

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4703 HJUD HB 299

275

tab container, resulting in significant revenue losses for the permittee. This occurs despite the fact the odds of winning on the last pull tab are just as good as the odds of winning on the first. Allowing a mix of 10% would not contribute to greater potential for tampering, but would increase the permittee's return on the game. The intent would be to allow the last 10% of a series to be placed on top of a new series.

Subsection (f) of the same section prohibits withdrawing a pull-tab series from sale until all pull-tabs are sold. The provision should be revised to include an exception allowing withdrawal of a series when a manufacturer's defect in a series is discovered. The non-profits have learned through experience that a series is occasionally misnumbered, and cannot be sold. Obviously, such a series must be withdrawn.

12. Section 210. This section should be revised to prohibit the sale of alcoholic beverages on the premises where gaming is conducted, (perhaps with an exception for specific events such as ice classics). The non-profits are aware of a growing number of drinking establishments which are offering pull-tab ("rippee") games to their customers. The combination of drinking and gaming does not further the public policy of allowing charitable organizations to raise funds for public purposes.

13. Existing Section 150(a). This current provision prohibits permittees from dedicating proceeds to the "acquisition, improvement, maintenance, or repair of real...property...". A.S. 05.15.150(a). The proposed bill leaves this provision unchanged, even though there is good reason for repealing or modifying it. For instance, the non-profits have determined that it may actually be less expensive to purchase the facility in which their games are presently conducted than to continue leasing the premises. Section 150(a) prohibits the use of gaming proceeds in this way. We believe the law would better reflect the policy of ensuring maximum use of proceeds for charitable purposes if such economic realities were recognized in the legislation.

14. Familial relationships. The non-profits also suggest that the bill incorporate a provision prohibiting family relationships between manufacturers, distributors, operators, and permittees. This limitation would decrease the opportunity for arrangements for personal financial gain at the expense of the

Honorable Dave Donley
February 1, 1988
Page 11

permittees.

15. "Adjusted Gross Income." Finally, the non-profits have been advised informally that the House Committee on Labor and Commerce is considering a new amendment to the proposed legislation which would define "adjusted gross income" as gross income less prizes awarded and less taxes paid on the gross income. The non-profits support this amendment.

In conclusion, the non-profits welcome revisions in the current gaming legislation which would both meet the need for strict accountability in the conduct of games, and further the ability of charitable organizations to raise desperately needed funds to meet the ever-increasing demand for health and social services, particularly in rural Alaska. Recognition of the changed nature of the gaming industry and increased guidance given the Department in promulgating regulations will aid in developing realistic charitable gaming legislation.

Lucky Strike Bingo has a reputation in the Department as a "model" gaming operation. The four non-profit associations comprising Lucky Strike Bingo strongly desire to maintain and foster an atmosphere of "clean" gaming. Both small and large-scale operations should be allowed to flourish within a legal framework which limits the opportunities for unlawful gain. We look forward to working closely with the Committee and the Legislature in developing a legislative framework that meets these goals.

Sincerely,

By: 
Lloyd Benton Miller
Jill A. De La Hunt

LBM:JAD/kg
cc: All Committee members
Ginger Baine
file: comments.299

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF REVENUE

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300

OFFICE OF THE COMMISSIONER

March 14, 1988

RECEIVED
MAR 14 1988

The Honorable John Sund, Chairman
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Sund:

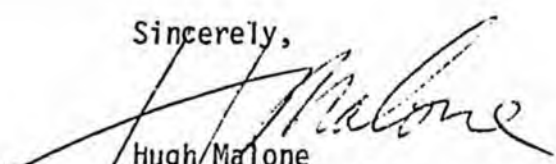
It has been over twenty-five years since Alaska laws regulating charitable gaming were written. During that period of time, charitable gaming has changed from small scale church and club fund raising to a complex industry. Charitable gaming has become a major source of revenue for non-profit corporations. Some of these "non-profits" are fairly large business activities. Gaming itself has grown way beyond what was envisioned in the law, and beyond the scope of the resources available to regulate it. You are aware of the miserable recent history of the attempts at legislative change - bills vetoed, and bills deliberately stalled in the legislature.

The basic idea of allowing gambling for eleemosynary purposes is the heart of the law. With the present level of activity and resources, and the present state of the law we can not be reasonably certain that the right amount of money is going to the right place.

The committee members are considering HB 299. If HB 299 incorporates the amendments offered by the department, it will go a long way toward helping solve these problems. It would be especially helpful if the regulations of gaming were moved to a regulatory department, since regulation of charities is not a revenue function. Also, the committee should give consideration of establishing an advisory board of public members to help in this regulation.

We need action before the situation gets worse.

Sincerely,


Hugh Malone
Commissioner of Revenue

HM:m11
88-75

cc: House Judiciary Committee Members

Representative Dave Donley

A M E N D M E N T

Offered in the HOUSE

By Donley

TO: CSHB 299(Judiciary)

Page 10, line 17:

Delete "05.15.125"

Insert "05.15.122"

Page 11, after line 14:

Insert the following new section to read:

"Sec. 05.15.124. MUNICIPAL REGULATION OF OPERATORS. A municipality may by ordinance prohibit an operator from conducting activities under this chapter within the municipality."

Page 14, line 18:

Delete "05.15.125b"

Insert "05.15.122b"

A M E N D M E N T #1

Offered in the HOUSE

TO: CSHB 299 (Judiciary)

Page 2, line 18:

Delete "or license"

Page 2, line 26:

Delete "or license"

Page 10, line 17:

Delete "05.15.125"

Insert "05.15.122"

Page 11, after line 3:

Insert a new subsection to read:

"(c) The authority of an operator to conduct activities within a municipality is subject to the power of the department under AS 05.-15.124 to prohibit the operator from conducting activities within the municipality."

Reletter the following subsections accordingly.

Page 11, after line 14:

Insert a new section to read:

"Sec. 05.15.124. OPERATOR'S NOTICE TO MUNICIPALITIES. (a) At least 45 days before conducting an activity within a municipality or behalf of a permittee or before renewing a license authorizing the operator to conduct activities within the municipality, an operator shall inform the department and the municipality where the activities will be conducted of the operator's intent to conduct activities within the municipality or to renew the license.

(b) A municipality, within 30 days after receiving the notice required under (a) of this section, may forward its comments to the department as to whether the operator should receive authorization to conduct activities within the municipality.

(c) If a municipality recommends that an operator not be allowed to operate within the municipality, the department shall prohibit the operator from conducting activities within the municipality.

(d) An operator may appeal the denial of authority to conduct activities within a municipality to the commissioner of revenue. The commissioner ^{shall} [may] affirm the action of the department in denying authority to conduct activities within a municipality if the commissioner finds that the municipality had reasonable grounds for recommending that the operator not be allowed to operate within the municipality. If the commissioner does not affirm the action of the department, the commissioner shall order that the department authorize the operator to conduct activities within the municipality."

Page 14, line 18:

Delete "05.15.125(b)"

Insert "05.15.122(b)"

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 299 (Jud)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act revising the state gaming laws."

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

8 * Section 1. AS 05.15.020 is repealed and reenacted to read:

9 Sec. 05.15.020. ANNUAL PERMIT AND FEES. (a) A municipality
10 qualified organization may conduct an activity permitted under th
11 chapter, if the municipality or qualified organization pays the appr
12 priate permit fee and receives an annual permit issued by the depar
13 ment. The annual permit fee is

14 (1) \$20 for an applicant that did not hold a permit durin
15 the preceding year;

16 (2) \$20 for an applicant that had gross receipts of les
17 than \$20,000 from activities conducted under this chapter during th
18 preceding year;

19 (3) \$50 for an applicant that had gross receipts of \$20,00
20 or more but not exceeding \$100,000 from activities conducted unde
21 this chapter during the preceding year; or

22 (4) \$100 for an applicant that had gross receipts exceeding
23 \$100,000 from activities conducted under this chapter during the
24 preceding year.

25 (b) An additional fee shall be paid to the department annually
26 by the municipality or qualified organization authorized to conduct
27 activities under this chapter. The additional fee is

28 (1) one percent of the net proceeds of the activities au-
29 thorized under the permit if the gross receipts for the activities

1 were \$20,000 or more but not exceeding \$100,000; or

2 (2) three percent of the net proceeds of the activities au-
3 thorized under the permit if the gross receipts for the activities
4 exceeded \$100,000.

5 (c) A municipality or qualified organization applying for renew-
6 al of the annual permit shall provide proof satisfactory to the de-
7 partment that it does not have an outstanding debt for payment of a
8 tax on pull-tabs under AS 05.15.183 to a pull-tab distributor.

9 * Sec. 2. AS 05.15 is amended by adding a new section to read:

10 Sec. 05.15.025. MONEY DEPOSITED IN GENERAL FUND. Money received
11 by the department under this chapter shall be deposited in the general
12 fund. The commissioner of administration shall separately account for
13 the money deposited in the general fund under this section. The
14 annual estimated balance in the account may be used by the legislature
15 to make appropriations to the department to carry out enforcement of
16 this chapter.

17 * Sec. 3. AS 05.15.030(a) is amended to read:

18 (a) At the time of filing an application for a permit or license
19 under this chapter the applicant shall notify the city or borough
20 nearest to the location of the proposed activity of the application.
21 A local government unit may protest the conduct of the activity in its
22 jurisdiction by resolution stating the reasons for the protest filed
23 with the department; protests are limited to the lack of qualifica-
24 tions prescribed by this chapter. This resolution is only a recommen-
25 dation by the city which may be considered by the commissioner in
26 determining whether to issue or refuse to issue a permit or license.

27 * Sec. 4. AS 05.15.030 is amended by adding a new subsection to read:

28 (c) If a permittee or licensee changes the location of an activ-
29 ity in the jurisdiction for which a permit has been issued, the

1 permittee shall notify the department and the local government within
2 10 days after moving to the new location.

3 * Sec. 5. AS 05.15.060 is repealed and reenacted to read:

4 Sec. 05.15.060. REGULATIONS. The department shall adopt regula-
5 tions under the Administrative Procedure Act (AS 44.62) necessary to
6 carry out this chapter covering, but not limited to

7 (1) the issuance, renewal, and revocation of permits and
8 licenses;

9 (2) a method of ascertaining net proceeds, the determina-
10 tion of items of expense that may be incurred or paid and the limita-
11 tion of the amount of the items of expense to prevent the proceeds
12 from the activity permitted from being diverted to noncharitable,
13 noneducational, nonreligious, or profit-making organizations, indi-
14 viduals, or groups;

15 (3) the immediate revocation of permits and licenses au-
16 thorized under this chapter if this chapter or regulations adopted
17 under it are violated;

18 (4) the requiring of detailed, sworn, financial reports of
19 operations from permittees and licensees including detailed statements
20 of receipts and payments;

21 (5) the investigation of permittees, licensees, and their
22 employees, including the fingerprinting of those permittees, licens-
23 ees, and employees whom the commissioner considers it advisable to
24 fingerprint;

25 (6) exclusion from participation as a permittee, licensee,
26 or employee of a permittee or licensee of a person convicted of, in
27 prison for, or on parole for a felony within the preceding five years
28 or convicted of a crime involving theft or dishonesty or of a viola-
29 tion of a municipal, state, or federal gambling law;

1 (7) the method and manner of conducting authorized activi
2 ties and awarding of prizes or awards, and the equipment that may b
3 used;

4 (8) the number of activities that may be held, operated, o
5 conducted under a permit during a specified period; however, the
6 department may not allow more than nine bingo sessions per month and
7 35 bingo games per session to be conducted under a permit;

8 (9) a method of accounting for receipts and disbursements
9 by operators, including the keeping of records and requirements for
10 the deposit of all receipts in a bank;

11 (10) the disposition of funds in possession of a permittee
12 or a person, municipality, or qualified organization that possesses an
13 operator's license at the time a permit or a license is surrendered,
14 revoked, or invalidated;

15 (11) restrictions on the participation by employees of the
16 Department of Fish and Game in salmon classics;

17 (12) other matters the commissioner considers necessary to
18 carry out this chapter or protect the best interest of the public.

19 * Sec. 6. AS 05.15.070 is amended to read:

20 Sec. 05.15.070. COMMISSIONER [OF REVENUE] MAY EXAMINE PERMIT-
21 TEES. The commissioner may examine or have examined the books and
22 records of a permittee, an operator, or a person licensed to manufac-
23 ture or to distribute pull-tab games in the state [THE COMMISSIONER
24 MAY REQUIRE THE PERMITTEE TO PAY THE REASONABLE COST OF THE EXAMINA-
25 TION]. The commissioner may issue subpoenas for the attendance of
26 witnesses and the production of books, records, and other documents.

27 * Sec. 7. AS 05.15.080 is repealed and reenacted to read:

28 Sec. 05.15.080. REPORTS AND FEES REQUIRED OF MUNICIPALITIES AND
29 QUALIFIED ORGANIZATIONS. (a) A municipality or a qualified

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

13 (b) A municipality or a qualified organization issued a permit
14 under this chapter shall file an annual report with the department by
15 March 15 of the year following the year in which activities were con-
16 ducted, accompanied by the payment of the additional fee, as may be
17 required under AS 05.15.020(b). The report must list the types of
18 activities conducted, and, for each activity, the total amount of
19 gross receipts, the total amount of authorized expenses, the total
20 value of prizes awarded, and the total amount of net proceeds.

21 * Sec. 8. AS 05.15 is amended by adding new sections to read:

22 Sec. 05.15.083. REPORTS TO DEPARTMENT BY OPERATORS. (a) An
23 operator shall file a report with the department by the last business
24 day of the month following each calendar quarter in which an activity
25 was conducted. The report must include, for each authorizing permit-
26 tee on whose behalf an activity was conducted during the quarter, the
27 date and location of each activity, the type of activity conducted,
28 the amount of gross receipts, the amount of authorized expenses, the
29 value of prizes awarded, the amount of net proceeds paid, and other

1 information the department may require; a completed Internal Revenue
2 Service Form 941; and a copy of the operator's employer contribution
3 and wage reports submitted to the Department of Labor for the quarter
4 However, if the only activity conducted by an operator during the
5 calendar quarter is a raffle or lottery, then the operator is not
6 required to file a report under this subsection until the raffle or
7 lottery is completed.

8 (b) An operator shall file an annual report with the department
9 no later than February 28 of the year following the year in which
10 activities were conducted. The report must include, for each author-
11 izing permittee on whose behalf an activity was conducted, the types
12 of activities conducted, the total amount of gross receipts, the total
13 amount of authorized expenses, the total value of prizes awarded, the
14 total amount of net proceeds paid to each authorizing permittee. The
15 annual report shall also include a completed Internal Revenue Service
16 Form W-2 for each person employed by the operator during the preceding
17 year.

