO ADVERTISE FOR A CHARITY, NOT, TO CONDUCT CHARITABLE GAMING.

THE NEW FEDERAL LAW LEFT IT UP TO THE INDIVIDUAL STATES TO RATIFY THE FEDERAL LAW. TO THIS DATE, NEARLY EVERY STATE HAS ALLOWED BROADCASTERS IN THEIR RESPECTIVE STATES TO BECOME FULLY CONSISTENT WITH FEDERAL LAW.

UNDER THE CHARITY GAMES ADVERTISING ACT SIGNED INTO LAW BY PRESIDENT REAGAN IN 1988, FEDERAL LAW PROHIBITS THE ACCEPTANCE OF ANY ADVERTISING FROM A BUSINESS WHOSE PRIMARY PURPOSE IS THE CONDUCTING OF A GAMING ACTIVITY....CHARITABLE OR OTHERWISE.

WE FEEL THAT BEING ALLOWED TO ANNOUNCE THAT THE LOCAL VOLUNTEER FIRE DEPARTMENT IS HAVING A RAFFLE TO RAISE FUNDS FOR CPR EQUIPMENT, OR THE SENIOR CENTER IS SELLING TICKETS ON AN AFGHAN TO RAISE FUNDS FOR THE SENIOR CITIZEN CARE-A-VAN, OR THE HIGH SCHOOL

SPORTS TEAMS ARE SELLING TICKETS FOR A RAFFLE TO RAISE FUNDS FOR TRAVEL, IS NOT DETRIMENTAL TO ANYONE.

ALASKA'S BROADCASTERS ARE NOT TRYING TO SUGGEST TO YOU WHAT ACTIVITIES SHOULD BE PERMISSIBLE IN THE STATE. WHAT WE ARE ASKING IS THAT ALL MEDIA INCLUDING PRINT, ELECTRONIC, DIRECT MAIL AND EVEN THE SIGNS WE SEE ON MUNICIPAL BUSES HAVE THE SAME GROUND RULES WHEN IT COMES TO PROMOTION. CONGRESS RECOGNIZED THIS INEQUITY WITH PASSAGE OF THE 1988 CHARITY GAMES CLARIFICATION ACT.

AS A FEDERAL LICENSEE, BROADCASTERS ARE ONE OF THE MOST HIGHLY REGULATED INDUSTRIES IN THE UNITED STATES.

WE URGE YOU TO PROVIDE EQUITY, AND GIVE YOUR FAVORABLE CONSIDERATION OF SB59.

SB

61

HFIN

FILE



SARAH PALIN
GOVERNOR

GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 17, 2007

The Honorable Lyda Green
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Green:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making appropriations for qualified regional seafood development associations; for investigation and litigation relating to the public employees' retirement system and the teachers' retirement system; and for a special advisory election.

This early supplemental appropriation is comprised of items that require timely approval by the Legislature. Other supplemental requests are currently being reviewed by my Office of Management and Budget, and will be submitted to the Legislature in a separate appropriation bill at a later date.

Section 1 of the bill would appropriate the amount of the seafood development tax collected under AS 43.76.350 - 43.76.399 in calendar year 2005 and deposited in the general fund under AS 43.76.380(d) to the Department of Commerce, Community, and Economic Development to provide financial assistance in Fiscal Year 2007 to qualified regional seafood development associations.

Section 2 of the bill would appropriate a total of \$12,000,000, of which about 69 percent would come from the public employees' retirement system fund and about 31 percent from the teachers' retirement system fund, for use in an investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would conclude in Fiscal Year 2007, and the proposed litigation is contemplated to commence later in that fiscal year. The amount of the appropriations is the estimated costs to complete the investigation and take the case from inception through trial. The final actual costs may be more or less. Through the budget process, and on request, the Department of Law would provide reports regarding the status of the litigation and the expenditures from the appropriations.

COMMITTEE COPY

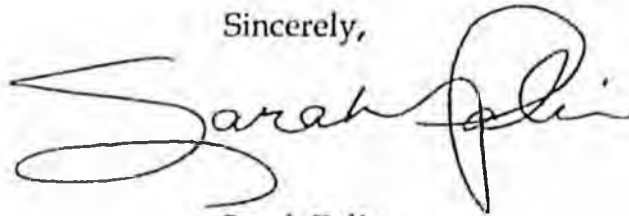
The Honorable Lyda Green
January 17, 2007
Page 2

The appropriations in sec. 2 of the bill would be entirely financed by a recent litigation settlement benefiting the public employees' retirement system fund and the teachers' retirement system fund. The Alaska Retirement Management Board recently settled its claim against Time Warner for securities fraud -- the proceeds for those funds from that litigation totaled \$15,600,000. The Alaska Retirement Management Board supports using \$12,000,000 of those proceeds to finance the investigation and proposed litigation for which the appropriations in this bill would be used.

Section 3 of the bill would appropriate \$1,156,300 from the general fund to the Office of the Governor, division of elections, for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FSSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.

Because these items need Legislative approval in a timely manner, I urge your prompt and favorable action on this measure as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large initial "S" and a distinct "P" at the end.

Sarah Palin
Governor

**FY2007 FAST TRACK
SUPPLEMENTAL REQUESTS**

					Governor's Request					Senate Finance Committee					
Leg Sec / Lang	Sec. No.	Amd. Date	Amd. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Total Funds	Fund Source	General Funds	Federal Funds	Other Funds	Total Funds
Lang	7(b)			Transportation	Capital - Airport Improvement Program Allocation	Amend FY07 Project - Ketikukan Snow Removal Equipment/Sand/Urea Building Construction - Project includes constructing a new snow removal equipment, sand and chemical mixing and storage building to house all of the airport's emergency response and snow removal equipment. Project is ready to bid as soon as funding is available.		2,000.0		2,000.0			2,000.0		2,000.0
Lang	7(c)			Transportation	Capital - Surface Transportation Program Appropriation	The Surface Transportation Program appropriation increases by \$18,300.0 from \$337,095.2 to \$355,395.2 because of the allocation changes below.				0.0					0.0
Lang	7(d)			Transportation	Capital - Surface Transportation Program Allocation	New Anchorage Eagle River Road Rehabilitation - Milepost 5.3 to 12.6 - Project includes widening shoulders, improving visibility, and repaving. The department plans to advertise as soon as funding is available.		1,750.0		1,750.0			1,750.0		1,750.0
Lang	7(d)			Transportation	Capital - Surface Transportation Program Allocation	Amend Anchorage Eagle River Loop Road Reconstruction - Old Glenn Highway to Eagle River Road - Project includes reconstructing shoulders, turn lanes, pedestrian facilities, lighting and landscaping. The department plans to advertise in March.		2,000.0		2,000.0			2,000.0		2,000.0
Lang	7(e)			Transportation	Capital - Surface Transportation Program Allocation	New Anchorage Potter Marsh Trailhead and Access Improvements - Project includes enhancing parking lot, provide new boardwalk connections, and connect the Bird Treatment Learning Center on the Old Seward Highway to the existing boardwalk. The department plans to advertise in March.		550.0		550.0			550.0		550.0
Lang	7(f)			Transportation	Capital - Surface Transportation Program Allocation	New Unalaska South Channel Bridge Construction - Project includes replacing existing bridge with a concrete deck bridge. Increased funding required as low bid was greater than existing legislative authority for project.		14,000.0		14,000.0			14,000.0		14,000.0
Lang	7(g)			Transportation	Capital - Department of Transportation	Amend the appropriation to expand the scope: Chitina Personal Law Dip Net Fishery Access and Land Management [ARRA] (H07-11)				0.0					0.0
Lang	8		Amended Governor by ES GOV A (reduced by \$381.3)	Elections	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, SSFA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.	775.0			775.0		775.0			775.0
	9			Legislature	Legislative Council	Reappropriation, not to exceed \$60,000.0 of the appropriation made in sec. 58(a), ch. 82, SA 2006, page 167 (Legislative Budget and Audit Committee committee expenses) is reappropriated to the Legislative Council for special session expenses for the fiscal year ending June 30, 2007.									0.0
	10			Lapse Provisions	Lapse Provisions										0.0
	11			Effective Date	Effective Date										0.0
	12			Effective Date	Effective Date										0.0
Senate FAST TRACK Supplemental Bill Total							10,993.6	21,482.5	4,165.0	29,541.1	6,900.0	1,011,131.9	21,482.5	4,765.4	1,017,361.9
Governor's Amendments															
Lang	7(d)(b)	2/16/07	ES Law A Law	Civil Division, Labor and State Affairs	Civil Division, Labor and State Affairs	Revise the funding split in sec. 2 to be in accordance with the Division of Retirement and Benefits' cost allocation plan and thus reflect 22% FRS (an increase of \$400.0 from \$8,271.0 to \$8,671.0) and 28% TRS (a decrease of \$600.0 from \$3,720.0 to \$3,120.0).				0.0	3400.0 FRS 3600.0 TRS				0.0
Lang	8	2/16/07	ES Law B Law	Civil Division, Labor and State Affairs	Civil Division, Labor and State Affairs	Change the effective date in sec. 8 from February 16, 2007 to October 1, 2006 in order that Law may pay outstanding investigation invoices for services rendered in October 2006.				0.0					0.0
Lang	9	3/30/07	ES Law C Law	Civil Division, Labor and State Affairs	Civil Division, Labor and State Affairs	Move the funding in sec. 2 pertaining to litigation to the regular supplemental bill and reduce the amount to \$0.0 M. The remaining \$415,429.1 FRS and \$416.4 TRS (the additional costs of the investigation and reflects the 72%-28% split between retirement plans) investigation costs are made retroactive to October 1, 2006.			(11,583.0)	(11,583.0)	8,340.0 FRS 2,243.0 TRS				0.0
Lang	10	10/10/07	ES GOV A	Governor	Elections	Sec. 4 Lapse of Appropriations is deleted. The amount for the special advisory election may be reduced by \$1.0 M from \$1.0 M to \$0.0 M as costs were lower than anticipated.	(1,000,000.0)			(1,000,000.0)					0.0

