

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

10102 SENATE • LABOR & COMMERCE •

SB

122



SENATOR KIM ELTON

SB 121 • The VISA Plan

Visitor Industry Stabilization Act

Sponsor Statement

The Visitor Industry Stabilization Act is designed to produce a stable stream of revenue for the development, promotion and marketing of the Alaska visitor industry through a variety of seasonal visitor fees and taxes. They are:

- Bed tax of 2% on transient lodging and accommodations;
- All-inclusive tour package tax of \$2 per person, per night;
- Cruise ship berth fee of \$3 per person, per night in Alaska waters.

Given the current and growing number of visitors to Alaska, the proposed fees are estimated to yield approximately \$14.5 million in revenue in a full year of operation. Local communities would receive 25% of all revenues collected, or \$3.63 million. Approximately \$10.87 million would be available for tourism marketing and development. This is more than double the state's current appropriation for tourism marketing.

It is important to increase Alaska's appropriations for tourism marketing because we are already losing market share in the visitor industry. The state has cut its appropriations for tourism marketing in half since 1990, in contrast to other states which spend five to ten times the amount Alaska does on visitor marketing.

Bed tax

Taxes on overnight accommodations are the most popular method of funding tourism marketing in other states. Bed taxes are popular because they export the cost of tourism marketing to the visitor, and do not place an additional tax burden on local tax payers.

Forty-seven of 50 states levy sales taxes on hotel rooms. Currently, 21 states impose some type of state bed tax as well; these taxes are in addition to other state and local taxes. Alaska is one of just three states which receive no tax revenue from room sales. Among the 47 states that levy bed taxes, the average tax rate is 6.1%. Since visitors encounter similar charges in almost all states, the small Alaska tax will not be a disincentive to Alaska travel.

Local governments already levying a bed tax on transient lodging may, in light of the revenue to be gained from the local share of these tax revenues, choose to lower or eliminate the local bed tax. Every community has the ability to adjust its own tax rates on transient lodging to accommodate the local market.

ALASKA SENATE

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All-inclusive tour package tax

The proposed \$2 per person, per night tax on all-inclusive tour packages is a tax on the overnight accommodations portion of the tour package. Since the total cost of the package is substantially larger than the overnight lodging portion, the flat \$2 rate was selected as the most equitable way to impose a tax commensurate with the 2% bed tax on hotels, motels and B&Bs. Like the bed tax, this is a seasonal tax from May 1 through September 30 of each year.

Passenger ship berth fee:

Alaska is perhaps unique in its relationship to the cruise industry. In the Lower 48, cruise ships on both east and west coasts typically travel outside the 3-mile limit and thus are not subject to state taxation. The ships which cruise Alaska's Inside Passage are within state waters and subject to the state's powers of taxation.

Ships which cruise Alaska waters frequently sail in Bermuda's waters during other parts of the year. Bermuda strictly regulates the type and number of cruise operators and imposes various taxes and fees, including a \$60 per passenger "head" tax between April and October. In addition, last year Bermuda instituted a passenger cabin tax of \$8 per stateroom, per day, regardless of whether a stateroom is occupied or not. That tax increases by \$2 this year, and by another \$2 in 2000. Although these taxes are among the world's highest, they have not affected Bermuda's popularity as a destination.

Bermuda justifies its tax rates as necessary for the small island to maximize the value of cruise ship port calls. Land vacationers, arriving by air, contribute far more to the island's economy. The same may be said of Alaska's independent travelers who arrive by air or ferry. Cruise passengers have an enormous impact on small Southeast communities ill-equipped to handle a flood of visitors, a cost which generally outweighs the financial benefits to the community itself.

SB 121 prohibits local governments from levying their own berth fee on passenger ships, a provision which is in the interest of the communities themselves. In the past, when a community tried to assess a head tax, passenger ships were able to avoid the tax by making, or threatening to make, modest adjustments to their schedules and avoiding that particular port of call. A state tax on passenger ships ensures that every community presents the same liability to the cruise industry, so each is protected. In addition, the prohibition on local head taxes reassures the cruise industry that the berth fee will not be duplicated by other government entities.