18 Sec. 05.15.087. REPORTS TO PERMITTEE AND PAYMENT OF NET PRO-
19 CEEDS. (a) An operator shall file a monthly report with each author-
20 izing permittee for which the operator has conducted an activity
21 during the preceding month. The report must include a daily summary
22 of activity conducted under the permit issued to the authorizing
23 permittee and an accounting of gross receipts, expenses, and net
24 proceeds for the month. A check in the amount of the net proceeds due
25 to the authorizing permittee for the month must accompany the report.
26 The operator shall file the report by the 15th day after the end of
27 the month covered by the report.

28 (b) An operator shall file a quarterly report with each author-
29 izing permittee for which the operator has conducted an activity

1 during the preceding calendar quarter. The report must contain quar-
2 terly summaries and year-to-date totals of the information provided
3 under (a) of this section. The operator shall file the report by the
4 last day of the month following the end of the calendar quarter.

5 (c) An operator shall file an annual report with each authoriz-
6 ing permittee for which the operator has conducted an activity during
7 the preceding calendar year. The report must contain an annual sum-
8 mary of the information provided under (a) of this section. The
9 operator shall file this report by February 28 of the year following
10 the year in which the activities were conducted.

11 (d) An operator shall provide original invoice documents and
12 deposit slips upon the request of an authorizing permittee for whom
13 the operator has conducted activities.

14 * Sec. 9. AS 05.15.090 is amended to read:

15 Sec. 05.15.090. REPORTS TO THE LEGISLATURE. Before April 15
16 [MARCH 2] of each year the commissioner of revenue shall submit a
17 detailed report containing a summary of all reports required of per-
18 mittees and operators [RECOMMENDING A PERMIT FEE SCALE THAT WILL COVER
19 COSTS OF ADMINISTRATION AND ENFORCEMENT]. The attorney general and
20 the commissioner of public safety shall, within 10 days after the
21 convening of the legislature each year, submit a jointly prepared,
22 detailed report outlining the effect, if any, of the operation of this
23 chapter on the legal and law-enforcement activities of the state.

24 * Sec. 10. AS 05.15 is amended by adding a new section to article 1 to
25 read:

26 Sec. 05.15.095. GENERAL PROVISIONS RELATING TO THE FILING OF
27 APPLICATIONS AND REPORTS AND PAYMENT OF FEES. (a) The applications
28 and reports to the department required by this chapter shall be signed
29 under penalty of perjury by the following person, as applicable:

- 1 (1) the member in charge for the qualified organization;
 2 (2) a person authorized to sign on behalf of the municipa
 3 ity;
 4 (3) the operator or the operator's agent;
 5 (4) the licensed pull-tab distributor or the distributor
 6 agent; or
 7 (5) the licensed pull-tab manufacturer or the manufactur
 8 er's agent.

9 (b) A permittee or operator may not conduct an activity unde
 10 this chapter during a period in which a report or fee is delinquent.

11 (c) A delinquent fee bears interest at the rate set by AS 43.
 12 05.225.

13 (d) A permittee or licensee under this chapter shall pay a
 14 penalty of one percent of the unpaid balance, as determined by the
 15 department, of a fee due under this chapter for each 30-day period or
 16 part of a 30-day period that the fee is delinquent. The department
 17 may waive the penalty if the failure to pay the fee on time is due to
 18 a reasonable cause, as defined by regulation adopted by the depart-
 19 ment. The amount of the penalty may not exceed 25 percent of the
 20 unpaid fee.

21 * Sec. 11. AS 05.15.100(a) is amended to read:

22 (a) The commissioner [OF REVENUE] may issue a permit to a munic-
 23 ipality or qualified organization. The permit gives the municipality
 24 or qualified organization the privilege of conducting bingo, raffles
 25 and lotteries, pull-tab games, ice classics, rain classics, goose
 26 classics, mercury classics, salmon classics, dog mushers' contests,
 27 fish derbies and contests of skill.

28 * Sec. 12. AS 05.15.100 is amended by adding a new subsection to read:

29 (c) The commissioner may issue an operator's license to a

1 natural person to conduct an activity permitted under this chapter c
2 behalf of a municipality or a qualified organization. The commis
3 sioner may also issue an operator's license to a municipality or
4 qualified organization authorized to conduct an activity on behalf o
5 another municipality or qualified organization.

6 * Sec. 13. AS 05.15 is amended by adding new sections to read:

7 Sec. 05.15.112. MEMBER IN CHARGE. (a) Each municipality or
8 qualified organization that receives a permit under this chapter shall
9 designate a member in charge.

10 (b) The member in charge is responsible for preparation, mainte-
11 nance, and transmittal of all records and reports required of the
12 permittee. The member in charge shall be a member of the qualified
13 organization or an employee of the municipality.

14 (c) The member in charge shall monitor the operator's perfor-
15 mance under and compliance with contracts for the conduct of activ-
16 ities on behalf of the authorizing permittee.

17 (d) The municipality or qualified organization shall designate
18 alternate members in charge who are responsible for the duties of the
19 member in charge in the absence of the member in charge.

20 Sec. 05.15.115. CONTRACTS BETWEEN PERMITTEES AND OPERATORS. (a)
21 A municipality or qualified organization holding a permit to conduct
22 an activity under this chapter may enter into a contract with an
23 operator licensed under this chapter to conduct on behalf of the
24 municipality or qualified organization those activities permitted
25 under the authority of the permit.

26 (b) The contract between an authorizing permittee and an opera-
27 tor must include the amount and form of compensation to be paid to the
28 operator, the term of the contract, the activities to be conducted by
29 the operator on behalf of the permittee, the location where the

1 activities are to be conducted, the name and address of the member in
2 charge, and other provisions the department may require.

3 (c) A permittee may not contract with more than one operator at
4 a time to conduct the same type of activity. For the purposes of this
5 subsection, bingo games, raffles, lotteries, pull-tab games, ice
6 classics, rain classics, goose classics, mercury classics, salmon
7 classics, dog mushers' contests, fish derbies, contests of skill, and
8 all activities permitted under AS 05.15.100(b) are each a different
9 type of activity.

10 (d) A permittee shall submit to the department a copy of each
11 contract with an operator with whom the permittee contracts to conduct
12 activities subject to this chapter. The permittee shall submit to the
13 department a copy of the contract or subsequent amendment of the
14 contract by certified mail at least 15 days before activities are
15 conducted under the contract or amended contract.

16 * Sec. 14. AS 05.15 is amended by adding new sections to read:

17 Sec. 05.15.125. OPERATOR'S LICENSE. (a) A person, municipal-
18 ity, or qualified organization may not conduct an activity subject to
19 this chapter on behalf of a municipality or qualified organization
20 unless the person, municipality, or qualified organization has re-
21 ceived an operator's license issued by the department.

22 (b) The department may issue an operator's license to a natural
23 person, municipality, or qualified organization that

- 24 (1) applies on the form provided by the department;
- 25 (2) pays the annual fee of \$500;
- 26 (3) discloses the identity of persons employed by the
27 applicant in a managerial or supervisory capacity;
- 28 (4) submits proof of liability insurance satisfactory to
29 the department; and

1 (5) posts a bond or security satisfactory to the departmer
2 in the amount of \$25,000 for each permit under which the operato
3 operates up to a maximum of \$100,000.

4 (c) The department may not issue an operator's license to a
5 applicant if the applicant or a person employed by the applicant in
6 managerial or supervisory capacity, has been convicted of, in priso
7 for, or on parole for a felony within the preceding five years o
8 convicted of a crime involving theft or dishonesty or of a violatio
9 of a municipal, state, or federal gambling law.

10 (d) A licensee may not employ a person in a managerial or super-
11 visory capacity if the person has been convicted of, in prison for, or
12 on parole for a felony within the preceding five years or convicted of
13 a crime involving theft or dishonesty or of a violation of a munici-
14 pal, state, or federal gambling law.

15 Sec. 05.15.128. REVOCATION OF OPERATOR'S LICENSE. (a) The
16 department shall revoke the license of an operator who does not

17 (1) report an adjusted gross income of at least 15 percent
18 of gross income for two consecutive quarters based on the total opera-
19 tion of the operator; or

20 (2) pay to each authorizing permittee for two consecutive
21 quarters at least 15 percent of the adjusted gross income, as de-
22 termined under (1) of this subsection, received from activities con-
23 ducted on behalf of the authorizing permittee.

24 (b) A person, municipality, or qualified organization whose
25 operator's license has been revoked under this section may appeal the
26 revocation if the person, municipality, or qualified organization
27 submits to and pays for a complete audit of the operator's financial
28 records by the department. The results of the audit are conclusive.

29 * Sec. 15. AS 05.15.140(b) is amended to read:

1 (b) In an application for a permit, a municipality or qualified
2 organization shall disclose the name and address of each person re-
3 sponsible for the operation of the activity and whether any person
4 named

5 (1) has [EVER] been convicted of, in prison for, or on
6 parole for a felony within the preceding five years or convicted of a
7 crime involving theft or dishonesty or of a violation of a municipal,
8 state, or federal gambling law [MISDEMEANOR]; or

9 (2) has a prohibited financial interest, as defined in
10 regulations adopted by the commissioner, in the operation of the
11 activity.

12 * Sec. 16. AS 05.15.140(c) is amended to read:

13 (c) The commissioner [OF REVENUE] may not issue a permit for an
14 activity operated by a person who has been convicted of, in prison
15 for, or on parole for a felony within the preceding five years or
16 convicted of a crime involving theft or dishonesty or of a violation
17 of a municipal, state, or federal gambling law [MISDEMEANOR].

18 * Sec. 17. AS 05.15.160 is amended to read:

19 Sec. 05.15.160. AUTHORIZED EXPENSES. The only expenses that [AN
20 ITEM OF EXPENSE] may [NOT] be incurred or paid in connection with the
21 operation of an activity under a permit issued under this chapter are
22 [EXCEPT FOR] bona fide expenses reasonably necessary for

23 (1) goods, wares, and merchandise necessary for the opera-
24 tion of the activity;

25 (2) personal services [RENDERED THAT ARE NOT DIRECTLY OR
26 INDIRECTLY] involved with the operation of the activity, including
27 those [; OR

28 (3) PERSONAL SERVICES INVOLVED WITH THE OPERATION OF THE
29 ACTIVITY PROVIDED THE SERVICES ARE] performed by

1 (A) an employee of the permittee; [MUNICIPALITY, QUALIFIED ORGANIZATION,] or

2
3 (B) an operator [A CONSULTANT] hired by the permittee
4 to conduct [MUNICIPALITY OR QUALIFIED ORGANIZATION CONDUCTING
5 the activity if [AND] the compensation is not related to the
6 receipts from the activity.

7 * Sec. 18. AS 05.15.160 is amended by adding a new subsection to read

8 (b) Municipalities, qualified organizations, and operators shall
9 pay their employees the prevailing wage for the work performed while
10 the employees are engaged in activities subject to this chapter.

11 * Sec. 19. AS 05.15 is amended by adding new sections to read:

12 Sec. 05.15.165. OPERATORS. (a) An operator shall pay net
13 proceeds to the authorizing permittee by check.

14 (b) If the department finds that an operator has incurred expenses
15 that are not authorized under AS 05.15.160, the department
16 shall order the operator to refund to the authorizing permittee the
17 amount of the unauthorized expenses. The operator shall pay the
18 authorizing permittee interest on the amount ordered to be paid at the
19 rate of 1.5 percent a month for each month or fraction of a month
20 between the date of the activity and the date the refund is made.

21 (c) The operator shall post in a public place on the premises
22 where the activities are conducted the operator's permit and a copy of
23 the permit of each authorizing permittee with whom the operator has a
24 contract to conduct activities at the location.

25 (d) An operator shall obtain liability insurance covering each
26 location where the licensee conducts an activity subject to this chapter.
27 The operator shall provide upon request proof of insurance for
28 each location to the department. The operator and the insurer shall
29 inform the department of changes in the coverage of the insurance or

1 of cancellation of the insurance. Cancellation of the insurance
2 immediately suspends the rights of the operator to conduct activities
3 under this chapter at the location covered by the insurance until
4 subsequent insurance is obtained.

5 (e) An operator shall have its financial records reviewed annually
6 by a certified public accountant. The operator shall submit
7 the results of the review to the department by February 28 of the year
8 following the year for which the review is conducted.

9 (f) An operator may not

- 10 (1) charge losses resulting from bad checks or uncollect-
11 able debts against the net proceeds due to the authorizing permittee;
12 (2) extend credit to players;
13 (3) employ house players;
14 (4) allow the operator's employees to play a game conducted
15 by the operator at the location where the employee works for the
16 operator.

17 Sec. 05.15.167. OPERATOR'S BOND. (a) The bond or security
18 filed under AS 05.15.125(b) must be made payable to the department and
19 must be conditioned upon payment of the amounts due to the department
20 and payment of net proceeds due to the authorizing permittee. If the
21 operator fails to make the required payments, the operator forfeits
22 the bond or security to the department.

23 (b) The amount forfeited under (a) of this section shall be
24 first used to satisfy delinquent fees, interest, and penalties due the
25 department under this chapter. If the bond or security is not ex-
26 hausted by payment of delinquent fees, interest, and penalties, the
27 department may use the remaining amount to pay net proceeds due an
28 authorizing permittee. The total amount available for payment of net
29 proceeds shall be prorated among the permittees to whom proceeds are

1 due from that operator.

2 (c) The operator and the surety shall inform the department
3 the bond is canceled or the security is impaired.

4 * Sec. 20. AS 05.15.180(b) is amended to read:

5 (b) With the exception of raffles, lotteries, bingo games
6 pull-tab games, rain classics, goose classics, mercury classics
7 salmon classics, and other activities authorized under AS 05.15.
8 100(b), an activity may not be licensed under this chapter unless it
9 existed in the state in substantially the same form and was conducted
10 in substantially the same manner before January 1, 1959.

11 * Sec. 21. AS 05.15.180 is amended by adding new subsections to read:

12 (d) The total value of door prizes offered or awarded under
13 authority of a permit issued to a municipality or qualified organiza-
14 tion under this chapter may not exceed \$1,000 a month or \$12,000 a
15 year.

16 (e) A person under the age of 19 years may not play a bingo
17 game.

18 * Sec. 22. AS 05.15 is amended by adding new sections to read:

19 Sec. 05.15.181. PULL-TAB MANUFACTURER'S LICENSE. (a) A person
20 may not manufacture pull-tabs in the state unless the person has
21 received a pull-tab manufacturer's license issued by the department.

22 (b) The department may issue a pull-tab manufacturer's license
23 to a person who pays an annual fee of \$500.

24 (c) Each series of pull-tabs manufactured in the state shall be
25 sealed and have a serial number label issued by the National Associa-
26 tion of Fund Ticket Manufacturers or other serial number label ap-
27 proved by the department.