SB

61

SFIN

FILE

**SENATE FINANCE COMMITTEE REPORT
First Committee of Referral**

REPORTED OUT
APR 12 2007
SENATE FINANCE COMMITTEE

DATE: 1/19/07

FURTHER:

Date of 5-Day Notice: _____
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 13 April 2007

Finance Committee considered SENATE BILL NO. 61

SB 61 SUPPLEMENTAL APPROPRIATIONS

"An Act making appropriations for qualified regional seafood development associations, for investigation and litigation relating to the public employees' retirement system and the teachers' retirement system, and for a special advisory election; and providing for an effective date."

and recommends:

- be replaced with SCS or CS SB 61 (FIN)
- adopt previous SCS or CS CS forthcoming
- attached amendment(s)
- adopt _____ Letter of Intent
- further referral to _____ Committee

SENATE BILL:	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<hr/>	
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	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Thomas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Dyson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Huggins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Olson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR:	Hoffman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CO-CHAIR:	Stedman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SENATE FINANCE
COMMITTEE

Amendment # #1

To Bill Number: SB 61

Sponsor: Hoffman

Date: 4/2/07 Logged by Mindy

BUDGET AMENDMENT

OFFERED IN: The Senate Finance Committee

TO: CS for SB 61 (FIN)

OFFERED BY: Hoffman at the request of the Department of Transportation and Public Facilities.

DELETE: Page 4, lines 22 - 27

INSERT: The unexpended and unobligated balance of the appropriation made in sec. 1, ch. 3, FSSLA 2005, page 67, lines 17 -19 (Chitina Personal Use Dip Net Fishery Access Area - \$700,000) is reappropriated to the Department of Transportation and Public Facilities for Chitina fishery access and facility improvements.

EXPLANATION: A reappropriation is necessary to remove the conditional language that is attached to the original appropriation. A name change, as proposed in SB 61 will not remove that language and will prevent the department from being able to complete the replacement of the O'Brien Creek Bridge and add a boat ramp this year.

SENATE FINANCE COMMITTEE
4 / 2007 COMMITTEE ACTION

Bill Number	SB 61		
Amendment	#1		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	Hoffman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dyson			
Senator Elton			
Senator Huggins			
Senator Olson			
Senator Thomas			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

SENATE FINANCE
COMMITTEE #2
Amendment #
To Bill Number: SB 61
Sponsor: Hoffman
Date: 4/2/07 Logged by: Mindy

AMENDMENT

OFFERED IN: The Senate Finance Committee

TO: CS for SB 61 (FIN)

OFFERED BY: Hoffman

INSERT:

Department of Education

Chugach School District - Chenega School Roof Replacement - \$740,271 in General Funds.

SENATE FINANCE COMMITTEE
4 / 2007 COMMITTEE ACTION

Bill Number	SB 61		
Amendment	#2		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	Hoffman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Elton			
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

CS FOR SENATE BILL NO. 61(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL
FOR AN ACT ENTITLED

1 "An Act transferring funds to the public education fund; making supplemental and
2 other appropriations; amending appropriations; and providing for an effective date."

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

4 * Section 1. FUND TRANSFER. The sum of \$1,000,000,000 is appropriated from the
5 general fund to the public education fund (AS 14.17.300) for distribution to school districts, to
6 the state boarding school, and for centralized correspondence study.

7 * Sec. 2. DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
8 DEVELOPMENT. (a) The amount of the seafood development tax collected under
9 AS 43.76.350 - 43.76.399 in calendar year 2005 and deposited in the general fund under
10 AS 43.76.380(d) is appropriated from the general fund to the Department of Commerce,
11 Community, and Economic Development to provide financial assistance in fiscal year 2007 to
12 qualified regional seafood development associations.

13 (b) The sum of \$1,350,000 is appropriated from Regulatory Commission of Alaska
14 receipts to the Department of Commerce, Community, and Economic Development,

1 Regulatory Commission of Alaska, for litigation-related costs for the fiscal years ending
 2 June 30, 2007, June 30, 2008, and June 30, 2009.

3 * **Sec. 3. DEPARTMENT OF CORRECTIONS.** (a) The sum of \$3,903,400 is appropriated
 4 from the general fund to the Department of Corrections, inmate health care, for increased
 5 operating costs for the fiscal year ending June 30, 2007.

6 (b) The sum of \$1,082,700 is appropriated from the general fund to the Department of
 7 Corrections, Anchorage Correctional Complex, for increased operating costs for the fiscal
 8 year ending June 30, 2007.

9 * **Sec. 4. DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT.** The sum of
 10 \$740,271 is appropriated from the general fund to the school construction grant fund
 11 (AS 14.11.005) for payment by the Department of Education and Early Development as a
 12 grant under AS 14.11.015 to the Chugach School District for Chenega Bay School roof
 13 replacement.

*Amend.
#2*

14 * **Sec. 5. DEPARTMENT OF HEALTH AND SOCIAL SERVICES.** (a) The sum of
 15 \$2,315,000 is appropriated to the Department of Health and Social Services, Office of the
 16 Commissioner, for operating costs for a comprehensive program associated with designing,
 17 planning, and implementing the Legislative Medicaid Program Review Report dated
 18 February 2007 from the following sources in the amounts stated:

19	Federal receipts	\$1,182,500
20	General fund	1,132,500

21 (b) Section 1, ch. 3, FSSLA 2005, page 56, lines 29 - 30, is amended to read:

22		APPROPRIATION	GENERAL
23		ITEMS	FUND
24	[JUNEAU] Pioneer <u>Homes</u> [HOME]	1,000,000	1,000,000
25	Roof <u>Repair and</u> Replacement		
26	(HD <u>1-40</u> [3-4])		

27 (c) The sum of \$6,500,000 is appropriated from the general fund to the Department of
 28 Health and Social Services for the Fairbanks virology laboratory completion from the
 29 following sources in the following amounts:

*Amend.
#3*

30	General fund	\$3,500,000
31	Interest earnings on certificates of participation	\$3,000,000

1 * Sec. 6. DEPARTMENT OF LAW. (a) The sum of \$299,100 is appropriated from the
 2 public employees' retirement system fund to the Department of Law for costs incurred in the
 3 investigation of actuarial services on behalf of the public employees' retirement system
 4 (AS 39.35) for the fiscal year ending June 30, 2007.

5 (b) The sum of \$116,300 is appropriated from the teachers' retirement system fund to
 6 the Department of Law for costs incurred in the investigation of actuarial services on behalf of
 7 the teachers' retirement system (AS 14.25) for the fiscal year ending June 30, 2007.

8 * Sec. 7. DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES. (a)
 9 Section 1, ch. 82, SLA 2006, page 88, line 32, is amended to read:

	APPROPRIATION	OTHER
	ITEMS	FUNDS
12 Airport Improvement Program	<u>343,857,101</u>	<u>343,857,101</u>
13	[341,857,101]	[341,857,101]

14 (b) Section 1, ch. 82, SLA 2006, page 90, lines 29 - 31, is amended to read:

15 ALLOCATIONS

16 Ketchikan: Snow Removal 3,125,000

17 Equipment/Sand/Urea [1,125,000]

18 Building Construction

19 (HD 1)

20 (c) Section 1, ch. 82, SLA 2006, page 94, lines 13 - 14, is amended to read:

	APPROPRIATION	OTHER
	ITEMS	FUNDS
23 Surface Transportation Program	<u>355,395,200</u>	<u>355,395,200</u>
24	[337,095,200]	[337,095,200]

25 (d) Section 1, ch. 82, SLA 2006, page 96, lines 7 - 12, is amended to read:

26 ALLOCATIONS

27 Anchorage: Areawide 1,000,000

28 Trails Rehabilitation

29 (HD 17-32)

30 Anchorage: Engle 1,750,000

31 River Road

1 Rehabilitation -
 2 Milepost 5.3 to 12.6
 3 (HD 17-32)

4 Anchorage: Eagle 12,200,000
 5 River Loop Road [10,200,000]
 6 Reconstruction - Old
 7 Glenn Highway to Eagle
 8 River Road (HD 17-32)

9 (c) Section 1, ch. 82, SLA 2006, page 96, lines 25 - 30, is amended to read:

10 ALLOCATIONS

11 Anchorage: Old Seward 6,600,000
 12 Highway Reconstruction -
 13 O'Malley Road to Brandon
 14 (HD 17-32)

15 Anchorage: Potter Marsh 550,000

16 Trailhead and Access

17 Improvements

18 (HD 17-32)

19 Anchorage: Ridesharing 670,000
 20 and Transit Marketing
 21 (HD 17-32)

22 (f) Section 1, ch. 82, SLA 2006, page 102, lines 9 - 13, is amended to read:

23 ALLOCATIONS

24 Unalakleet: Landfill 700,000
 25 Access Road (HD 39)

26 Unalaska: South 14,000,000

27 Channel Bridge

28 Construction (HD 37)

29 Valdez: Mineral Creek 2,500,000
 30 Bridge and Approaches
 31 (HD 12)

1 (g) The unexpended and unobligated balance of the appropriation made by sec. 1, ch.
2 3, FSSLA 2005, page 67, lines 17 - 19 (Chitina, personal use dip net fishery access area -
3 \$700,000) is reappropriated to the Department of Transportation and Public Facilities for
4 Chitina fishery access and facility improvements.

5 * Sec. 8. OFFICE OF THE GOVERNOR. The sum of \$775,000 is appropriated from the
6 general fund to the Office of the Governor, division of elections, for the costs associated with
7 the April 3, 2007, special advisory election required by ch. 1, 4SSLA 2006, for the fiscal year
8 ending June 30, 2007.

9 * Sec. 9. LAPSE. (a) The appropriation made by sec. 5(a) of this Act lapses June 30, 2009.

10 (b) The appropriations made by secs. 4, 5(c), and 7(g) of this Act are for capital
11 projects and lapse under AS 37.25.020.

12 * Sec. 10. RETROACTIVITY. (a) The appropriation made by sec. 2 of this Act is
13 retroactive to July 1, 2006.

14 (b) The appropriations made by sec. 6 of this Act are retroactive to October 1, 2006.

15 (c) The appropriation made by sec. 8 of this Act is retroactive to December 1, 2006.

16 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

Amend.
#1



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 12 April 2007 TIME: 5:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 3

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please

CS SB 01 (FIN) 25-GS1063\ M

Kane 4/10/07

Plus 3 amendments - attached

and direction to insert in appropriate locations

and make conforming/technical changes

as necessary

*Thx
Mindy*

5:40 pm - called Lynn to request for 10am Floor Session
+ note amendments are capital projects

SENATE FINANCE COMMITTEE
4/12/2007 COMMITTEE ACTION

Bill Number	SB 61		
Amendment	Report from		
Motion	Committee CS "M"		
	as amended		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dyson			
Senator Elton			
Senator Huggins			
Senator Olson			
Senator Thomas			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

SENATE FINANCE COMMITTEE
4/12/2007 COMMITTEE ACTION

Bill Number	SB 61		
Amendment	technical		
Motion			
<u>Motion by</u>	Stedman		
<u>Objection by</u>	none		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Elton			
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

Direct Sen. Finance Committee Secty
to coordinate insertion of Amendments
1-3
& make necessary technical/conforming
changes

Adopted 4/12/07

WORK DRAFT

WORK DRAFT

WORK DRAFT

25-GS1063M
Kane
4/10/07

CS FOR SENATE BILL NO. 61()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act transferring funds to the public education fund; making supplemental and
2 other appropriations; amending appropriations; and providing for an effective date."

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

4 * Section 1. FUND TRANSFER. The sum of \$1,000,000,000 is appropriated from the
5 general fund to the public education fund (AS 14.17.300) for distribution to school districts, to
6 the state boarding school, and for centralized correspondence study.

7 * Sec. 2. DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC
8 DEVELOPMENT (a) The amount of the seafood development tax collected under
9 AS 43.76.350 - 43.76.399 in calendar year 2005 and deposited in the general fund under
10 AS 43.76.380(d) is appropriated from the general fund to the Department of Commerce,
11 Community, and Economic Development to provide financial assistance in fiscal year 2007 to
12 qualified regional seafood development associations.

13 (b) The sum of \$1,350,000 is appropriated from Regulatory Commission of Alaska
14 receipts to the Department of Commerce, Community, and Economic Development.

1 Regulatory Commission of Alaska, for litigation-related costs for the fiscal years ending
2 June 30, 2007, June 30, 2008, and June 30, 2009.

3 * **Sec. 3. DEPARTMENT OF CORRECTIONS.** (a) The sum of \$3,903,400 is appropriated
4 from the general fund to the Department of Corrections, inmate health care, for increased
5 operating costs for the fiscal year ending June 30, 2007.