28 (d) A pull-tab manufacturer may distribute pull-tabs only to a
29 licensed pull-tab distributor unless the pull-tab manufacturer is also

1 a licensed pull-tab distributor.

2 (e) Each pull-tab manufacturer shall report to the department by
3 the last business day of the month on each series of pull-tabs dis-
4 tributed during the preceding month, including the serial number of
5 each series distributed and the name of the distributor to whom the
6 series was distributed.

7 Sec. 05.15.183. PULL-TAB DISTRIBUTOR'S LICENSE; PULL-TAB TAX.

8 (a) A person may not distribute pull-tab games unless the person has
9 received a pull-tab distributor's license issued by the department.

10 (b) The department may issue a pull-tab distributor's license to
11 a person who pays an annual fee of \$1,000.

12 (c) Pull-tabs may be distributed only from a location in the
13 state. A person may not distribute pull-tabs directly to another
14 person in the state from a location outside of this state.

15 (d) A pull-tab distributor shall report to the department by the
16 last business day of each month on each pull-tab series distributed in
17 the preceding month. The report must include the name of the permit-
18 tee to whom each series of pull-tabs is distributed and the serial
19 number of each series.

20 (e) A pull-tab distributor shall collect a tax of three percent
21 of an amount equal to the gross receipts less prizes awarded on each
22 series of pull-tabs distributed. The pull-tab distributor shall pay
23 to the department the tax collected in the preceding month at the time
24 that the report under (d) of this section is filed with the
25 department.

26 Sec. 05.15.185. DISTRIBUTION OF PULL-TAB GAMES. Each series of
27 pull-tabs distributed in the state shall be sealed and have a serial
28 number label issued by the National Association of Fund Ticket Manu-
29 facturers or other serial number label approved by the department and

1 may be distributed only to a municipality or a qualified organization
2 that has obtained a permit issued under this chapter or to an operator
3 on behalf of an authorizing permittee.

4 Sec. 05.15.187. OPERATION OF PULL-TAB GAMES. (a) A municipality
5 or qualified organization may operate pull-tab games. Pull-tab
6 shall be obtained from a licensed distributor.

7 (b) A municipality or a qualified organization may award up to
8 \$500,000 in prizes each year if it uses only employees of the municipa-
9 lity or members of the qualified organization to operate the pull
10 tab game. However, a municipality or qualified organization may award
11 more than \$500,000 in prizes if the municipality or qualified organiza-
12 tion pays a fee of one percent of the amount awarded in prizes
13 after exceeding \$500,000 in prizes. The municipality or qualified
14 organization shall pay the fee on awards of prizes exceeding \$500,000
15 with its annual report to the department.

16 (c) If a municipality or a qualified organization contracts with
17 an operator to conduct a pull-tab game on its behalf, the municipality
18 or qualified organization may award a maximum of \$300,000 in prizes.

19 (d) A pull-tab series may not be sold at more than one location
20 during the same day.

21 (e) Pull-tabs from different series may not be mixed or com-
22 bined.

23 (f) A pull-tab series may not be withdrawn from sale until all
24 pull-tabs in the series are sold.

25 (g) Pull-tabs may not be sold to a person under the age of 19
26 years. A person under the age of 19 years may not purchase a
27 pull-tab.

28 (h) Each municipality or qualified organization that had gross
29 receipts exceeding \$100,000 during the preceding year from activities

1 conducted under this chapter or that is required to report under
2 AS 05.15.080(a), that conducts a pull-tab game shall maintain records
3 for two years of each prize of \$50 or more, the first day and last day
4 that each series was distributed, the serial number of each series
5 and the distributor from whom each series was purchased.

6 * Sec. 23. AS 05.15.210(2) is amended to read:

7 (2) "charitable organization" means an organization, not for
8 pecuniary profit, that is operated for the relief of poverty,
9 distress, or other condition of public concern in the state[, AND THAT
10 HAS BEEN SO ENGAGED FOR FIVE YEARS BEFORE APPLYING FOR A PERMIT UNDER
11 THIS CHAPTER];

12 * Sec. 24. AS 05.15.210(3) is amended to read:

13 (3) "civic or service organization" means any branch, lodge or chapter
14 of a national or state organization that is a civic or service
15 organization, not for pecuniary profit, and authorized by
16 its written constitution, charter, or articles of incorporation, or
17 bylaws to engage in a fraternal, civic, or service purpose in the
18 state [AND THAT HAS BEEN SO ENGAGED FOR FIVE YEARS BEFORE APPLYING FOR
19 A LICENSE UNDER THIS CHAPTER];

20 * Sec. 25. AS 05.15.210(5) is amended to read:

21 (5) "dog mushers' association" means a civic, service, or
22 charitable organization in the state, not for pecuniary profit, formed
23 exclusively to promote interest in the breeding and training of dog
24 teams for work or recreational and racing purposes [AND WHICH HAS BEEN
25 IN EXISTENCE FOR FIVE YEARS BEFORE APPLYING FOR A PERMIT UNDER THIS
26 CHAPTER], but does not include an organization formed or operated for
27 gaming or gambling purposes;

28 * Sec. 26. AS 05.15.210(7) is amended to read:

29 (7) "educational organization" means a civic, service, or

1 charitable organization in the state, not for pecuniary profit, who
2 primary purpose is educational in nature and designed to develop t
3 capabilities of individuals by instruction [AND WHICH HAS BEEN
4 EXISTENCE FOR FIVE YEARS BEFORE APPLYING FOR A LICENSE UNDER TH
5 CHAPTER];

6 * Sec. 27. AS 05.15.210(8) is amended to read:

7 (8) "fishing-derby association" means a civic, service, c
8 charitable organization in the state, not for pecuniary profit, whos
9 primary purpose is to promote interest in fishing for recreationa
10 purposes [AND WHICH HAS BEEN IN EXISTENCE FOR FIVE YEARS BEFORE APPLY
11 ING FOR A PERMIT UNDER THIS CHAPTER], but does not include an orga
12 nization formed or operated for gaming or gambling purposes;

13 * Sec. 28. AS 05.15.210(10) is amended to read:

14 (10) "fraternal organization" means a civic, service, o
15 charitable organization in the state, except a college and high school
16 fraternity, not for pecuniary profit, that is a branch or lodge or
17 chapter, of a national or state organization and exists for the common
18 business, brotherhood, or other interest of its members [AND THAT HAS
19 SO EXISTED FOR FIVE YEARS BEFORE APPLYING FOR A LICENSE];

20 * Sec. 29. AS 05.15.210(15) is repealed and reenacted to read:

21 (15) "net proceeds" means the gross receipts from an autho-
22 rized activity less the fee described in AS 05.15.020(b), the expenses
23 authorized by AS 05.15.160, and the prizes awarded at the activity;

24 * Sec. 30. AS 05.15.210(19) is amended to read:

25 (19) "police or fire department and company" means a civic,
26 service, or charitable organization in the state, not for pecuniary
27 profit, consisting of members of a police department or fire company
28 established by the state or a political subdivision of the state [THAT
29 HAS BEEN IN EXISTENCE FOR FIVE YEARS BEFORE APPLYING FOR A LICENSE

1 UNDER THIS CHAPTER];

2 * Sec. 31. AS 05.15.210(21) is amended to read:

3 (21) "qualified organization" means a bona fide civic
4 service organization or a bona fide religious, charitable, fraternal
5 labor, political, or educational organization, police or fire depart
6 ment and company, dog mushers' association, outboard moto
7 association, or fishing derby [FISHING-DERBY] or nonprofit trad
8 association in the state, that operates without profits to its member
9 and that has been in existence continually for a period of three
10 [FIVE] years immediately before applying for a license; th
11 organization may be a firm, corporation, company, association, o
12 partnership;

13 * Sec. 32. AS 05.15.210(22) is repealed and reenacted to read:

14 (22) "raffle and lottery" means the selling of rights to
15 participate and the awarding of prizes in a game of chance conducted
16 by the drawing for prizes by lot;

17 * Sec. 33. AS 05.15.210(24) is amended to read:

18 (24) "religious organization" means an organization, church,
19 body of communicants, or group, not for pecuniary profit, gathered in
20 common membership for mutual support and edification in piety,
21 worship, and religious observances, or a society, not for pecuniary
22 profit, of individuals united for religious purposes at a definite
23 place and that [HAS BEEN SO GATHERED OR UNITED FOR FIVE YEARS BEFORE
24 APPLYING FOR A LICENSE AND] is recognized as a religious organization
25 under the federal income tax laws and the selective service law;

26 * Sec. 34. AS 05.15.210(26) is amended to read:

27 (26) "veterans organization" means a civic, service, or
28 charitable organization in the state, or a branch or lodge or chapter
29 of a national or state organization in the state, not for pecuniary

1 profit, the membership of which consists of individuals who were
2 members of the armed services or forces of the United States, [AND
3 WHICH HAS BEEN IN EXISTENCE FOR FIVE YEARS BEFORE APPLYING FOR A
4 LICENSE UNDER THIS CHAPTER].

5 * Sec. 35. AS 05.15.210 is amended by adding new paragraphs to read:

6 (27) "adjusted gross income" means gross income less prizes
7 awarded and state, federal, and municipal taxes paid or owed on the
8 income;

9 (28) "authorizing permittee" means a municipality or qual-
10 ified organization that authorizes an operator to conduct an activity
11 subject to this chapter on its behalf;

12 (29) "commissioner" means the commissioner of revenue;

13 (30) "department" means the Department of Revenue;

14 (31) "distribute" means sell, distribute, furnish, or sup-
15 ply;

16 (32) "operator" means a natural person who, or a municipal-
17 ity or qualified organization that, has obtained a license to conduct
18 an activity subject to this chapter on behalf of a permittee;

19 (33) "pull-tab game" means a game of chance where a card,
20 the face of which is covered to conceal a number, symbol, or set of
21 symbols, is purchased by the participant and where a prize is awarded
22 for a card containing certain numbers or symbols designated in advance
23 and at random;

24 (34) "series" means a unit of pull-tabs with the same serial
25 number.

26 * Sec. 36. AS 05.15 is amended by adding a new section to read:

27 Sec. 05.15.995. SHORT TITLE. This chapter may be cited as the
28 Alaska Gaming Reform Act.

STATE OF ALASKA

DEPARTMENT OF REVENUE

STEVE COWPER, GOVERNOR

STATE OFFICE BUILDING
P.O. BOX SA
JUNEAU, ALASKA 99811-0400

March 1, 1988

The Honorable John Sund
Chairman
House Judiciary Committee
PO Box V
Capitol, Room 122
Juneau, AK 99811

Dear Representative Sund:

At the February 29, 1988 Judiciary Committee Hearing on HB 299, several questions were raised which need this Department's response and comment.

- 1) Should Municipalities be required to pass a resolution each year supporting or rejecting an operator's application for an operator's license?

We believe it only appropriate for a municipality to pass a resolution in the event they oppose an operator's application. We support local option to permit operators, but in the case of Anchorage and Fairbanks, believe it would be cumbersome for local government to respond affirmatively or negatively to every application.

- 2) What is current law on minors participation in gaming activities?

Currently 15 AAC 105.110(8) prohibits persons under the age of 19 from playing bingo. No other restrictions apply, and the term "minor" is not utilized. HB 299 would put into statute a prohibition against persons under the age of 19 from playing pull-tab games. Present law and HB 299 does not prohibit persons of any age from purchasing lottery and raffle tickets. We do not recommend any changes in this area.

- 3) Is there pending legislation prohibiting municipalities from charging a sales tax on pull-tab sales?

We are unaware of any such proposal.

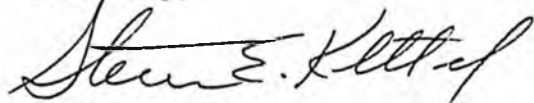
The Honorable John Sund
March 1, 1988
Page 2

- 4) Should the definition of operator be changed to ensure that operators of multiple permits be subject to the operator licensing provisions of HB 299?

There are two ways to address the situation. The cleanest would be to permit the Department by regulation to further define the term operator. The Department would be best able to react to operators and permittees that attempt to create loopholes in the present bill through its regulatory authority.

A second approach would require HB 299 to provide a comprehensive definition of both "operator" and "member in charge" and to differentiate between the two. All present operators hire their own employees and we do not believe that members in charge do. This difference should be exploited in making it impossible for the true operator to avoid the licensing process by claiming to be a member in charge.

Sincerely,



Steven E. Kettel
Director
Income and Excise Audit Division
(907) 465-2320

SEK:rp

88-58

MULTIPLE-PERMIT BINGO HALLS

<u>BINGO HALL/OPERATOR</u>	<u>PERMITTEE</u>	<u>GROSS RECEIPTS</u>
Northern Lights/CAFRA Susan Schettini 3605 Arctic Blvd. #457 Anchorage, Ak 99517 243-3559 276-7003	Work Preservation Trust	\$1,466,514.
	Painters Local 1140	398,849.
	Painters Apprenticeship	337,311.
	Mat-Su Baseball	641,912.
	Anch. Glacier Pilots	542,671.
	Plumbers & Steamfitters #367	203,842.
	Mt. McKinley Lions	739,975.
	Ak. Health Project	262,780.
	Ak. Dance Theatre	337,929.
	Holy Family Cathedral	763,068.
	Alpine Alternatives	462,176.
	Ak. Sports Fishing	286,295.
	ARCA	760,715.
	Ak. Laborers School	0.
	Spenard Lions Club	<u>752,271.</u>
		Subtotal
Jackpot Bingo Susan Schettini	Akn. Sled Dog Racing Assoc.	no report
	Camp Fire Chugach Council	\$634,612.
	Anchorage Amateur Radio	599,078.
	Church of Religious Science	no report
	Susitna Girl Scouts Council	652,577.
	Ak. Center for Environment	<u>656,136.</u>
	Subtotal	\$2,542,403.
Frontier Bingo Paul & Sharroll Fanslau 3020 Minnesota Blvd. Anchorage 277-9361	Anchorage Shrine Club	no report
	Al-aska Shrine Temple	no report
	Al-aska Shrine AADNMS	no report
	US Volleyball Assoc.	\$574,759.
	Ak. Scottish Club	<u>599,078.</u>
	Subtotal	\$1,173,837.
Lucky Strike Bingo Marlene Johnson 111 W. No. Lights Blvd. Anchorage, Alaska	Ak Native Health Board	\$743,393.
	Aleutian Housing Authority	608,175.
	Aleutian Pribilof Assoc.	718,442.
	Kodiak Area Native Assoc.	<u>744,812.</u>
	Subtotal	\$2,814,822.
Mid-Town Bingo Terry Tuttle, Mgr. 555 W. No. Lights Blvd.	Muldoon Tudor Lions	\$308,044.
	American Legion Post 21	<u>425,537.</u>
		Subtotal
Easy Street Bingo Glen Nicholai Anchorage	Older Persons Action Group	no report

5th Avenue Bingo
Martha Johnson
520 5th Ave.
Fairbanks, Alaska

Ak Goldpanners Baseball	\$489,360.
Fbks Youth Sports	490,576
Fbks Arctic Swim Team	223,993.
Fbks Amateur Hockey	511,302.
SPEBSQSA (Barbershop Quartets)	<u>255,546.</u>
Subtotal	\$1,970,777.