6 (b) The sum of \$1,082,700 is appropriated from the general fund to the Department of
7 Corrections, Anchorage Correctional Complex, for increased operating costs for the fiscal
8 year ending June 30, 2007.

9 * **Sec. 4. DEPARTMENT OF HEALTH AND SOCIAL SERVICES.** (a) The sum of
10 \$2,315,000 is appropriated to the Department of Health and Social Services, Office of the
11 Commissioner, for operating costs for a comprehensive program associated with designing,
12 planning, and implementing the Legislative Medicaid Program Review Report dated
13 February 2007 from the following sources in the amounts stated:

14	Federal receipts	\$1,182,500
15	General fund	1,132,500

16 (b) Section 1, ch. 3, FSSLA 2005, page 56, lines 29 - 30, is amended to read:

17		APPROPRIATION	GENERAL
18		ITEMS	FUND
19	[JUNEAU] Pioneer <u>Homes</u> [HOME]	1,000,000	1 000,000
20	Roof <u>Repair and Replacement</u>		
21	(HD <u>1-40</u> [3-4])		

22 * **Sec. 5. DEPARTMENT OF LAW.** (a) The sum of \$299,100 is appropriated from the
23 public employees' retirement system fund to the Department of Law for costs incurred in the
24 investigation of actuarial services on behalf of the public employees' retirement system
25 (AS 39.35) for the fiscal year ending June 30, 2007.

26 (b) The sum of \$116,300 is appropriated from the teachers' retirement system fund to
27 the Department of Law for costs incurred in the investigation of actuarial services on behalf of
28 the teachers' retirement system (AS 14.25) for the fiscal year ending June 30, 2007.

29 * **Sec. 6. DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES.** (a)
30 Section 1, ch. 82, SLA 2006, page 88, line 32, is amended to read:

31		APPROPRIATION	OTHER
----	--	---------------	-------

1			ITEMS	FUNDS
2	Airport Improvement Program		<u>343,857,101</u>	<u>343,857,101</u>
3			[341,857,101]	[341,857,101]

(b) Section 1, ch. 82, SLA 2006, page 90, lines 29 - 31, is amended to read:

ALLOCATIONS

6	Ketchikan: Snow Removal	<u>3,125,000</u>
7	Equipment/Sand/Urea	[1,125,000]
8	Building Construction	
9	(HD 1)	

(c) Section 1, ch. 82, SLA 2006, page 94, lines 13 - 14, is amended to read:

11		APPROPRIATION	OTHER
12		ITEMS	FUNDS
13	Surface Transportation Program	<u>355,395,200</u>	<u>355,395,200</u>
14		[337,095,200]	[337,095,200]

(d) Section 1, ch. 82, SLA 2006, page 96, lines 7 - 12, is amended to read:

ALLOCATIONS

17	Anchorage: Areawide	1,000,000
18	Trails Rehabilitation	
19	(HD 17-32)	
20	<u>Anchorage: Eagle</u>	<u>1,750,000</u>
21	<u>River Road</u>	
22	<u>Rehabilitation -</u>	
23	<u>Milepost 5.3 to 12.6</u>	
24	<u>(HD 17-32)</u>	
25	Anchorage: Eagle	<u>12,200,000</u>
26	River Loop Road	[10,200,000]
27	Reconstruction - Old	
28	Glenn Highway to Eagle	
29	River Road (HD 17-32)	

(e) Section 1, ch. 82, SLA 2006, page 96, lines 25 - 30, is amended to read:

ALLOCATIONS

1 Anchorage: Old Seward 6,600,000
 2 Highway Reconstruction -
 3 O'Malley Road to Brandon
 4 (HD 17-32)

5 Anchorage: Potter Marsh 550,000

6 Trailhead and Access

7 Improvements

8 (HD 17-32)

9 Anchorage: Ridesharing 670,000
 10 and Transit Marketing
 11 (HD 17-32)

12 (f) Section 1, ch. 82, SLA 2006, page 102, lines 9 - 13, is amended to read:

13 ALLOCATIONS

14 Unalakleet: Landfill 700,000
 15 Access Road (HD 39)

16 Unalaska: South 14,000,000

17 Channel Bridge

18 Construction (HD 37)

19 Valdez: Mineral Creek 2,500,000
 20 Bridge and Approaches
 21 (HD 12)

22 (g) Section 1, ch. 3, FSSLA 2005, page 67, lines 17 - 19, is amended to read:

	APPROPRIATION	GENERAL
	ITEMS	FUND
25 Chitina Personal Use Dip Net Fishery Access	700,000	700,000

26 and Facility Improvements [AREA]

27 (HD 7-11)

28 * Sec. 7. OFFICE OF THE GOVERNOR. The sum of \$775,000 is appropriated from the
 29 general fund to the Office of the Governor, division of elections, for the costs associated with
 30 the April 3, 2007, special advisory election required by ch. 1, 4SSLA 2006, for the fiscal year
 31 ending June 30, 2007.

1 * Sec. 8. LAPSE. The appropriation made by sec. 4(a) of this Act lapses June 30, 2009.

2 * Sec. 9. RETROACTIVITY. (a) The appropriation made by sec. 2 of this Act is retroactive
3 to July 1, 2006.

4 (b) The appropriations made by sec. 5 of this Act are retroactive to October 1, 2006.

5 (c) The appropriation made by sec. 7 of this Act is retroactive to December 1, 2006.

6 * Sec. 10. This Act takes effect immediately under AS 01.10.070(c).

SENATE FINANCE COMMITTEE
4/12/2007 COMMITTEE ACTION

Bill Number	SB 61		
Amendment	CS "M"		
Motion	adopt as working document		
<u>Motion by</u>	Stedman		
<u>Objection by</u>	none		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Senator Elton			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
MOTION	Pass		

FY2007 FAST TRACK
SUPPLEMENTAL REQUESTS

							Governor's Request					Senate Finance Committee					
Sec 1/ Lang	Sec 1/ Lang	Sec. No.	Amd. Date	Amd. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Total Funds	Fund Source	General Funds	Federal Funds	Other Funds	Total Funds	
		1			Fund Transfers	Public Education Fund	\$1 billion of FY07 funding for distribution to school districts, to the state boarding school, and for centralized correspondence study						1,000,000.0				1,000,000.0
Lang	Lang	2(a)			Commerce	Office of Economic Development	Regional Seafood Development Tax pass-through to the Copper River/Prince William Sound Marketing Association. This appropriation was inadvertently omitted from the FY07 budget bills. The 1% tax assessment generated \$152,464 during calendar year 2005 which was to be appropriated to the association as of July 1, 2006.	0.0			0.0						0.0
	Sec 1	2(b)		Amended by RS DCCED 1 on 3/30/07 (added \$600.0)	Commerce	Regulatory Commission of Alaska	Outside council for litigation at the Federal Energy Regulatory Commission (FERC) to defend RCA's jurisdiction over intrastate rates on the Trans-Alaska Pipeline (TAPS); and for other TAPS-related litigation at the Supreme Court of Alaska involving RCA.			750.0	750.0	RCA Rept			1,350.0		1,350.0
	Sec 1	3(a)		Amended by RS DOC 1 (added \$1 million)	Corrections	Inmate Health Care	The funding is needed to meet the medical obligations for the aging and increased offender population. The driving factors are the sharp increase in the number of offenders needing treatment, the cost of dialysis and cancer treatments and the growing number of life-threatening cases. The department will potentially run out of funds as early as March 2007 and not be able to pay vendors for services provided. \$439.0 of this request is related to nurses' market-based pay increase.	4,904.3			4,904.3		3,933.4				3,933.4
	Sec 1	3(b)			Corrections	Anchorage Correctional Complex	The Anchorage Correctional complex is housing 50 offenders in crisis overflow beds in the gym due to overcrowding in the facility. This request is for required overtime for an additional security post which translates into four positions. The projected expenditures indicate that the component will run out of funds by the middle of April.	1,082.7			1,082.7		1,082.7				1,082.7
Lang	Lang	4(a)	3/30/07	LS HSS A	Health & Social Services	Office of the Commissioner	Funds necessary to further define and implement the opportunities noted in the February 2007 Pacific Health Policy Group report on Meds and reform.	1,132.5	1,182.5		2,315.0		1,132.5	1,182.5			2,315.0
	Lang	4(b)			Health & Social Services	Capital	Title change: "Juncau Pioneer Home Roof Replacement" to "Pioneer Homes Roof Repair and Replacement". The department would like to use excess funds from the original project to repair Sitka Pioneer Home roof.				0.0						0.0
Lang	Lang	5(a)-(b)		Amended by ES Law A, B & C	Law	Civil Division, Labor and State Affairs	Funding for the investigation and proposed litigation related to actuarial services reviewed by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.			12,000.0	12,000.0	299.1 PER5 116.3 TRS			415.4		415.4
	Lang	6(a)			Transportation	Capital - Airport Improvement Program Appropriation	The Airport Improvement Program appropriation increases by \$2,000.0 from \$341,857.1 to \$343,857.1 because of the increase in the allocation below.				0.0						0.0

FY2007 FAST TRACK
SUPPLEMENTAL REQUESTS

Sec 1/ Lang	Sec 1/ Lang	Sec. No.	Amd. Date	Amd. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Total Funds	Fund Source	General Funds	Federal Funds	Other Funds	Total Funds
	Lang	6(b)			Transportation	Capital - Airport Improvement Program Allocation	Amend FY07 Project - Ketchikan: Snow Removal Equipment/Sand/Urea Building Construction - Project includes constructing a new snow removal equipment, sand and chemical mixing and storage building to house all of the airport's emergency response and snow removal equipment. Project is ready to bid as soon as funding is available.		2,000.0		2,000.0			2,000.0		2,000.0
	Lang	6(c)			Transportation	Capital - Surface Transportation Program Appropriation	The Surface Transportation Program appropriation increases by \$18,300.0 from \$337,095.2 to \$355,395.2 because of the allocation changes below:				0.0					0.0
	Lang	6(d)			Transportation	Capital - Surface Transportation Program Allocation	New: Anchorage: Eagle River Road Rehabilitation - Milepost 5.3 to 12.6 - Project includes widening shoulders, improving visibility, and repaving. The department plans to advertise as soon as funding is available.		1,750.0		1,750.0			1,750.0		1,750.0
	Lang	6(d)			Transportation	Capital - Surface Transportation Program Allocation	Amend: Anchorage: Eagle River Loop Road Reconstruction - Old Glen Highway to Eagle River Road - Project includes reconstructing shoulders, turn lanes, pedestrian facilities, lighting and landscaping. The department plans to advertise in March.		2,000.0		2,000.0			2,000.0		2,000.0
	Lang	6(e)			Transportation	Capital - Surface Transportation Program Allocation	New: Anchorage: Potter Marsh Trailhead and Access Improvements - Project includes enhancing parking lot, provide new boardwalk connections, and connect the Bird Treatment Learning Center on the Old Seward Highway to the existing boardwalk. The department plans to advertise in March.		550.0		550.0			550.0		550.0
	Lang	6(f)			Transportation	Capital - Surface Transportation Program Allocation	New: Unalaska South Channel Bridge Construction - Project includes replacing existing bridge with a concrete deck bridge. Increased funding required as low bid was greater than existing legislative authority for project.		14,000.0		14,000.0			14,000.0		14,000.0
	Lang	6(g)			Transportation	Capital - Department of Transportation	Amend the appropriation to expand the scope: Chulita Personal Use Dip Net Fishery Access and Facility Improvements (ARFA) (HD 7-11)				0.0					0.0
Sec 1	Sec 1	7			Amended Governor by ES GOV A (reduced by \$381.3)	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FLSA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees	775.0			775.0		775.0			775.0
		8			Lapse Provisions											0.0
		9			Retrospectively											0.0
		10			Effective Date											0.0
Senate FAST TRACK Supplemental Bill Total								7,998.5	21,462.3	12,750.0	42,127.0	0.0	1,006,993.6	21,462.3	1,765.4	1,030,141.5

FY2007 EARLY SUPPLEMENTAL REQUESTS

Sec. No.	Amd. Date	Amd. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
1			Commerce	Office of Economic Development	Regional Seafood Development Tax pass-through to the Copper River/Prince William Sound Marketing Association. This appropriation was inadvertently omitted from the FY07 budget bills. The 1% tax assessment generated \$152,464 during calendar year 2005 which was to be appropriated to the association as of July 1, 2006.	0.0				0.0
2(a)-(b)			Law	Civil Division, Labor and State Affairs	Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.			12,000.0	8,271.0 PERS 3,729.0 TRS	12,000.0
3			Governor	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FSSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.	1,156.3				1,156.3
4				Lapse Provisions						
5				Retroactivity						
6-7				Effective Date						
Early Supplemental Bill Total						1,156.3	0.0	12,000.0		13,156.3
Amendments:										
2(a)-(b)	2/16/07	ES Law A	Law	Civil Division, Labor and State Affairs	Revise the funding split in sec. 2 to be in accordance with the Division of Retirement and Benefits' cost allocation plan and thus reflect: 72% PERS, an increase of \$369.0 from \$8,271.0 to \$8,640.0, and 28% TRS, a decrease of \$369.0 from \$3,729.0 to \$3,360.0.				369.0 PERS -369.0 TRS	0.0
6	2/16/07	ES Law B	Law	Civil Division, Labor and State Affairs	Change the effective date in sec. 6 from February 1, 2007 to October 1, 2006 in order that Law may pay outstanding investigation invoices for services rendered in October 2006.					0.0
Amended Early Supplemental Bill Total						1,156.3	0.0	12,000.0		13,156.3

FY2007 SUPPLEMENTAL REQUESTS

Sec. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds
1	Commerce	Office of Economic Development	Regional Seafood Development Tax pass-through to the Copper River/Prince William Sound Marketing Association. This appropriation was inadvertently omitted from the FY07 budget bills. The 1% tax assessment generated \$152,464 during calendar year 2005 which was to be appropriated to the association as of July 1, 2006.	0.0				0.0
2(a)-(b)	Law	Civil Division, Labor and State Affairs	Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.			12,000.0	8,271.0 PERS 3,729.0 TRS	12,000.0
3	Governor	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FSSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.	1,156.3				1,156.3
4	Lapse Provisions							
5	Retroactivity							
6-7	Effective Date							
Early Supplemental Bill Total				1,156.3	0.0	12,000.0		13,156.3

Dept of Commerce,Community,& Economic Development

Scenario: FY2007 Supplemental - Governor (5770)

Decision: None

Component: Office of Economic Development (2743)

Category: None

New GF Revenue:

RDU: Community Assistance & Economic Development (405)

Subcategory: None

New Other Revenue:

Title: Regional Seafood Development Associations

Short Title:

Brief Description:

Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
									PFT	PPT	NP
Suppl	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0

In accordance with AS 43.76.350 - 43.76.399, seafood development taxes collected may be appropriated, per AS 43.76.380(d), to qualifying regional seafood development associations. In calendar year 2005 the drift/gillnet fleet in the Copper River/Prince William Sound region assessed themselves a 1% regional seafood development tax. Processors collected the tax and remitted the funds to the Department of Revenue.