Honest Bingo
permittee operated
Fairbanks

Fbks Drama Assoc.	\$962,204.
Monroe Foundation	725,144.
Monroe Boosters	314,349.
Catholic Schools PTA	<u>981,224.</u>
Subtotal	\$2,982,921.

Grandtotal \$20,174,649.

Alaska Bingo Mgmt.
3605 Arctic Blvd., #457
Anchorage, Ak. 99503
277-3559
Sue Griffin

AFGE Council #121
AFGE Local #3296
Ak Center for the Environment
Ak Dance Theatre
Ak Laborers Local #341
Ak Health Project
Ak Jaycees
Ak Laborers Training School
Ak Sportsfishing Assoc.
Anch. Sports Assoc.
AFL-CIO
Akeela House
Alpine Alternative
ARCA
Barrier Free Rec
Basically Bach Festival
AWAIC - 371
Big Brothers & Big Sisters
Chugiak Hugh Basketball
Ak Democratic Party
District 5 Democrats
District 12 Republicans
District 11 Democrats
East High School Basketball
Holy Family Cathedral
IBEW Local #1547
Knights of Columbus
Mat-Su Baseball
Miss Ak Pageant
Mt. McKinley Lions
Plumbers & Steamfitters
Republican Party of Alaska
Susitna Girls Scouts
Special Olympics
Spenard Lions

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892



February 6, 1988

M E M O R A N D U M:

To: Representative John Sund, Chair
Members, House Judiciary Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

DB

Re: HB 299 - Charitable Gaming

HB 299, relating to charitable gaming, was introduced by the House Labor and Commerce Committee and is currently before the House Judiciary Committee.

HB 299 makes several major changes in the statutes governing charitable gaming operations in Alaska. The overall impact of the bill is to lessen the paperwork burden on small charitable organizations, increase accountability for large operations, and to give the Department of Revenue the tools they need to effectively regulate charitable gaming activities. Key changes proposed in HB 299 would:

- * Substantially increase the ability of the Department of Revenue to enforce gaming laws and to investigate alleged violations.
- * Increase fees charged to operators, lower fees and reporting requirements for small charities, and raise fees for permittees conduct large gaming activities.
- * Direct the increased program receipts to be accounted for in such a manner that they can be identified and appropriated by the Legislature to DOR for enforcement of regulations governing state licensed gaming activities.
- * Recognize operators in statute and place them under tight controls and reporting requirements to the Department and to their permittees.
- * Raise the annual limit on the amount of money allowed to be raised on certain gaming activities such as pull-tabs. (From \$200,000/year under current law to \$300,000 for permittees who use operators, \$200,000 to \$500,000/year for charitable organizations who run their own games).

In order to fully understand the impact of HB 299, you should be familiar with the current situation regarding charitable gaming permits in Alaska.

It is estimated that current gaming permits generate in excess of \$100 million dollars a year in receipts, yet the gaming industry pays less than \$100,000 in taxes or license fees to the State for regulation and enforcement. The Department of Revenue is responsible for collecting fees and regulating gaming activities, yet they have never had adequate staff to keep track of required reports, let alone to investigate and enforce gaming violations.

Worse, the Department is working from a statute that is virtually unchanged from the 1960's. Since that time, two major changes have occurred in the charitable gaming world. The first is the use of "operators", persons who run a bingo parlor using permits from several different organizations. Since the law didn't anticipate "operators" it is silent on the issue and the Department has no way to effectively regulate them.

The second is the phenomenal growth of the pull-tab industry. Pull-tabs comprise the lions share of charitable gaming proceeds. They are far more profitable than bingo and pull-tab sales are almost always in cash. A great deal of cash in many cases. Current state law restricts the sale of pull-tabs to permitted organizations. However, there is no mechanism under current law for tracking pull-tabs or accounting for their sale and distribution.

As a consequence of this, HB 299 concentrates on three main areas: 1) Raising enough revenues from gaming activities to pay for enforcement and regulation, 2) recognizing operators in statute including requiring licensing, bonding, insurance, and written contracts with the charitable organizations, and 3) establishing an audit trail to effectively regulate the sale and distribution of pull-tabs.

HB 299 is a good consumer protection measure that will help the Department regulate gaming in Alaska in a fair and effective manner and will substantially increase the ability of charitable organizations to raise money from their gaming permits. The measure is strongly supported by the Department and the Alaska Charitable Gaming Association.

February 29, 1988

MEMORANDUM

TO: Rep. John Sund, Chair,
House Judiciary Committee

FROM: John Hartle, PA, *JH*
House Judiciary Committee Staff

RE: CSHB 299 (Judiciary)

Attached please find a proposed Committee Substitute for House Bill 299 - relating to the State gaming laws.

The CS makes 5 small changes to the L&C CS:

1. The L&C CS amendment to AS 05.15.210 reduces the number of years from 5 to 3 that an organization must exist before being a "qualified organization" to be eligible as a permittee. (See page 20, line 9) The Judiciary CS amends other subsections consistent with this (Sections 23-30).
2. Changes "minor" to "under 19 years of age" in prohibition against gaming. (Page 17, Line 25)
3. The L&C CS allows operators to pay prevailing wages, the Judiciary CS includes permittees. (page 13, line 8)
4. Page 2, line 7 after "debts" adds "for payment of a tax on pull-tabs under AS 05.15.183."
5. Makes clear that municipalities can give approval to operators as well as permittees. (Section 3).

Filipino Community, Inc.

251 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
(907) 586-6210

February 29, 1988

Alaska State Legislature
Judiciary and Finance Committee

Dear Sir/Madame:

After reading the HB-299 regarding games in the state (bingo) the members of the Filipino Community Inc. would like to share with you some of our concerns with some of the proposed new rules & regulations that might affect our running the bingo games at Filipino Community Hall on Thursday & Sunday evenings.


Section 1 - We are not in favor to the 3% tax based on net proceeds and 3% tax on the adjusted gross income as suggested by the State Dept of Revenue for the reason that this is really detrimental to us. Being a non-profit organization and solely dependent upon income generated from Bingo games to finance most to the organization's projects, insurance, maintenance and utility bills, 3% of the adjusted gross income will really hurt us.

Section 5 - Regarding the examinations of books we have no qualms at all for anyone to examine the books anytime provided the organization will not shoulder the cost.

Section 6 - As to reports that are to be submitted quarterly, we think that this is not very practical considering the time and paper work, that are to be entailed doing such report. We hope that the old annual reporting would stay.

We hope that these concerns would be taken with serious considerations of the consequences that it may bring to non-profit organizations that passage of this bill will be a big burden to a non-profit organization like us.

Sincerely Yours,


Rey Jose
President



A Sealaska Company

George W. Easley
President

February 3, 1988

Honorable Steve Cowper
Governor of Alaska
Pouch A
Juneau, AK 99811

Dear Governor Cowper:

On behalf of the Boys and Girls Club of Alaska, we thank you for your continued support of this organization. Our primary interest is for the continued funding of the State's Social Service Block Grant program in Anchorage. The Boys and Girls Club of Alaska received \$86,000 in FY 1988 from the SSBG program, which was placed in our daycare programs--one of your top priorities.

We are supporting HB 299, proposed regulation changes of the State's gaming laws. The new amount of \$300,000 would enable our organization to generate additional revenue. Please be advised we feel strongly that organizations such as ours be allowed to continue operating pull-tabs where liquor is sold. These locations have proved to be a most successful source of revenue during a time when we are faced with declining grant funds.

I know you have heard me comment before, Governor, that many of us feel this organization has the finest youth programs in Alaska. We are very proud of this and would like to offer our assistance to the State in addressing the needs of the "Bush." Club programs can be developed and implemented in Alaska's villages that will provide those youth with positive alternatives to alcohol and drugs. You are assured of our participation, along with the knowledge and resources of the Boys Clubs of America.

We look forward to working with you in attacking this most serious problem. There is much that can be done.

Kindest personal regards,

A handwritten signature in dark ink, appearing to read 'P. David Choquette', is written over the typed name below.

P. David Choquette, Chairman
Government Affairs Committee
Boys and Girls Clubs of Alaska

PDC:vmd

FEB 22 1988

CITY OF DILLINGHAM

Dillingham Senior Citizens' Center



February 16, 1988

Representative John Sund, Chairman
House Judiciary Committee
PO Box V
Juneau, AK 99811

Dear Representative Sund;

Please read and share the following comments regarding HB299 with the House Judiciary Committee.

We have carefully reviewed HB299 and support the revisions. The changes would directly and positively impact our operation. Because of the tightened funding situation throughout the state, this means of fundraising is all the more important to us in maintaining the quality of our services to seniors. We urge that HB299 be kept moving so that we may begin operating under these new regulations as soon as possible.

Thank you for considering our input during all of your hard work.

Sincerely,

Rose Megli
Assistant Project Director

CS HB 299
Department of Revenue
Proposed Amendments
February 4, 1988

The following amendment to HB 299 is offered for your consideration:

1. Page 2, line 5, delete the entire paragraph:

"The Department does not believe it has standing to determine the legitimacy or non-legitimacy of debts between permittees and distributors. Although we recognize that distributors are required to collect the tax on pull-tabs sold to permittees, we do not believe that this is sufficient cause for Departmental involvement in the collection problems distributors may have, especially as it may apply to non-pull tab type supply items normally sold to bingo halls. This section also does not provide any remedy, either to the Department or the distribution in the event that a permittee becomes delinquent."

2. Page 17, line 5, add the following sentence:

"For purposes of this section, a pull-tab game card which also serves as entry into a raffle or lottery may not be sold at more than one location during the same day."

3. Page 17, after line 11, insert a new paragraph (h);

"Pull-tabs may not be sold in any room, enclosure or outdoor area where alcoholic beverages are sold, served or consumed."

The decision whether to allow pull-tabs to be sold in the same area the liquor is sold is a policy question. Presently, bingo operations may not be conducted in the same room where alcohol is sold, served or consumed. Also, present law and regulation requires that a member of the permit holder be present wherever an authorized gaming activity is taking place. This rule is not being enforced and is also not being followed in practice. A permittee or an operator on contract with a permittee will not be present at all times pull-tabs are sold if and when they are sold outside of the permittee's establishment or bingo halls. To ensure that charities receive their full share of the profits from pull-tab sales, and that tight controls be placed over the accountability for pull-tab receipts, this amendment should be adopted.

Page 2, line 12, delete "(h)" and add "(i)".

BILL NO:

HB 296

DATE:

May 4, 1987

TITLE:

"An Act revising state gambling laws."

CONTACT:

Maj. Walter J. Gilmour

DEPARTMENT OF PUBLIC SAFETY

To legalize certain types of gambling statewide and provide procedures for issuing permits, collecting fees and monitoring gambling activities.

This proposed legislation would legalize certain types of gambling statewide and provide procedures for obtaining permits, accessing and collecting fees, conducting background checks and criminal history checks on certain employees, and monitoring the activities of the industry. The only portion of this legislation which will affect the Department of Public Safety is the background investigations, criminal history checks and fingerprinting of applicants, which would require a full-time position of an additional clerical person (Clerk IV) to perform the above functions and maintain files on same.

The Department of Public Safety is neutral on this legislation.


ARTHUR ENGLISH
Commissioner

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX V, JUNEAU 99811

(907) 465-3892

November 20, 1987

Commissioner Hugh Malone
Department of Revenue
P.O. Box S
Juneau, Alaska 99811-0400

Dear Commissioner::

Attached is a point by point response to the proposed charitable gaming regulations issued by your Department on October 15. Before reviewing them, I'd like to lay some arguments on the table for discussion.

I believe it is unproductive for the Department to pursue adoption of these regulations at this time. The reason is three-fold.

First, the Department cannot seem to come to grips with the question of operators - and that is at the heart of the problem. The choice is to either ban operators altogether, or to recognize them under law in such a way that they are taxed, regulated, and held accountable for their own actions.

Instead, the proposed regulations give operators some legal recognition, but provide no mechanism for regulating them. This is a middle ground position that benefits no one.

Second, the main impact of the proposed regulations is to allow the Department to abrogate their responsibilities for regulation and enforcement and put the entire burden on the group least able to handle it - the charitable organizations. This is neither workable or fair.

A better solution, to my way of thinking, is to increase the oversight and enforcement responsibilities of the Department, and to pay for it with increased license fees.

Finally, as reflected in your notes, statutory change is required for any meaningful change to occur. The Legislature is currently considering HB 299, a comprehensive re-write of charitable gaming laws, that addresses each of the issues raised by the proposed regulations.

It makes sense for the Department to wait to implement the new regulations until after the Legislature has had a chance to work HB 299 through the legislative process.

I'm aware that this is a bind the Department has been put in for several years - we ask you to wait to impose new regulations until we've had a crack at it, you agree, then we fail to adopt a bill by the end of the session, and we are all back to space one.

I have a suggestion to get us out of this rut. If the Department feels they must adopt new regulations regardless of what the Legislature may do, make those new regulations effective next year, after the Legislature adjourns.

That way, interested parties will know we have to make a sincere and concerted effort to adopt workable legislation next year. The benefits of playing a stalling game will be no more and both the Legislature and the Department can get on with the business of effectively regulating charitable gaming in Alaska.

In closing, let me reiterate that I don't believe the Department should pursue new regulations until after the Legislature has had the opportunity to adopt HB 299. If you choose to impose new regulations before that time, I urge you to consider the enclosed comments carefully, and to amend the proposed regulations accordingly.

In any case, I remain committed to working closely with the Department to assure that HB 299 becomes a measure we can all support and so that charitable organizations can continue to benefit from our gaming laws.

Sincerely,

A handwritten signature in cursive script that reads "Dave Donley". The signature is written in dark ink and is positioned above the typed name and title.

Representative Dave Donley, Chair
House Labor and Commerce Committee

cc: Senator Tim Kelly, Chair
Senate Labor and Commerce Committee

Sally Smith, Department of Revenue
Bob Evans, Governor's office
Mitch Gravo, Alaska Charitable Games Association

Comments on Proposed changes to Regulations
Governing Charitable Gaming in Alaska

By Representative Dave Donley, Chair
House Labor and Commerce Committee
November 20, 1987

Before embarking on a point by point analysis of the attached regulations, let me make some general comments.

The proposed regulations reflect a sincere attempt on the part of the Department to forge a workable solution on the question of "operators". While I feel the regs fall far short of effectively regulating operators, I appreciate the effort toward compromise.