The Copper River/Prince William Sound Marketing Association (CR/PWSMA) expected an FY07 revenue pass-through appropriation of \$152,465, the amount of the collected tax. Though intended, the appropriation was accidentally not inserted into any of the appropriation bills. Consequently, the CR/PWSMA did not receive its funding on July 1, 2006. This supplemental would provide CR/PWSMA the funding it is entitled to under the above referenced statutes.

A point of clarification, since the CR/PWSMA did not receive an appropriation and desperately needed the monies, the Department provided the CR/PWSMA with "temporary" funding from another Departmental program with the understanding that when CR/PWSMA did receive an appropriation, CR/PWSMA would only receive the balance of what it is entitled to under the above referenced statutes. The total amount previously expended from the other Departmental program would be reimbursed from the CR/PWSMA's supplemental appropriation.

The appropriation for FY08 is included in the Governor's operating budget as section 10(c).

Totals	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
--------	-----	-----	-----	-----	-----	-----	-----	-----	---	---	---

Department of Law

Scenario: FY2007 Supplemental - Governor (5770)
 Component: Labor and State Affairs (2718)
 RDU: Civil Division (35)
 Title: Retirement System Litigation

Decision: None
 Category: None
 Subcategory: None

New GF Revenue:
 New Other Revenue:
 Short Title:

Brief Description:

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
	Suppl	12,000.0	0.0	0.0	12,000.0	0.0	0.0	0.0	0.0	0	0	0
1029 P/E Retire	8,271.0											
1034 Teach Ret	3,729.0											
Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.												
Totals		12,000.0	0.0	0.0	12,000.0	0.0	0.0	0.0	0.0	0	0	0

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET

SARAH PALIN, GOVERNOR

P.O. BOX 110020
JUNEAU, ALASKA 99811-0020
TELEPHONE: (907) 465-4660
FAX: (907) 465-3008

February 16, 2007

The Honorable Lyman Hoffman
The Honorable Bert Stedman
The Honorable Mike Chenault
The Honorable Kevin Meyers
Alaska State Legislature
State Capitol
Juneau, AK 99801

Dear Finance Committee Co-Chairs:

Please make the following amendments to the Early supplemental bill, SB 61 / HB 107:

Amend the fund sources in sec. 2 for the retirement system investigation and litigation costs to reflect a 72% - 28% funding split in accordance with the Division of Retirement and Benefits' cost allocation plan:

Sec. 2(a) change the PERS amount from \$8,271,000 to \$8,640,000

Sec. 2(b) change the TRS amount from \$3,729,000 to \$3,360,000

This will match the retirement system investigation PERS/TRS fund source adjustment contained in the Regular supplemental bill, SB 83 / HB 139.

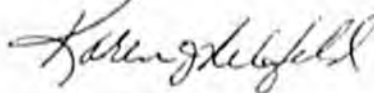
Amend sec. 6 to read:

Sec. 6. The appropriations made by sec. 2 of this Act take effect October 1, 2006[FEBRUARY 16, 2007].

Although I stated during my testimony to the House Finance Committee on February 13, that November 1, 2006 was the needed effective date the change to October 1 will allow the Department of Law to pay outstanding investigation invoices for work performed in October 2006 that was invoiced in November.

An updated spreadsheet is attached. If you have any questions, please call me at 465-4660 or Joan Brown at 465-4681. Thank you.

Sincerely,



Karen J. Rehfeld
Director

Attachments

cc: David Teal, Legislative Finance

Department of Law

Scenario: FY2007 Supplemental - Early (5922)
 Component: Labor and State Affairs (2718)
 RDU: Civil Division (35)

Decision: None
 Category: None
 Subcategory: None

New GF Revenue:
 New Other Revenue:
 Short Title:

Title: Correct fund source split to reflect the Division of Retirement and Benefits' cost allocation plan

Brief Description:

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
	Suppl	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0
1029 P/E Retire		369.0										
1034 Teach Ret		-369.0										
PERS funding is changed to from \$8,271.0 to \$8,640.0 and TRS funding is changed from \$3,729.0 to \$3,360.0 to reflect the Division of Retirement and Benefits' cost allocation plan split of 72% PERS and 28% TRS.												
The effective date is changed from February 1, 2007 to October 1, 2006 in order that the department may pay outstanding invoices for services rendered in October 2006.												
	Totals	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0

Office of the Governor

Scenario: FY2007 Supplemental - Governor (5770)

Decision: None

Component: Elections (21)

Category: None

RDU: Elections (433)

Subcategory: None

New GF Revenue:

Title: Funding for April 3, 2007 Special Election authorized by ch.1, FSSLA 2006, HB 4002

New Other Revenue:

Short Title:

Brief Description:

	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants & Benefits	Misc./Debt Service	Positions		
										PFT	PPT	NP
	Suppl	1,156.3	285.6	61.0	756.4	53.3	0.0	0.0	0.0	0	0	0
1004 Gen Fund	1,156.3											
Funding required to conduct the statewide special election on April 3, 2007. Requested funding is based on the cost of the 2006 primary election. Personal services reflects the cost of additional hours for the on-election-year temporary staff required to conduct a statewide election. Contractual services includes: ballot printing, election boards, advertising, shipping and postage, polling place rental and set-up, forms printing microfilming, printing and mailing of informational pamphlet.												
	Totals	1,156.3	285.6	61.0	756.4	53.3	0.0	0.0	0.0	0	0	0



SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 17, 2007

The Honorable Lyda Green
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Green:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making appropriations for qualified regional seafood development associations; for investigation and litigation relating to the public employees' retirement system and the teachers' retirement system; and for a special advisory election.

This early supplemental appropriation is comprised of items that require timely approval by the Legislature. Other supplemental requests are currently being reviewed by my Office of Management and Budget, and will be submitted to the Legislature in a separate appropriation bill at a later date.

Section 1 of the bill would appropriate the amount of the seafood development tax collected under AS 43.76.350 - 43.76.399 in calendar year 2005 and deposited in the general fund under AS 43.76.380(d) to the Department of Commerce, Community, and Economic Development to provide financial assistance in Fiscal Year 2007 to qualified regional seafood development associations.

Section 2 of the bill would appropriate a total of \$12,000,000, of which about 69 percent would come from the public employees' retirement system fund and about 31 percent from the teachers' retirement system fund, for use in an investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would conclude in Fiscal Year 2007, and the proposed litigation is contemplated to commence later in that fiscal year. The amount of the appropriations is the estimated costs to complete the investigation and take the case from inception through trial. The final actual costs may be more or less. Through the budget process, and on request, the Department of Law would provide reports regarding the status of the litigation and the expenditures from the appropriations.

COMMITTEE COPY

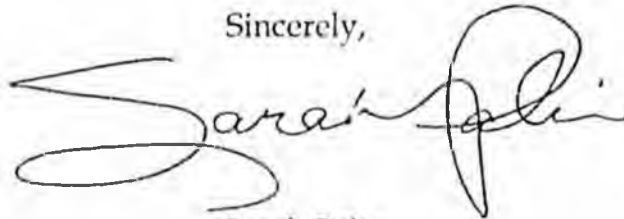
The Honorable Lyda Green
January 17, 2007
Page 2

The appropriations in sec. 2 of the bill would be entirely financed by a recent litigation settlement benefiting the public employees' retirement system fund and the teachers' retirement system fund. The Alaska Retirement Management Board recently settled its claim against Time Warner for securities fraud -- the proceeds for those funds from that litigation totaled \$15,600,000. The Alaska Retirement Management Board supports using \$12,000,000 of those proceeds to finance the investigation and proposed litigation for which the appropriations in this bill would be used.

Section 3 of the bill would appropriate \$1,156,300 from the general fund to the Office of the Governor, division of elections, for the costs associated with the April 3, 2007, special advisory election required by ch. 1, FSSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.

Because these items need Legislative approval in a timely manner, I urge your prompt and favorable action on this measure as soon as possible.

Sincerely,

A handwritten signature in black ink that reads "Sarah Palin". The signature is written in a cursive, flowing style with a large initial "S" and a distinct "P".

Sarah Palin
Governor

SENATE FINANCE
COMMITTEE #3
Amendment # _____
To Bill Number: SB61
Sponsor: Hoffman
Date 4/26/07 Logged by Mindy

AMENDMENT

OFFERED IN: The Senate Finance Committee

TO: CS for SB 61 (FIN)

OFFERED BY: Hoffman

INSERT:

The sum of \$6,500,000 is appropriated to the Department of Health and Social Services for the Fairbanks virology laboratory completion from the following sources:

General Fund	\$3,500,000
Miscellaneous Receipts (1173)	\$3,000,000

\$3 million from the interest earnings on the Certificates of Participation issued for construction of the Fairbanks Virology Laboratory

SENATE FINANCE COMMITTEE
4 / 2007 COMMITTEE ACTION

Bill Number	SB 61		
Amendment	#3		
Motion	adopt		
<u>Motion by</u>	Hoffman		
<u>Objection by</u>	Hoffman		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Huggins			
Senator Olson			
Senator Thomas			
Senator Dyson			
Senator Elton			
Co-Chair Hoffman			
Co-Chair Stedman			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		

FY2007 EARLY SUPPLEMENTAL REQUESTS

Sec. No.	Amd. Date	Amd. No.	Department	RDU or Component or Capital	Supplemental Need	General Funds	Federal Funds	Other Funds	Fund Source	Total Funds	LFD Notes
1			Commerce	Office of Economic Development	Regional Seafood Development Tax pass-through to the Copper River/Prince William Sound Marketing Association. This appropriation was inadvertently omitted from the FY07 budget bills. The 1% tax assessment generated \$152,464 during calendar year 2005 which was to be appropriated to the association as of July 1, 2006.	0.0				0.0	The Department informed Leg Finance about this problem in August, 2006. The Department is using Fisheries Revitalization funding to fill the gap until this tax can be appropriated.
2(a)-(b)		Amended Law by ES Law A		Civil Division, Labor and State Affairs	Funding for the investigation and proposed litigation related to actuarial services received by the State of Alaska. The investigation would be completed during FY07, and the proposed litigation is contemplated to begin before the end of FY07. The amount of the appropriations is the estimated cost to complete the investigation and take the case from inception through trial.			12,000.0	8,271.0 PERS 3,729.0 TRS	12,000.0	* It is unclear how long the litigation is expected to continue, but this funding is available for the life of the project. * The DOLaw believes there is sufficient evidence of gross negligence to warrant pursuing the case. * There is no guarantee that the state will receive any compensation if the state prevails. * Funding is requested to cover current attorney fees.
3			Governor	Elections	Funding for the costs associated with the April 3, 2007, special advisory election required by ch. 1, ESSLA 2006, on the subject of employment benefits for same-sex partners of public employees and retirees.	1,156.3				1,156.3	Although a fiscal note identified costs associated with this election, the note never became an appropriation, this request does not provide duplicate funding
4				Lapse Provisions							
5				Retroactivity							
6-7				Effective Date							
Early Supplemental Bill Total						1,156.3	0.0	12,000.0		13,156.3	
Amendments:											
2(a)-(b)	2/16/07	ES Law A	Law	Civil Division, Labor and State Affairs	Revise the funding split in sec. 2 to be in accordance with the Division of Retirement and Benefits' cost allocation plan and thus reflect: 72% PERS, an increase of \$369.0 from \$8,271.0 to \$8,640.0, and 28% TRS, a decrease of \$369.0 from \$3,729.0 to \$3,360.0.				369.0 PERS -369.0 TRS	0.0	
6	2/16/07	ES Law B	Law	Civil Division, Labor and State Affairs	Change the effective date in sec. 6 from February 16, 2007 to October 1, 2006 in order that Law may pay outstanding investigation invoices for services rendered in October 2006.					0.0	
Amended Early Supplemental Bill Total						1,156.3	0.0	12,000.0		13,156.3	

State of Alaska
ALASKA RETIREMENT MANAGEMENT BOARD
Relating to Actuary Litigation

Resolution 2007-06

WHEREAS, the Alaska Retirement Management Board ("Board") was established by law to serve as fiduciary to the funds of the State of Alaska's retirement systems, including the Public Employees' Retirement System ("PERS") and the Teachers Retirement System ("TRS"), (collectively, the "Systems");

WHEREAS, Mercer Human Resource Consulting, Inc. ("Mercer") was retained until December 31, 2005, by the Department of Administration and for the benefit of the Department and the Systems, as well as the predecessors to the Board, including the boards of the PERS, TRS, and the Alaska State Pension Investment Board, to provide competent and professional actuarial services and advice;

WHEREAS, on behalf of the Systems, the State of Alaska Department of Law has investigated the performance by Mercer during the period of its retention, and the results of such investigations yield strong indicators of professional negligence and significant damage to the Systems;

NOW THEREFORE BE IT RESOLVED BY THE ALASKA RETIREMENT MANAGEMENT BOARD that:

1. The Board concludes that it is prudent to expend funds necessary to pursue claims, including potential litigation, against Mercer based upon the investigation undertaken by and for the Department of Law;
2. The Board urges through this resolution that appropriations be approved, in amounts recommended by the Department of Law to fund the potential litigation, and that such funds as necessary may be appropriated from the funds of the Systems as fair and reasonable costs necessary for the proper and prudent administration of those funds;
3. The Board ratifies and affirms the retention of the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP by the Department of Law as outside counsel for the Board and the Systems in connection with the investigation of Mercer's performance and any potential litigation arising out of that investigation; and
4. The actions contemplated hereby are a reasonable effort to protect and preserve the assets of the Systems.

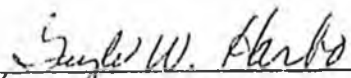
2/22/07

DATED at Anchorage, Alaska this 9th day of February, 2007.



Chair

ATTEST:



Secretary

SB 61

ES HSSA

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER
FINANCE AND MANAGEMENT SERVICES

SARAH PALIN, GOVERNOR

P.O. Box 110650
Juneau, AK 99811-0650
Phone: (907) 465-3082
Fax: (907) 465-2499

March 28, 2007

The Honorable Lyman Hoffman, Co-Chair
The Honorable Bert Stedman, Co-Chair
The Honorable Charlie Huggins, Vice-Chair
Senate Finance Committee
State Capitol, Rooms 518, 516, 119
Juneau, Alaska 99811

Subject: Revised Supplemental Request Medicaid Review Report

Dear Senator Hoffman, Stedman, and Huggins,

This is a revised supplemental proposal written at the request of Senator Hoffman to propose a supplemental to further define and implement the opportunities noted by the Pacific Health Policy Group report on defining the future of Medicaid in Alaska.

Revised Proposed Supplemental language:

- **Section X.** The sum of \$2,315,000 is appropriated to the Department of Health and Social Services, Office of the Commissioner, for operating costs for a comprehensive program associated with designing, planning, and implementing the legislative Medicaid Review Report issued in February 2007. Expenses related to the project are expected to be spent in FY2007, 2008 and 2009, from the following fund sources:

Federal receipts	\$1,182,500
General fund	1,132,500

- * **Section XX.** The appropriation made by sec. X lapses June 30, 2009.