The proposed regulations recognize operators - a step in the right direction - but leaves the entire paperwork burden, including policing the operator, on the permittee. This flies in the face of the fact that most charitable organizations engage an operator because they are not able to effectively run their own permit in the first place.

The reporting requirements proposed under these regulations are inadequate and unworkable. The prohibitions against co-mingling of funds and the requirement of separate bank accounts for each permit are simply unworkable in view of current practice and accepted accounting principles. Annual reports and other audit requirements are too few and far between to effectively regulate abuses in a timely manner.

Finally, the proposed regulations will not increase the amount of license fees, nor will it impose any fees on operators. As a result, the Department cannot generate enough income off charitable gaming licenses to pay for enforcement of the appropriate regulation or laws.

In short, the regulations will add a considerable paperwork burden on the permittee and propose rather drastic changes in standard operating procedures with little apparent benefit to the permittee or the state.

That being said, lets take the proposed regulations a section at a time:

SECTIONS 010 THROUGH 105

Why it is necessary to require that the member-in-charge of a trade association's gaming permit must be a "natural person". Is there a particular reason for this? Why is it desirable to prohibit corporations from operating permits?

SECTION 107

The major problems with the proposed changes in this section is what isn't covered. By recognizing operators but not providing for any oversight of their practices by the Department, the entire burden of policing operators falls on the permittees, who are demonstrably unable to do so.

Section 107 does not require: timely and complete reports by the operators to either the Department or the permittees, bonding or liability insurance by the operators, any reporting provisions to assure that operators are paying proper wages, unemployment taxes, and are carrying required workers' compensation coverage.

Section 107 does not provide for an increase in license fees, so no funds are generated to pay for investigations and enforcement by the Department.

Section 107 requires that operators must adhere to appropriate rules and regulations and places the gaming permit at risk of loss if an operator or their employee breaks any of the rules. Under this section, a violation by an operator or their employee would cost an organization their permit, yet the operator would not be damaged in any way, nor would there be anything to prevent them from contracting with other organizations. In fact, other than word of mouth, there wouldn't be any way for an organization to know if an operator had already had problems.

Section 107 (a) - Again, why is it desirable to prohibit corporations from being operators?

Section 107 (e) - The prohibition about an operator paying a permittees expenses is unclear. Does this mean wages? Supplies? Rent and utilities? Perhaps this should be spelled out in the contract.

Section 110 (i) - In bingo parlors without video equipment, the requirement of leaving the balls in place for five minutes after the game would be difficult, if not impossible to meet. If a regular session consists of twenty games, it would require nearly an hour and a half of waiting time.

Section 110 (j) - What happens if a winning patron has no picture I.D.? What happens to the prize money? Some

operators use a permit only once a month. Under the proposed regulation, award of prizes can be delayed until the next time the permit is used. What happens to the prize money in the meantime?

Section 110 (l) - Can game tickets, bingo cards, pull-tabs, or other gaming items be awarded in addition to the prize? What does this section accomplish?

Section 110 (r) - I can understand why alcohol is not allowed in an area where bingo is being played but why is it allowed in an area where pull-tabs, raffle, and lottery tickets are being sold. Is there something about bingo we should know?

Section 115 (a) - The \$200,000 limit will be exceeded by many organizations. There should be some way of reporting an excess, with appropriate fines perhaps, but not with such onerous punishment that permittees avoid reporting an inadvertent excess.

Section 125 (c) - Good. This should have been done a long time ago.

Section 125 (e) - This section makes sense on the surface unless you have actually observed how pull-tabs are played, particularly at bingo halls. It is routine practice to turn winning pull-tabs (under \$10) in for more pull-tabs. This is usually done during a break between bingo games. Requiring each person (there may be over a 100 people playing tabs at one time) to go to the cashier and get two or three dollars cash, then go to another cashier to purchase pull-tabs, will obviously discourage players.

In addition, the section requires all pull-tab winners to be recorded on a form provided by the Department. All winners? Even one and two dollar winners? Logistically, how will a permittee accomplish this?

Regardless of what the intent of this section is, its effect will be to drastically reduce the number of pull-tabs purchased, especially during bingo sessions.

Section 125 (g) - This section apparently intends to improve accountability, but it won't work and isn't necessary.

Pull-tabs are an entirely predictable game. You know how many pull-tabs are in a box/series, you know how much the box/series cost the permittee, you know how much each tab sells for, and you know how many winners there are and the exact amount of cash prizes.

Assuming that the integrity of the series is not in question, accountability on the part of the operator to the permittee is easy to verify.

When pull-tabs are played in bingo parlors, there are usually numerous types/series available. Most series will not be played out in one evening, so a particular run will be played out under several permits. This section attempts to stop that practice so that one permittee doesn't pay a disproportionate part of the winning tickets out of a particular series.

However, proper accounting of pull-tabs should prevent such abuse, without having to maintain separate series/runs by permit.

This regulation presents another problem. If patrons are playing a particular series and the big winners haven't gone yet, how are they going to react when the operator takes the run off sale for days or weeks until the particular permit is being played again?

Section 155 (a)(4) - Why are these kinds of charitable gaming exempt from restrictions placed on other types of gaming?

Section 160 - If this section is repealed, how will it affect contests of skill such as archery, bowling, and pool tournaments?

Section 165 - (a) (10) - There are some legitimate questions about whether persons with a criminal record should be allowed to work with charitable gaming. Our Committee, when reviewing this question, expressed support for prohibiting anyone having been convicted of a felony from participating within five years of the time their sentence/parole is completed, and a permanent prohibition for persons convicted of gambling offenses. I'd suggest dropping the "crimes of moral turpitude" language because, even though everyone likes to use the phrase, no one knows exactly what it means.

Section 165 (b)(5) - Local operators tell us that the Municipality of Anchorage doesn't know what to do with an application when they receive one. Is there a particular reason for this section? Did any local government entity ask for this?

Section 170 (b) - Wonderful!

Section 180 (b) - What is the time frame for the Department renewing a permit once the annual report has been submitted? If the previous year's permit serves as a temporary permit from January 1 through January 31 and gaming activity has to cease if the annual statement isn't received by the Department by February 15, what authority is the permittee operating under from January 31 to February 15? What happens when the Department is late in sending the license renewal? I understand that in the past, some licenses were not received until March or later.

Section 190 (b) - This section is at the heart of the Department's ability to move swiftly to close down charitable gaming operations that are violating the law. The section is fairly severe, although probably necessary given the current situation.

However, the penalties authorized under this section are equally applied whether there has been a consistent, blatant, and serious violation of the law or where an inadvertent or easily remedied error has led to suspension.

The section does not provide any additional penalty or oversight when a particular permit is involved in more than one suspension.

Under Section 190 (b) the Department may suspend a permit for reporting errors or omissions. However, even if the reporting error was made by an operator, the charitable organization is held responsible and may lose their permit as a result.

Since operators are not licensed under the proposed regulations, the Department has no way to hold operators accountable for their own actions. There will be no license fees for operators and no additional income generated for enforcement efforts. As a result, the Department's ability to use the powers granted under this section will be greatly impaired.

Section 190 (b) (3) contains no provision to assure that, once the mandatory hearing is held within 30 days of suspension, the hearing officer will submit a report in a timely manner. Since the Commissioner cannot act, and the permit cannot be restored without a written report by the hearing officer, it is reasonable to require a report within a certain time frame.

Finally, the subsequent sections in the proposed regulations that set minimum net proceeds make no provisions to accommodate operations that may have been closed down for a period of time because of suspension. Once the permit is back in operation, assuming the conditions that led to suspension are corrected, there will most likely be a "slack" time until regular customers return on a regular basis. This will most likely impact the operators ability to remit the required amount to the permittee.

Section 205 (a) - Why is this section necessary? Has there been a problem with the integrity of a given box/series of pull-tabs?

Section 205 - The proposed regulations governing pull-tabs are most striking by what they don't do. The regulations do not provide any mechanism to restrict or even identify in any way who can buy, transport and sell pull-tabs in Alaska. The regulations provide no mechanism for the Department (or anyone

else) to determine the number, type, and location of pull-tab sales.

Without this primary information, there is no way for the Department to subsequently track a series of pull-tabs in order to know if the person who bought and sold them did so legally, or whether a particular permit received fair reimbursement for pull-tabs sold under their license.

Section 210 (a) - This section, while necessary to assure that the charitable organization has ultimate control over the bookkeeping, is going to be extremely difficult to enforce. As you know, the primary reason an organization engages an operator is because they lack the volunteers who have both the time and expertise to run a gaming operation, particularly bingo.

Given current practice and human nature, I suspect this regulation will result in much subterfuge and little change. An operator is a business person with extensive experience in the kind of financial reporting required by the Department. The "member in charge" will not have anywhere near the knowledge about the gaming business that the operator possesses, and it will be the operator, not the "member in charge" who has the financial information to make the reports.

Therefore, the most likely scenario is that the operator will keep and maintain the books, and the "member in charge" will simply rubber-stamp them. The proposed regulation will still place the "member in charge" at the "mercy" of the operator.

I suggest you look at an alternative - making the operator responsible for the bookkeeping and reporting requirements to the Department and for making regular reports to the permittee.

This will provide the permittee and the Department with a means to cross-check the financial reports. The permittee will remain responsible for policing the operator and for determining that the financial reports are fair, complete, and accurate. The organization will maintain control over the reporting, but will not be forced into collusion with the operator in preparing financial reports to the Department.

This section should provide a way for a permittee to request the Department to investigate or help them investigate when they suspect irregularities in the way their operator is conducting business. This will be hard to do as long as regulations require a permit to be suspended when the operator goes bad. It does not encourage permittees to effectively police their operators.

Section 220 - A twenty percent limit on net proceeds may be impossible to meet. The proposed regulations have no

provisions to cover "start up" costs, when net proceeds will be low. What action will the Department take against the permit if the annual report reveals that the minimum was not met?

An annual reporting requirement is not enough. Too much time will elapse and too much damage can be done before the Department will have the information to take any action. Quarterly reports would make more sense and could be easily handled with an appropriate computer program. In addition to quarterly and annual reports, the proposed regulations should include provisions for monthly or even weekly reports when the Department has reason to believe problems exist with a particular permittee or operator.

Section 225 (b) - This provision is certainly superior to current regulations, but there may be circumstances where operating expenses may exceed twenty five percent for short periods of time. What happens to the permit in such a case?

Section 225 (c) - What about pull-tabs being sold in bars? As you know, many bar owners are taking a certain percentage of the take as payment for selling the pull-tabs. Some call it "rent". What does the Department propose to do about this situation? What is reasonable rent? Wages? What happens to the permit when this section of the proposed regulations is violated?

Section 230 (a) - Does the requirement to provide a list of prize winners who received \$100 or more include pull-tab winners?

Section 240 (c) - Is it necessary to require that prizes of \$100 or more be paid by check in order to properly account for prize money? Section 230(a) requires that winners of \$100 or more must be listed on a form provided by the Department. Will there be information on the checks that is different from the information listed on the form? If not, what useful purpose does it serve to require payment by check?

Section 240 (d) - This section has substantial problems and will have a severe impact on the ability of operators to efficiently account for the finances of the permit organizations they work for.

What purpose does it serve to require permittees/operators to deposit all proceeds into separate bank accounts for each permit? Have you identified specific problems with this practice that cannot be corrected by improving the reporting procedures? It is common practice for businesses to deposit all their clients funds in a single business account. Why should operators be any different?

This section will present tremendous problems with workers' compensation and unemployment coverage for employees. The operator is required to carry such insurance on their employees. Under this section, however, it is unclear whether the workers are employees of the operator or the permit organizations. This section requires permit organizations to pay the wages of the operators employees. This is a mess! (Not to mention that it is probably in violation of IRS regulations).

Paragraph (d) assumes a profit on the part of a particular permit. Otherwise, how would a permittee be able to pay wages and expenses? What happens if the permittee fails to make a profit for a month or even two? Who pays the rent, wages and utilities then?

When you have an operator running a dozen permits a month, how do you pro-rate rent and utilities? Will the landlord of a bingo parlor receive a dozen checks from a dozen separate organizations each paying one twelfth of the rent? Our municipal utilities company is going to love this one.

It appears that the intent of this paragraph is to make sure that permittees, not operators, have ultimate control over the finances. That is certainly an admirable goal but there are better ways to accomplish it than what is proposed by these regulations.

Section 245 - Again, my major problem with the auditing requirements is that they will not be done in a timely manner. Under the proposed regulations, eighteen months could pass before a problem became apparent. Annual reports are not sufficient for the Department to move swiftly and to meaningfully enforce gaming statutes. Quarterly reports, at a minimum, should be required for large organizations or operators.

Section 245 (d) (1) requires that audits be done by a CPA. While I have no problem with this provision, I understand that rural residents have expressed strong opposition to requiring a CPA.

Section 270 (b) - What is a "particular occasion". Does that mean only one permit can be played in a single day? As you know, many bingo halls play two permits a day, afternoon and evening session. In addition, one permit may be used for bingo while another permit is being used for pull-tabs because a given permittee may have exceeded their limit for pull-tabs. Is it your intention to prohibit this practice?

* * * *

SECTIONAL ANALYSIS OF HB 299

Prepared by: Steven E. Kettel
Director, Income & Excise Audit
January 12, 1988

Section 1. ANNUAL PERMIT AND FEES.

① The Department recommends that the annual permit and fees listed in subparagraphs 1, 2 and 3 of this section be modified slightly to include a fee of \$20.00 for new applicants. In paragraph (b), if the intent of this section is to raise funds for the administration of the program we would recommend that the basis upon which the one and three percent be based on adjusted gross income, not on net proceeds. Levying a fee on net proceeds would raise little revenue as most operations currently are not reporting significant net proceeds.

②

③ Paragraph (c) requires the Department to secure information as to whether or not a permittee has outstanding debts to a pull-tab distributor. This section does not give us guidance as to what action the Department would take if in fact there were outstanding debts to that pull-tab distributor. We would suggest that since the relationship between the permittee and the distributor is one of supplier to customer, and that the Department of Revenue has no interest in that transaction. This section should be removed.

Section 2. MONEY DEPOSITED IN GENERAL FUND.

Paragraph (c). We would recommend that in place of 30 days in which to notify the Department of a change in address, a 10 day notice be inserted. Most permittees develop a plan prior to their moving and would know well in advance the date upon which they would be moving their facility.

Section 4. REGULATIONS.

⑤ This section gives the Department broad discretion for the establishment of rules governing gaming in the state. We are concerned about how very broad this discretion is, especially in the determination of expense items that may be deducted by a charity in determining the net proceeds to devote to non-profit making activities.

⑥ Subparagraph (3) needs a change adding after the word "licenses" the phrase "authorized under this chapter". It needs to be made clear that the Department will not be revoking the business licenses under Chapter 43, Section 70 but only those licenses that would be issued under the gaming statutes.

⑦ In subparagraph (6) of this section we are concerned about the difficulty the Department may have in policing the employees of the licensee. Operators come and go, they may have many employees that will work short periods of time, and it may be very difficult for us to insure that no

convicted felons are involved in gaming activities as an employee. We don't really have any recommendations here, it's just that quite a bit of language has been built into the bill concerning keeping criminals out of gaming activities, but little has been done in the way of providing effective means for insuring they stay out. Also, the wording would allow a felon to direct or operate gaming activities, while on parole, or, hypothetically while still in prison, so long as the five year period from the date of committing the crime had elapsed.

8

In subparagraph (8), the bill gives the Department broad discretion to set the number of activities that may be held, operated or conducted during a specified period. We feel that the law should be specific and not grant this discretion to the Department of Revenue. We recommend nine bingo sessions per month, 35 games per session.

9

Subparagraph (9) provides that the Department will specify methods of accounting for receipts and expenses. However, no guidance is given as to whether, as under current law, a permittee must run all revenue and expenses through their own separate bank account, or whether an operator may act as the clearinghouse for numerous permittees. Current practice we believe has operators performing the banking function, the accounting function for all permittees and only the net proceeds being transmitted to the charity. Subparagraph (9) would allow the Department to either modify, take away from the operators that responsibility or to give it to them. We think it should be a matter specifically addressed in this legislation. We would support operators having the banking and reporting responsibility along with the reporting requirements in Section 7.

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In subparagraph (10) we do not believe that the Department can mandate to a manufacturer or a distributor licensed under this section what they do with any funds that they may have at the time their license is surrendered. We feel that subparagraph (10) should be modified to read "in possession of a permittee or one who possesses an operators license at the time a permit or a license is surrendered, revoked, or invalidated."

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Section 6. REPORTS AND FEES REQUIRED OF MUNICIPALITIES AND QUALIFIED ORGANIZATIONS.

Paragraph (a) requires a quarterly report from permittees having gross receipts of \$25,000 or more. We recommend that this amount be raised to \$50,000 in order to eliminate unnecessary paperwork. Also, in paragraph (b) we recommend that the committee consider extending the due date of the annual report to March 15. This would give both operators and permittees additional time in which to close their year end books and make an accurate accounting of their gross receipts, expenses and prizes awarded before filing.

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Section 7. REPORTS TO DEPARTMENT BY OPERATORS.

We recommend that monthly reports not be filed with the Department by operators. We do, however, support operators filing quarterly and annual reports. We would recommend that the due date for the annual report by the operator be changed to February 28.

15

Section 7. REPORTS TO PERMITTEE AND PAYMENT OF NET PROCEEDS.

16

This section presents a major departure from current law which requires permittees to make payments for all expenses. Recognizing that operators are currently paying these expenses on behalf of the permittee, we support this departure. We do request, however, that along with this report being made available to permittees on a monthly basis that paragraph (a) give the permittee the express ability to request original invoice documents and deposit slips.

17

Paragraph (c) of this section requires the operator to file an annual report with each permittee by January 31. This would be the same date under current law, in which the permittee is required to file their annual report with the Department. We recommend that all of the reporting dates be reviewed in the bill to give ample time to both permittees and operators to file annual reports.

Section 8. GENERAL PROVISIONS RELATING TO THE FILING OF APPLICATIONS AND REPORTS AND PAYMENT OF FEES.

18

While we support the granting of extensions in paragraph (b), we are concerned that most large operations will take advantage of this extension and the Department will not be able to provide to the Legislature a meaningful gaming report as required in another section of the statute.

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We would also recommend that a paragraph (e) be inserted. This section would adopt penalty provisions for failure to timely pay on the application or annual report and would also provide a penalty for failure to timely file the monthly, quarterly or annual reports. As it now stands, there is little incentive to file timely reports with the Department.

Section 9.

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In paragraph (c) we recommend inserting the word "natural" before the word person on line 1. The Department recommends that all operators be individual persons as opposed to operating in corporate form.

Section 11. MEMBER IN CHARGE.

21

We support the member in charge concept and recommend in paragraph (d) that it read "The municipality or qualified organization shall designate alternate members..."

Section 05.15.115. CONTRACTS BETWEEN PERMITTEES AND OPERATORS.

22

In paragraph (b) we recommend the last sentence add the phrase "and any other information the Department may require." In paragraph (d) we recommend that the permittee be responsible for submitting to the

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Department a copy of the contract and in the second sentence we recommend that the contract be sent to us 15 days before the activities are conducted or the contract is amended. This will give the Department ample opportunity to file its objections or make comments concerning provisions in the contracts.

Section 12. OPERATOR'S LICENSE.

25

Paragraph (a) possibly needs a technical change in that we do not find AS 05.15.189 anywhere in this draft document or existing statutes. In paragraph (b) we recommend removal of subparagraph (3). We wish this eliminated because we want all operators to be natural persons. In paragraph (c) we recommend that line 10 eliminating the phrase "a person having a significant interest in the applicant". This phrase again refers to one who would have some sort of ownership interest in an operator as in the corporate form of ownership. Along those same lines we recommend paragraph (d) be eliminated.

26

Section 05.15.128. REVOCATION OF OPERATOR'S LICENSE.

27

Paragraph (a) (1), we do not understand what the definition of "profit" is to be. We believe that the term should be net proceeds.

Section 16. OPERATORS.

28

Subparagraph (e), line 2, page 13 we recommend inserting after the word "shall" the phrase "upon request"

Section 18. PULL-TAB MANUFACTURER'S LICENSE.

29

In paragraph (c) we are concerned and question the rationale for requiring that pull-tabs be distributed only from a location in the state. Current practice has permittees buying from pull-tab distributors located both within and outside the state. This provision would probably create an extra level of administrative cost to the charitable organizations. We also support the concept that the distributor shall pay the 3% tax to the Department. This makes sense, in that the Department will collect the tax whether or not the pull-tabs are sold or distributed throughout the state.

Section 05.15.187. OPERATION OF PULL-TAB GAMES.

30

In paragraph (b), we support raising the prize limit for pull-tab games to at least \$500,000.00 and would consider raising it beyond \$500,000.00. We do not understand why organizations that use operators should be limited to a maximum prize award of an amount less than those organizations that do not use operators. We recommend consistency in setting total prize limits. We recommend one other restriction not found in HB 299. That being the elimination of door prizes. Many small operations are unable to compete with the larger bingo halls in attracting players for their games because of the large amount of prizes being given away at the door. We would suggest that these door prizes either be severely curtailed to an amount not to exceed \$500.00 in value of merchandise to be given away in any one session or an annual limit be set. In no event should cash be given away as a door prize. We enthusiastically support paragraph (d) restricting pull-tab series from being sold at more than one location during the same day. Currently, there is a statewide lottery/pull-tab operation being run by a local Glennallen permittee. The tickets resemble

31

32 in every characteristic a pull-tab with one exception. One of the tabs contains a chance at a \$100,000.00 grand prize drawing. These pull-tab/lottery tickets are being marketed throughout the state in many business establishments at one time. Paragraph (d) would prohibit such an operation from existing. The Department would support even stronger language to curtail this statewide pull-tab distribution. Concerning paragraph (g) we recommend raising the records maintenance for pull-tab winners from \$25 to \$50. This will lessen the records maintenance burden on the permittees.

Section 21.

33 In subparagraph (22) the definition of raffles and lotteries, we are looking for a better definition of the term lottery and raffle. We believe the two to be nearly synonymous. Also given the fact that we have one statewide lottery at this time using a pull-tab type ticket we feel that the definition should be a little bit more restrictive. In

34 subparagraph (32) the definition of "operator", we would insert the word "natural" before the word person to make it clear that an operator cannot take any other form of ownership.

Markup of Department of Revenue Sectional Analysis of
HB 299 - ALASKA CHARITABLE GAMING REFORM
By the House Labor and Commerce Committee

1. \$20.00 fee for new applicants? YES/NO
2. Three percent tax from net proceeds instead of adjusted gross? YES/NO
3. Delete Paragraph (C)? YES/NO
4. Ten days instead of 30? YES/NO
5. If the committee wants to further define what "reasonable expenses" are, we have some recommended language.
YES/NO
6. YES/NO
7. Neither committee staff nor the Department of Revenue has any suggestions to correct the problem identified here.
8. This problem is taken care of in amendments the committee agreed to adopt on Tuesday, January 12. (See Utermohle memorandum & amendments).
9. Subparagraph (8) is identical to current law. The limitations on bingo sessions are currently in regulations. Does the committee want to put them into law? YES/NO
10. Should we adopt language specifically requiring (and authorizing) operators having the banning and reporting responsibility? YES/NO
11. Subparagraph (10) is identical to current law. Should we delete it? YES/NO
12. Should suggested language be added? YES/NO
13. Raise the quarterly report limit from \$25,000 to \$50,000?
YES/NO
14. Department suggests extending due date for annual report to March 15 then further suggests extending it to February 28 (see item #15) The Alaska Charitable Gaming Association (ACGA) suggests the operator submit annual reports to permittee and the Department of February 28 and that the permittee submit their annual report to the Department by March 15.
15. Should monthly reports be eliminated? YES/NO
Should dates for annual report be changed? (See question #14)

16. Should language be included to give permittees authority to request original invoices and deposit slips? YES/NO
17. See question #14.
18. Should HB 299 clarify what constitutes a "reasonable cause for delay" or should the Department be expected to do it through regulation? LAW/REGULATIONS
19. Should penalties for repeated late reports be set in statute or should HB 299 expressly authorize and require the Department to develop regulations that call for suspension or revocation of an operators license when they are consistently late in submitting reports? LAW/REGULATIONS
20. Insert the word "natural" (thus prohibiting corporations from being operators) YES/NO
21. Should municipalities be required to designate members in charge when the regular member in charge is absent? YES/NO
22. Should we add recommended language? YES/NO
23. Should the permittee or the operator be responsible for submitting a copy of the contract to the Department? PERMITTEE/OPERATOR
24. Should we require a copy of the contract to go to the Department 15 days before activities commence (as recommended) or keep it at 72 hours (as it is in HB 299)? 15 DAYS/72 HOURS.
25. This problem is corrected by amendments the committee agreed to on Tuesday, January 12.
26. If the committee decided under question #20 to prohibit corporations from being operators, then these changes should also be adopted. YES/NO
27. Suggested language change:

Sec. 05.15.128 - The department shall revoke the license of an operator who does not
(1) report net proceeds of no less than 15 of the adjusted gross income for two consecutive quarters based on the total operation of the operator; or
(2) pay for two consecutive quarters to each authorizing permittee no less than 15 percent of the adjusted gross income, as determined under (1) of this subsection, received from activities conducted on behalf of the authorizing permittee.

28. Include the words "on request"? YES/NO
29. Should we keep language in HB 299 requiring that pull-tabs be sold only from within Alaska by licensed distributors? YES/NO
30. Should there be a different annual prize limit on organizations that use an operator than organizations that run their own games? YES/NO.
31. Should we prohibit door prizes? YES/NO
Should we put a limit on door prizes? YES/NO
(If the committee decides to limit door prizes, ACGA suggests beginning at \$1,000 per month or \$12,000 per year for each permit.)
32. Should records maintenance for pull-tab winners be raised to \$50.00? YES/NO
33. If the Department is looking for a better definition of raffles and lotteries, they should provide it!
34. If the Committee has decided to prohibit corporations from being operators, this recommendation should be adopted. YES/NO

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST

Revision Date: _____
 Title: "An Act revising state gambling laws."
 Sponsor: Labor & Commerce Committee
 Requestor: House Labor & Commerce

Bill Version: HB 299

Publish Date: _____

Agency Affected: Public Safety
 BRU: Alaska State Troopers

Components: Detachments & CIB

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		32.7	33.7	34.7	35.7	36.8
TRAVEL						
CONTRACTUAL		1.4	1.4	1.5	1.5	1.6
SUPPLIES		3.0	3.1	3.2	3.3	3.4
EQUIPMENT		12.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		49.3	38.2	39.4	40.5	41.8
CAPITAL						
REVENUE						

FUNDING:: (Thousands of Dollars)

GENERAL FUNDS		49.3	38.2	39.4	40.5	41.8
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See attached schedule.

JNR
5/5/87

Prepared by: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 5/4/87

Approved by Commissioner: Arthur English Date: 5/4/87
 Agency: Public Safety

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS
For Bill/Resolution No. HB 299

The Division of Alaska State Troopers anticipates being responsible for providing background checks on organizations and individuals who apply for gambling permits. It is expected that AST will receive from the applicants partially completed applications (with funds attached to send with a certified fingerprint card to the F.B.I.). Based upon an estimate of 1,200 background checks per year, a full-time Clerk IV will be required, based upon our experience with Security Guard Licensing. Program Receipts from receipt of permit requests are not anticipated to offset any costs to DPS. Background checks will involve APSIN/NLETS/AAFIS checks, processing of fingerprint cards to the FBI (3 - 4 months delay) and filing of permit application checks. A micro computer will be utilized to maintain data on applicants and to meet reporting requirements needed under this bill. A 3% inflation factor has been added to costs after FY88 for line items except equipment which is needed in the first year only.

Personal Services

Clerk IV, Range 9, Step A, PFT	\$21,564	
Overtime 120 hours	1,990	
Subtotal	23,554	
Benefits	4,490	
SBS	1,444	
Health	3,214	
Total Personal Services		32,702

Contractual

Maintenance on computer	400	
Telephone costs	1,000	
Total Contractual		1,400

Supplies

Forms (Applications, licenses)	2,000	
Office Supplies	750	
Miscellaneous	250	
Total Supplies		3,000

Equipment

Compaq Computer, Software, Printer, etc.	9,000	
Desk	691	
Chair	345	
Computer table	300	
Side chair	184	
Filing cabinets (6)	1,338	
Storage cabinet	385	
Total Equipment		12,243

Total		49,345
-------	--	--------

Position Title Clerk IV		No. of Positions 1	Range/Step 9/A	Barg. Unit GGU
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District 7-12
Type of Expenditure		Justification		
1	2	3		
Salary	21,564	This position will be responsible for processing applications and recording all related data, including fingerprint checks, criminal history checks to include APSIN/NLETS/AAFIS checks, as well as answering questions from the public and applicants. The position will be responsible for developing and implementing regulations relating to business. This Clerk IV must be a notary public in order to be able to notarize applications. The Clerk IV must be able to fingerprint applicants. This position will need to have a general bookkeeping knowledge in order to be able to handle the processing of application fees.		
Benefits	4,490			
Premium Pay	1,990			
Other SBS & Health	4,658			
Total Personal Services	32.7			
Travel				
Contractual		1.4		
Commodities		3.0		
Equipment		12.2		
Other				
Total Cost		49.3		
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	49.3		
I-A Receipts	1006			
CIP Receipts	1061			
Other				

**Request For
New Position**

Agency Public Safety
 BRU Alaska State Troopers
 Component Director's Office

Page 5 of 3
 Revised Date

FY 88

HOUSE BILL 299
Department of Revenue
Position Statement
January, 1988

Prepared by
Steven E. Kettel, Director
Income & Excise Audit Division

The Department of Revenue supports the many provisions contained within HB 299 which will update the present statutes and assist the Department in its efforts to ensure that charities remain the beneficiary of the proceeds from gaming activities in Alaska.