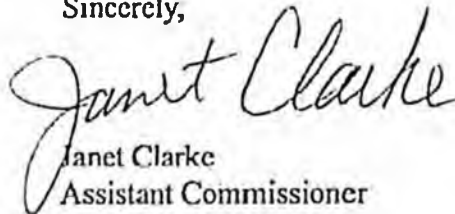
The Pacific Health Policy Group outlined a significant level of effort required to implement provisions of the report. The DHSS Commissioner and other department staff have worked with

4/12/07

the legislature to develop a comprehensive work plan to implement key provisions of the Medicaid Review Report. Copies of the work plan and summary spreadsheet are attached for your review and information.

The department looks forward to working with the legislature on these major policy initiatives, if you have additional questions regarding this issue, please contact Jerry Fuller, Medicaid Director at 269-7380 or me at 465-1630.

Sincerely,


Janet Clarke
Assistant Commissioner

cc: Karleen Jackson, Commissioner
Anthony Lombardo, Deputy Commissioner
Bill Hogan, Deputy Commissioner
Sherry Hill, Special Assistant
Jerry Fuller, Medicaid Director

Medicaid Review Report Work Plan
March 23, 2007

The following projects can be expected to be substantially underway by the end of the next fiscal year (SFY 08). However, final completion for some projects may extend into SFY 09.

Tiered Pharmacy Pricing:

The PGP report noted that Alaska Medicaid uses a uniform pricing structure across the State to determine reimbursement for pharmacy dispensing fees. The report recommends examining alternate methods for calculating dispensing fees so that the Medicaid program retains access in rural areas of the state and communities with sole practitioners while applying a more competitive pricing model in urban areas of the state.

How: Work to be done by the Department of Health and Social Services in SFY 08/09.

Resources Needed: No new resources needed

Potential savings: No estimate made by PGP

Pharmacy Prior Authorization.

Alaska Medicaid currently requires prior authorization for certain drugs as a condition of reimbursement. The PGP study recommended that the list of drugs requiring prior authorization be expanded as a cost saving initiative.

How: Work to be done by the Department of Health and Social Services in SFY 08/09.

Resources Needed: No new resources needed

Potential savings: No estimate made by PGP

Level of Care Controls in Personal Care Assistant Program:

The report noted the recent, rapid increase in Medicaid expenditures for the Personal Care Assistant (PCA) program. It also acknowledges the response of the Department to this increase through a more rigorous application of level of care criteria. Each recipient of the program is screened to assure that he or she has a need for care that would qualify them for nursing home admission. The report suggests that the Department should continue its efforts to assure that level of care decisions are accurately determined so that only recipients with this level of need are served.

How: Work to be done by the Department of Health and Social Services in SFY 08/09.

Resources Needed: No new resources needed

Potential savings: No estimate made by PHPG

Alternate Reimbursement Methodology for DD Services.

The PHPG report noted that the methodology used by Medicaid to pay for services to the states developmentally disabled population leads to inconsistent payment rates for similar services and may be contributing to the high cost of Alaska's waiver program. The report suggests that reimbursement rates should be based on uniformly collected and audited cost information and that the rates should be applied statewide.

How: Work to be done by the Department of Health and Social Services in SFY 08/09.

Resources Needed: No new resources needed

Potential savings: No estimate made by PHPG however potential savings could accrue from program efficiencies.

Implement Disease Management Program.

The PHPG report suggests that disease management programs have succeeded in lowering Medicaid costs in other states. These programs are designed to closely manage the care for individuals with certain chronic, high cost diseases in order to achieve better disease outcomes, to lower over all care costs and to mitigate the need for expensive high cost treatment. Diseases to be managed are generally selected on the basis of prevalence, cost and where increased patient self-care could improve quality of care and reduce cost.

How: Work to be done by the Department of Health and Social Services in SFY 08/09.

It is expected that initial implementation would include a few high cost diseases.

Expansion of the program would depend upon program experience.

Resources Needed: \$80.0 Total Funds (\$40.0 GF/ \$40.0 Fed.)

Potential savings: No estimate made by PHPG. Savings are expected to result over time from fewer expensive treatment episodes and generally better disease management.

The following projects will begin in SFY 2008 however; final implementation may depend upon Federal Medicaid review and acceptance waiver applications. It is assumed that the decision of whether or not to pursue waivers can be made within a year, however, the actual waiver approval may take longer.

Personal Care Assistant Waivers.

Alaska Medicaid has two programs designed to help elderly and disabled individuals receive care in the community as opposed to a nursing home or other institution; the Home and Community Based Waiver program and the Personal Care Assistant program. In Alaska, these programs are administered independently, while in some state the PCA program is part of the Waiver program. The report suggests that if the programs were combined, eligibility for the programs could be better coordinated and services could be improved by PCA services becoming part of a larger array of long term care services. Additional information is needed to assess the impact on services and costs of combining these programs.

How: Work to be done by the Department of Health and Social Services in SFY 08/09.

Resources Needed: No new resources needed

Potential savings: No estimate made by PHPG however potential savings could accrue from program efficiencies.

Federal Financial Participation in Pioneer Homes.

Alaska Pioneer homes are licensed as assisted living but are serving a growing number of Alzheimer's patients with predominantly general funds. In some other states, this population is served in Alzheimer's wings of nursing homes or in less costly community oriented care facilities. The report recommends that Alaska examines the current services and population in Pioneer's Homes to determine the potential for converting services to Medicaid in order to earn more Federal dollars and reduce reliance on general funds. If it is determined that some services could be converted to Medicaid, efforts would be pursued to secure the needed Federal Medicaid approvals.

How: Work to be done by a contractor familiar with Medicaid waiver law and policy. Work to be completed in SFY 08/09.

Resources needed: \$50.0 Total Funds (\$25.0 GF, \$25.0 Federal). Additional funds may be necessary depending on the amount needed for follow-up work with Federal Medicaid.

Potential Savings: No estimate made by PHPG. Saving would be dependent upon the amount of general funds currently being spent that could be refinanced with Federal Medicaid dollars. If waivers were approved, some general fund savings could be expected.

Address Wait List for Developmental Disabilities Services.

The PHPG report notes that there are currently individuals experiencing developmental disabilities that are either on a waiting list for Medicaid services or are not eligible due to current screening criteria. Many of these individual are receiving services paid for with general funds. For others, such as children with a diagnosis of autism, early intervention could help improve their prognosis as well as reducing future expenditures. It may be possible to expand Medicaid eligibility so that these individuals receive services through Medicaid, thus reducing the need for General fund expenditure. However, further study is needed to identify clients who might be eligible for an expanded Medicaid service, to assess the impact to their care and to identify cost savings.

How: Work to be done by a contractor familiar with Medicaid waiver law and policy.

Resources needed: \$20.0 Total Funds (\$10.0 GF, \$10.0 Federal).

Potential Savings: No estimate made by PHPG. Saving would be dependent upon the amount of General funds currently being spent that could be refinanced with Federal Medicaid dollars. If waivers were approved, some general fund savings could be anticipated.

Federal Financial Participation for CAMA.

The State currently operates a limited health service program for individuals who are terminally ill or have a chronic condition requiring prescription drugs for health maintenance. The program is paid for with general funds. The report notes the possibility that the program could be moved under Medicaid through a waiver and suggests that some general fund saving could result as Federal dollars would then be used to pay a share of the program costs. Additional study is necessary to determine the cost effectiveness of doing this.

How: Work to be done by a contractor familiar with Medicaid waiver law and policy. Work to be completed in SFY 08/09.

Resources needed: \$20.0 Total Funds (\$10.0 GF, \$10.0 Federal).