We support the following concepts in HB 299:

- 1) The requirement that pull-tab manufacturers must be licensed and file reports with the Department, and affix labels to each sealed series of pull-tabs.
- 2) The requirement that pull-tab distributors must be licensed and file reports with the Department, and pay a fee for each pull-tab series sold.
- 3) The requirement that operators be licensed and file reports with the Department and with the permittee.
- 4) The requirement that permittees utilizing the service of licensed operators must enter into formal, written contract.
- 5) The concept that operators must report a profit and pay a minimum percentage of the net proceeds to the permittee to retain their license.
- 6) The concept that operators may provide accounting and banking services for the permittee but the permittee will remain responsible for games conducted on their behalf through their member in charge.
- 7) Restricting operators and their employees by forbidding gaming activities from being conducted by convicted felons.
- 8) We support raising the annual prize award limit. Public testimony on our gaming regulations this fall overwhelmingly supported raising the limit to an amount even greater than that in this bill.
- 9) We support program receipts funding for enforcement activities conducted by this agency.

Attached to this position paper are additional comments and recommended technical changes we have for HB 299. In addition to the provisions and concepts addressed in this bill, we would like to suggest two additional provisions be considered.

- 1) A local charity is currently operating a statewide "lottery", selling a pull-tab like ticket through many different vendors. The tickets offer a chance at an instant payoff of from \$2 to \$50, or the opportunity to be entered in a grand prize drawing for \$100,000. This activity strains current regulations and statutes to the breaking point and goes beyond several time honored customs, i.e. lottery tickets are being sold outside the permittee's general locality and control, and pull-tabs are available in outlets frequented by minors. Section 17 of HB 299 at 05.15.185(d) appears to prohibit the sale of only pull-tabs at more than one location. The question remains, are these "lottery" tickets or are they pull-tabs? We request that the bill clearly state that all pull-tabs, whether used in the traditional manner or in a lottery style be prohibited from being sold in more than one location at a time.

- 2) Recently, pull-tabs have found their way into bars and lounges throughout the state. Responsibility for accounting of the gross receipts and net proceeds have been effectively transferred to the bar owner/tender. We recommend that pull-tabs only be sold on the permittee's premises under the control and supervision of the member-in-charge or the operator.

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX 5
JUNEAU, ALASKA 99811-0400
PHONE: (907) 465-2300

March 14, 1988

The Honorable John Sund, Chairman
House Judiciary Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Representative Sund:

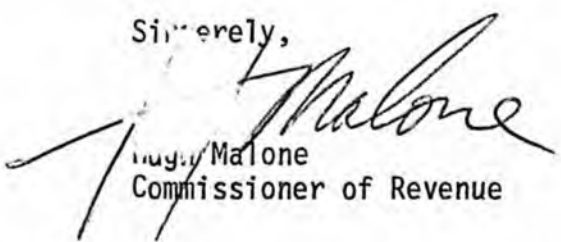
It has been over twenty-five years since Alaska laws regulating charitable gaming were written. During that period of time, charitable gaming has changed from small scale church and club fund raising to a complex industry. Charitable gaming has become a major source of revenue for non-profit corporations. Some of these "non-profits" are fairly large business activities. Gaming itself has grown way beyond what was envisioned in the law, and beyond the scope of the resources available to regulate it. You are aware of the miserable recent history of the attempts at legislative change - bills vetoed, and bills deliberately stalled in the legislature.

The basic idea of allowing gambling for eleemosynary purposes is the heart of the law. With the present level of activity and resources, and the present state of the law we can not be reasonably certain that the right amount of money is going to the right place.

The committee members are considering HB 299. If HB 299 incorporates the amendments offered by the department, it will go a long way toward helping solve these problems. It would be especially helpful if the regulations of gaming were moved to a regulatory department, since regulation of charities is not a revenue function. Also, the committee should give consideration of establishing an advisory board of public members to help in this regulation.

We need action before the situation gets worse.

Sincerely,


August Malone
Commissioner of Revenue

HM:m11
88-75

cc: House Judiciary Committee Members

Representative Dave Donley

A M E N D M E N T

Offered in the HOUSE

TO: CSHB 299 (Judiciary)

Page 2, line 18:

Delete "or license"

Page 2, line 26:

Delete "or license"

Page 10, line 17:

Delete "05.15.125"

Insert "05.15.122"

Page 11, after line 3:

Insert a new subsection to read:

"(c) The authority of an operator to conduct activities within a municipality is subject to the power of the department under AS 05.-15.124 to prohibit the operator from conducting activities within the municipality."

Reletter the following subsections accordingly.

Page 11, after line 14:

Insert a new section to read:

"Sec. 05.15.124. OPERATOR'S NOTICE TO MUNICIPALITIES. (a) least 45 days before conducting an activity within a municipality beha'f of a permittee or before renewing a license authorizing t operator to conduct activities within the municipality, an operat shall inform the department and the municipality where the activitie will be conducted of the operator's intent to conduct activitie within the municipality or to renew the license.

(b) A municipality, within 30 days after receiving the notice required under (a) of this section, may forward its comments to th department as to whether the operator should receive authorization t conduct activities within the municipality.

(c) If a municipality recommends that an operator not be allowe to operate within the municipality, the department shall prohibit th operator from conducting activities within the municipality.

(d) An operator may appeal the denial of authority to conduc activities within a municipality to the commissioner of revenue. The commissioner ^{shall} ~~may~~ affirm the action of the department in denying au thority to conduct activities within a municipality if the commis sioner finds that the municipality had reasonable grounds for recom mending that the operator not be allowed to operate within the munici pality. If the commissioner does not affirm the action of the depart ment, the commissioner shall order that the department authorize the operator to conduct activities within the municipality."

Page 14, line 18:

Delete "05.15.125(b)"

Insert "05.15.122(b)"

STATE OF ALASKA

DEPARTMENT OF REVENUE

HB 299
STEVE COWPER, GOVERNOR

STATE OFFICE BUILDING
P.O. BOX 5A
JUNEAU, ALASKA 99811-0400

March 9, 1988

Honorable John Sund, Chairman
House Judiciary Committee
State Capital Building
P.O. Box V (Mail Stop 3100)
Juneau, Alaska 99811

Dear Representative Sund,

Here are our comments in response to each of the proposed amendments contained in Lloyd Miller / Lucky Strike Bingo's letter to the Judiciary Committee. We either agree with or have no opposition to seven of their nine concerns.

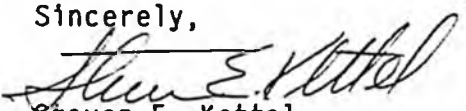
- 1) The Department agrees that it should not be policing a matter that should be between the permittee and the distributor.
- 2) AS 05.15.060 is defining what must be promulgated in the form of regulations. This statute is not meant to be more specific. The Department will be responsive to the public's comments when addressing wage rates in regulations.
- 3) The Department agrees with the proposed law as it is currently written. We don't feel that it is fair to continue to condemn a person for a crime when the courts have established a time period in which the person must pay his/her debt to society.
- 4) Although the Department is flexible on this point, leaving the number of sessions as is will allow more organizations the opportunity to participate in conducting bingo. We have actually had several organizations complain that 9 sessions per month is too many. Increasing the number of sessions to 14 could arguably decrease the number of permittees able to participate in the operator run halls by 35%.
- 5) The Department has no opposition to this proposal, as long as there is some guarantee that the 'member in charge' is in some manner associated with the organization and is responsible for the maintenance of the books and records.
- 6) The Department has no opposition to the proposal and would support an increase to 20% of the adjusted gross receipts.
- 7) (A) The Department has heard of problems with an organization pulling a series before any of the large prizes are won. We would support the mixing of the last 10% of pull-tabs from one series into another similar series, but would require that all pull tabs in a series must be sold.

(B) The Department has no opposition to this proposal, but with the condition that the Department also received a notice of the defective pull-tabs.

8) The Department believes that there is a misunderstanding as to the intent of actual meaning of AS 05.15.150 (a). The statute does not prohibit organizations from repairing or maintaining an existing individual's home. If, by the repair, or maintenance of an individual's home, or by removing a public hazard, the home is made safer for living, then the use of the proceeds in this manner is acceptable. Additionally, 15 AAC 105.180 allows the erection, buying or leasing of buildings or land for the organization so long as the buildings are used exclusively for educational, civic, public, or religious purposes. Perhaps this also could best be handled in regulations.

9) As so many organizations are now awarding door prizes, whether operator conducted or not, the Department believes that if door prizes were to be allowed, some limit should be placed on the amount allowable as door prizes. Our other option was to eliminate door prizes altogether, but we felt that too many organizations would disagree. At a minimum the provision should not provide a competitive advantage for one hall over another. Finally, in the long run we believe door prizes reduce the amount of funds available to charitable purposes.

Sincerely,


Steven E. Kettel
Director
Income & Excise Audit
(907) 465-2320

MAR 07 1988

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March 3, 1988

WASHINGTON, D. C. OFFICE
1250 EYE STREET, N.W.
WASHINGTON, D. C. 20005
(202) 682-0240

*ALASKA AND DISTRICT OF COLUMBIA BARS
**WISCONSIN BAR
ALL OTHERS DISTRICT OF COLUMBIA BAR
VIA TELECOPIER

Honorable John Sund, Chairman
House Committee on the Judiciary
State Capitol Building
P. O. Box V (Mail Stop 3100)
Juneau, AK 99811

Re: Comments on proposed gaming
bill H.B. 299 (Labor Committee
substitute) (Our file 1302.21)

Dear Representative Sund:

In follow up to a recent discussion with staffmember John Hartle, we submit this letter on behalf of four non-profit health, housing, and social service providers (the Alaska Native Health Board, the Aleutian/Pribilof Islands Association, the Aleutian Housing Authority, and the Kodiak Area Native Association, referred to here as the "non-profits") in connection with H.B. 299, a bill relating to games of chance. We are telefaxing this letter so you have the benefit of these views before the Committee's final consideration of this important bill.

A. Introduction.

The Kodiak Area Native Association and the Aleutian/Pribilof Islands Association are regional non-profit entities serving most of the health and social service needs of qualifying citizens residing on the Aleutian Chain, the Pribilof Islands and in the Kodiak Island area. They operate clinics, alcohol and mental health programs, family assistance programs, vocational job training assistance, higher education programs, weatherization programs, and provide a considerable variety of other services. The Alaska Native Health Board carries out a wide range of health

Honorable John Sund
March 3, 1988
Page 2

programs and research initiatives for the collective benefit of all Alaska Native people across the State. Finally, the Aleutian Housing Authority administers low-income housing projects for communities on the Aleutian Chain and the Pribilof Islands. To further these purposes, in 1986 the four non-profits joined together to establish a bingo hall in Anchorage under the umbrella name of "Lucky Strike Bingo."

For these organizations, gaming revenues are vital to supplement the government-funded programs that each of the non-profits operates. In an era of severe declines in state and federal grants and contracts, dramatically rising costs, and increasing human needs, gaming funds provide a vital and essential bridge. Gaming proceeds are also these organizations' virtual only source of non-restricted funds which can be spent to further their objectives in areas not specifically targeted by an existing grant or government contract. Gaming revenues are thus critical in a faltering economy; without them, the non-profits would be compelled to substantially cut back and narrow their services and activities.

By way of example, gaming revenues have been used to purchase food for needy people in the A/PIA region and to aid needy families in paying funeral expenses. They have been used by ANHB to fund travel to Washington, D.C. to work with the Indian Health Service in improving the administration of federal drug and alcohol treatment programs in the State. They have been used by KANA to establish a fund to build a museum celebrating the cultural heritage of the Native people of the Kodiak region. They have been used by AHA in part to contribute to other non-profit organizations including churches located in the Aleutian Chain. All four of the joint venturers plan to continue using future gaming monies for similar purposes such as social services, for health services, for cultural programs and school scholarship programs.

The experience gained in owning and operating Lucky Strike Bingo under current laws and regulations has given the four non-profits particular insight into the regulation of games of chance. The non-profits generally support the concept of reform of the gaming laws, and wish to offer specific suggestions for the improvement of H.B. 299 as reported out of the Labor and Commerce Committee. Their insight is especially unique in that the non-profits operate their own games of chance as "permittees," and employ salaried staff which are under their direct control. They do not conduct gaming activities through a professional, high-paid "operator." This perspective is critical, for it means the non-profits can offer insights

Honorable John Sund
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strictly from their motivation to maximize the benefits of gaming for charitable organizations while maintaining the integrity of charitable gaming in Alaska.

As a final introductory remark, we think it is important to reflect on the Legislature's past policy regarding games of chance in Alaska. As we see it, the clear intent of the original 1960 gaming laws (as well as the 1976 amendments) was to allow qualifying charitable organizations to engage in limited gaming activities in order to raise revenues and carry out charitable purposes. The notion was to provide a means for fundraising, so that charitable organizations could continue and expand their good works in the State. The principle rationale for legalizing limited gaming has not changed. What has changed is the increased popularity of games of chance coupled with radical changes in the State's economic health. Consistent with the original intent, all amendments must continue to encourage charitable gaming in Alaska while simultaneously providing safeguards against potential abuses.

B. Specific Suggestions.

We next address specific sections of the bill in numerical order. In doing so, we emphasize the importance of preserving gaming as a fundraising source for non-profit organizations, and of maintaining a balance between the goals of preserving wide participation by charitable organizations while ensuring that organizations which do elect to become involved have a real opportunity to realize net profits. Please note that below we refer to the Committee substitute for H.B. 299, not the original bill language. We also emphasize that items 2, 4, 8, and 9 below are of special, critical importance.

1. Section 1 (amending A.S. 05.15.20(c)). The non-profits believe that this new subsection is unnecessary. The financial arrangement between a pull-tab distributor and the permittee or operator is strictly a private business matter not relevant to the Department's role in the permit renewal process. They do not believe it proper for the Department to delve into the status of a permittee's accounts with its suppliers. Indeed, this section appears to reflect a new strongarm tactic by pull-tab distributors who may claim, but in fact not be owed, a lawful debt.

2. Section 4 (amending A.S. 05.15.60) and the employee wage problem. This section generally addresses matters which would be more specifically governed by regulations adopted by the

Honorable John Sund
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Department. As you know, last year the Department proposed substantial changes in the current gaming regulations. One of the proposed changes addressed the allowable operational expenses which could be paid out of gross proceeds. The non-profits we represent strongly believe that the current and proposed regulations frequently impose unreasonable limitations which do not further the State's legitimate policy of avoiding diversion of funds to non-charitable purposes or organizations. For example, current and proposed regulations limit the wages which may be paid to employees to one dollar over the established minimum wage. The regulations also prohibit employee bonuses under any circumstances.

The non-profits believe these wage limitations substantially hinder and impede the responsible and professional operation of gaming. As in any business, competent employees are obtained by hiring on a basis competitive with prevailing wage rates. By offering competitive wages, gaming permittees would be able to ensure professional and courteous service to patrons. Given the predisposition of the Department to impose a wage scale, The Legislature should address such important policy questions in H.B. 299 by prohibiting the Department from imposing any hourly wage scales.¹ This could be addressed by adding the following language at the end of subsection (2): "provided that permittees shall not be prohibited from paying their employees prevailing wages."

3. Section 4 (amending A.S. 05.15.60) and the felony rule. Subsection (6) of amended A.S. 05.15.160 (as well as Sec. 13 (new A.S. 05.15.125(c) and (d)) and Sec. 14 (amending 05.15.140(b)(1)) all set forth the new felony rule. The non-profits strongly believe that the State's policy is best served by prohibiting the direct or indirect involvement of any convicted felon in any aspect of gaming at any time. They suggest the prohibition in subsection (6) first be modified as follows: "exclusion from participation in the operation of games of chance of a permittee, licensee, operator, or employee..." (new words underscored). Second, they suggest the five-year limit in all these sections be removed entirely so that a felon could never be involved in running or operating games of chance. Third, if a time limit is retained they suggest ten years instead of five. Finally, they

¹Interestingly the Labor Committee substitute already relieves operators from this restriction by allowing them to pay prevailing wages to their employees. (Sec. 17, adding new A.S.05.15.165(d).)

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suggest that the words "felony or misdemeanor" replace the word "crime." Lucky Strike strongly believes this is an area where caution dictates an extra measure of protection.

4. Section 4 (amending A.S. 05.15.60) and the maximum cap on monthly gaming sessions. In new subsection (8) the bill would prohibit the Department from allowing more than nine bingo sessions per month. The four Lucky Strike non-profits very strongly believe that such a limitation is inappropriate and unfairly discriminates against permittees in favor of operators. Such a result is directly contrary to the theme running through much of H.B. 299.

There is no sound reason in logic for imposing such a low cap on the number of sessions which may be held under a permit. Indeed, there may not be any substantial public policy reason for any cap on the number of bingo sessions which may be played per month. Possibly the notion behind such a provision (which is in the old regulations) is noted in an earlier time when it was never anticipated bingo would grow to a point where there would be several full-time bingo halls around the State. H.B. 299 reflects a sound policy that permittees should be encouraged to run their own games and thus realize the maximum amount of profit out of those games in order to fund their charitable activities. Using the auspices of an operator is less favored simply because the result is lower profits to the permittee. A permittee who wishes to run its own bingo hall cannot do so if it is limited to nine sessions per month, given the investment necessary to open a hall and the need to establish a steady recurring clientele. Since an operator can take several permits and play a different permit every night, this means the permittee wishing to conduct bingo games is virtually compelled by a low cap into entering into a far less remunerative arrangement with an operator. The only current way out of this dilemma is the solution found by the four non-profits which formed Lucky Strike Bingo. Here the permittees run their own games, but by pooling their resources are able to maintain a full-time bingo hall that is competitive with the operators in town.

Although there are only 31 days in the longest month, it is possible to play more than one session of bingo per day. When A/PIA, KANA, ANHB, and AHA first began the Lucky Strike program, the 36 sessions which they could play between the four of them was sufficient. However, in the last two years, bingo has become both more competitive and more popular. As operators have added second sessions on more popular days and evenings of the week, Lucky Strike has been forced to match the competition by similarly offering second bingo sessions. Since doing so has

Honorable John Sund
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Page 6

required conducting more than 36 sessions of bingo per month, the Lucky Strike permittees have found it necessary to locate other permittees to share in their effort. This, in turn, has transformed Lucky Strike into an "operator" a few times a month when that was never the non-profits' intention.

Lucky Strike believes there should be no cap on the number of sessions which can be played per month, and that by eliminating any cap the relative ability of individual permittees and the operators to engage in bingo will be equalized. But, if the Committee continues to feel that some maximum on the number of games which may be played by each permittee is wise, Lucky Strike very strongly urges that the cap be fixed at 14 sessions per month. While any cap will infringe on the ability of permittees to participate in this field relative to operators, a figure of 14 would allow 4 permittees to join together like Lucky Strike and operate the maximum number of sessions which might be demanded by the public in any one given month.

One last remark on this issue is important. It is well known that the Department views Lucky Strike as a model of an efficient and honest bingo operation being run directly by permittees. The Department does not view Lucky Strike as an "operator." Nonetheless, under the bill as drafted, Lucky Strike would be required to secure an operator's license in order to conduct bingo sessions on behalf of permittees other than the four permittees comprising Lucky Strike. So long as there remains a cap of 9 sessions per month, Lucky Strike will be compelled to secure such a license. Since the Department does not view Lucky Strike as an operator, we believe the Department would favor an amendment which would exempt permittees in Lucky Strike's circumstances from the "operator" provisions of the bill (in the event the monthly cap on bingo sessions is neither eliminated nor increased to 14). Should this become necessary, we would be pleased to work with you in fashioning appropriate language to achieve this result. Again, however, the need to do so would disappear if the cap is removed or increased.

5. Section 12 and the "member in charge" requirement (adding a new A.S. 05.15.112). Proposed section 112(b) is drafted on the assumption that although a municipality does not have "members" and only acts through its employees, a "qualified organization" always has members. In fact, however, this is not the case. Under the Alaska Corporations Code, a non-profit organization need not be a membership or a shareholder entity. A non-membership non-profit therefore has no "member" who can technically serve as a "member-in-charge." The bill takes account of this problem when addressing municipalities, but not

Honorable John Sund
March 3, 1988
Page 7

when addressing non-profits. We suggest that the last sentence of subsection (b) therefore be amended as follows: "the member in charge shall be a member, employee or boardmember of the qualified organization or [an employee] of the municipality." References elsewhere in the bill to "members" of a qualified organization should likewise be modified.

6. Section 13 and a permittee's minimum profits from operators (adding a new A.S. 05.15.128(2)). This subsection (page 11, lines 10-13) requires that operators pay their permittees no less than 15% of the adjusted gross income received from games played under permittee's permit. Although Lucky Strike joins wholeheartedly in the concept of a minimum percentage return, Lucky Strike feels that 15% is too low and that 20% is fairer to permit holders. Based upon Lucky Strike's experience in administering bingo games over the last two years, they believe that a lean bingo hall which does not allow for excessive fees to management or operators should be able to yield well in excess of 20% for the permit holders. There is no sound public policy reason why operators should be allowed to retain more than 80% of the adjusted gross income. Although Lucky Strike will not fall within this section because they are not operators, they believe other non-profits not fortunate enough to have an arrangement like theirs should not be unfairly taken advantage of by operators.

7. Section 20 and the operation of pull-tab games (adding A.S. 05.15.187). Subsections (e) and (f) address the handling of pull-tabs. Although Lucky Strike agrees with the concept behind these provisions, they do believe that some modification must be made to account for two special situations. First, the provisions should be revised to allow the mixing of no more than 10% of the pull-tabs from one jar with similar pull-tabs in a different jar. This practical revision is necessary because when only a few pull-tabs are left in a jar, customers typically elect not to purchase the pull-tabs from that jar. The consequence is that such pull-tabs may never be sold so long as they are sitting in the bottom of the jar. This is so despite the fact that the odds of winning on the very last pull-tab are just as good as the odds of winning on the very first pull-tab in a jar. Allowing these last pull-tabs to be added on top of a fresh jar of pull-tabs is the practical solution to this problem, and is a solution which does not contribute to any greater potential for tampering or abuse.

Second, the provisions must be revised to include an exception that will allow the withdrawal of a series of pull-tabs when a manufacturer's defect is discovered. Although this only

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happens rarely, when it does (for instance, when a pull-tab series is misnumbered), obviously such a series must be withdrawn from sale.

8. Existing A.S. 05.15.150. This current provision in the law prohibits permittees from dedicating gaming proceeds to the "acquisition, improvement, maintenance, or repair of real...property...". A.S. 05.15.150(a). The proposed bill leaves this provision unchanged, even though there is good reason for repealing or modifying it. This law currently prohibits organizations like KANA and A/PIA from refurbishing or rebuilding clinics, and bars organizations like AHA from retrofitting homes of needy people. Such restrictions simply make no sense. We therefore suggest existing Section 150(a) be repealed.

9. Section 19 and door prizes. This section adds a new subsection (d) to A.S. 05.15.180 prohibiting a permittee from offering or awarding door prizes exceeding \$1,000 a month or \$12,000 a year. Lucky Strike is deeply concerned about this new provision inserted by the House Labor & Commerce Committee. As you know, door prizes are a very effective way of attracting patrons to bingo halls. Almost all of the bingo halls in Anchorage now offer door prizes of one kind or another, including door prizes of considerable value. So long as a person comes to play bingo they are entitled to participate in the drawing for the door prize (usually held once a month). There is no requirement that patrons purchase a special ticket for the door prize.

By tying the award of door prizes to a limit per permittee, this new section will severely restrict the ability of permittees like Lucky Strike to operate their own games in even competition with operators. This is so because if an operator is operating 15 permits, that operator will be able to offer monthly door prizes up to \$15,000. At the same time, Lucky Strike Bingo, with only 4 permittees running their own games, will only be able to offer door prizes with a cumulative value of \$4,000. There is no sound reason in public policy or logic for this disparity, and the new provision appears to be a simple case of operators having secured a very favorable provision designed to increase their competitive edge over permit holders running their own games. Lucky Strike Bingo strongly urges this Committee to reject section 19 in toto.

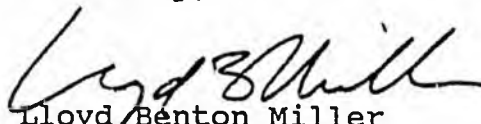
In conclusion, the non-profits welcome revisions in the current gaming legislation which would both meet the need for strict accountability in the conduct of games, and further the ability of charitable organizations to raise desperately needed

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funds to meet the ever-increasing demand for health and social services, particularly in rural Alaska. Recognition of the changed nature of the gaming industry and increased guidance given the Department in promulgating regulations will aid in developing realistic charitable gaming legislation.

We have noted earlier that Lucky Strike Bingo has a reputation in the Department as a "model" gaming operation. The four non-profit associations comprising Lucky Strike Bingo strongly desire to maintain and foster an atmosphere of "clean" gaming. Both small and large-scale operations should be allowed to flourish within a legal framework which limits the opportunities for unlawful gain. We look forward to working closely with the Committee and the Legislature in developing a legislative framework that meets these goals.

Sincerely,



Lloyd Benton Miller

LBM:bj
cc: All Committee members
John Hartle

FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: "An Act revising the state gaming laws."
Sponsor: _____
Requestor: Labor and Commerce

Agency Affected: Revenue
BRU: Income and Excise Audit Division
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES		203.4	203.4	203.4	203.4	203.4
TRAVEL		53.3	53.3	53.3	53.3	53.3
CONTRACTUAL		33.5	33.5	33.5	33.5	33.5
SUPPLIES		1.4	1.4	1.4	1.4	1.4
EQUIPMENT		10.5	-	-	-	-
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		302.1	291.6	291.6	291.6	291.6
CAPITAL						
REVENUE		501.6	501.6	501.6	501.6	501.6

FUNDING: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
GENERAL FUND		302.1	291.6	291.6	291.6	291.6
FEDERAL FUNDS		-	-	-	-	-
OTHER		-	-	-	-	-
TOTAL		302.1	291.6	291.6	291.6	291.6

POSITIONS:

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
FULL-TIME		5	5	5	5	5
PART-TIME		-	-	-	-	-
TEMPORARY		-	-	-	-	-

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Steven E. Kettel *Steven E. Kettel*
Division: Income and Excise Audit Division
Approved by Commissioner: *[Signature]*
Agency: _____

Phone: (907) 465-2320
Date: February 5, 1988
Date: 2/5/88

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Prepared by: Kelcy Parsons
Tax Examiner/Games of Chance and Skill
Income and Excise Audit Division
Department of Revenue
February 2, 1988

HB 299

ESTIMATED REVENUES

Based On 1986 Figures:

\$20 License fee @ 415 permits	8300	
\$50 License fee @ 362 permits	18100	
\$100 License fee @ 150 permits	<u>15000</u>	
		\$41,400
1% net proceeds fee	22,708	
3% net proceeds fee	<u>157,938</u>	
		\$180,646
		\$222,046 GRAND TOTAL

Pull Tab Distributors License fee @ 6 @ 1000	=	\$6,000
Pull Tab Manufacturers License fee @ 25 @ 500	=	\$12,500
Pull Tab Net Proceeds Fee		\$261,069
GRAND TOTAL		<u>\$501,615</u>

The expenditures incurred to administer the bill will be funded through program receipts.

CSHB 299 Analysis

Prepared By: Steven E. Kettel
Income and Excise Audit
February 2, 1988

Personal Services

<u>Position</u>	<u>Location</u>	<u>Annual Salary/Benefits</u>
Investigator III	Juneau	\$50.7
Clerk Typist III	Juneau	\$26.7
Investigator III	Anchorage	\$50.7
Revenue Auditor III	Anchorage	\$50.7
Clerk Typist II	Anchorage	<u>\$24.9</u>
	TOTAL	\$203.4

Travel

Supervisory Travel	\$4.1
Investigative Travel	\$30.7
Regulation Travel	\$5.0
Training Travel	\$5.0
Public Education Travel	<u>\$8.5</u>
TOTAL	\$53.3

Contractual

Four Wang PC Terminals (\$3.5/ea)	\$14.0
New Forms, printing and typesetting	\$10.0
Regulations, printing and advertising	\$7.5
Communications	<u>\$2.0</u>
TOTAL	\$33.5

Supplies

Office Supplies	\$1.4
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Equipment

Five Chairs	\$2.5
Five File Cabinets	\$3.5
Modular Offices for Five Staff	<u>\$4.5</u>
TOTAL	\$10.5

HOUSE COMMITTEE REPORT

1/22

(7)

Date referred: 4/30/87

FURTHER REFERRALS:

Judiciary
Finance

DATE:

1/19/88
HB 299

The Labor & Commerce Committee has considered

"An Act revising the state gaming laws."

RECOMMENDS:

- replace with CS HB 299 (L+C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact 1/22/88 same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Ellis

Walter Kopson

W. C. Boncher

Bill Darden

Dave Douley 5DP

Walt Furness No rec

2 NR

Dave Douley
Chairman's signature