Like the bed tax and the all-inclusive tour package tax, 25% of berth fees collected will be returned to each port of call. (An explanation of the formula used to calculate each community's share is attached.) While the local share can be used for any legal expenditure, these fees will go a long way to assist local government to market its own community, to cope with the effects of visitors on

the community, and to assist local entrepreneurs wishing to develop their share of the market.

The specifics relating to each proposed tax and fee are attached.

The VISA Plan

Visitor Industry Stabilization Act

In this proposal, tourism marketing funding is shifted to visitors via a transient accommodation charge and a passenger ship head tax. These charges are based on the assumption that most visitors spend at least one night in Alaska and most residents and family visitors do not regularly use commercial lodging or tour packages. As a result, primarily non-resident visitors pay the charge. Revenues are deposited into the Tourism Development and Marketing Fund in the general fund.

Transient room tax:

- A statewide tax of 2% is imposed on lodging and accommodations for stays of less than 30 days.
- This tax will be assessed from May 1 through September 30 of each year.
- Effective date of tax is January 1, 2000.
- Twenty-five percent (25%) of revenues shall be shared with local communities where the tax is incurred. Collections in the unorganized borough go to the state.
- Transient room tax shall be collected by local governments where a sales or room tax is already collected; in other communities, and in communities where there is no local government, the transient room tax shall be collected by the state.

Estimated revenue from transient room tax:

\$1.2 million in FY 00 (effective date of 1/1/00)
\$4.2 million in FY 01
\$4.5 million in FY 02

Wilderness camps, lodges and all-inclusive tour packages tax:

- A tax of \$2 per person, per night is imposed on wilderness lodges and non-hotel tour packages.
- This tax will be assessed from May 1 through September 30 of each year.
- Effective date is January 1, 2000.
- Twenty-five percent of these revenues shall be shared with local governments, boroughs and second class cities where collected.
- This tax shall be collected by local governments which already collect a sales or room tax; in other communities, and in communities where there is no local government, the all-inclusive tour tax shall be collected by the state.

Estimated revenue from all-inclusive tour package tax: inconclusive.

Passenger ship head tax:

- A tax of \$3 per person, per night shall be imposed on passenger ships in Alaska waters which provide overnight accommodations for 15 or more passengers.
- Effective date of tax is January 1, 2000.
- Twenty-five percent of revenues shall be shared with the local communities which are ports of call, based on the number of passengers per docking in that community.
- Local government is prohibited from assessing any form of "head tax" on the cruise industry.

Estimated revenue from passenger ship head tax:

\$2.6 million for FY 00 (effective date 1/1/00)

\$9.4 million for FY 01

\$9.8 million for FY 02

Total estimated revenue:

\$3.9 million in FY 00

\$13.7 million in FY 01

\$14.5 million in FY 02

Visitor Industry Stabilization Act

SB 121 • The VISA Plan

The passenger ship berth fee: \$3 per person, per night in Alaska waters.

Potential revenue: \$12,600,000

Last year Alaska received almost 600,000 visitors traveling on cruise ships. Assuming each visitor is aboard ship approximately 7 days in Alaska waters, the revenue calculation is:

$$600,000 \text{ passengers} \times 7 \text{ nights} \times \$3 \text{ per night} = \$12,600,000.00$$

Local government share of passenger ship berth fees: 25% or \$3,150,000

How each community's share of the 25% is calculated:

- 1) Commissioner of Revenue determines total number of cruise ship visitors to each community. This is the numerator.

Example: 4 SE communities:

Ketchikan:	600,000
Sitka:	350,000
Juneau:	600,000
Skagway:	500,000

- 2) Add together the number of visitors to each community for a total number of visits. This is the denominator.

$$\text{Total number of visits} = 2,050,000$$

- 3) Multiply each community's ratio times the total revenue: \$12,600,000

$$\text{Ketchikan's share} = \frac{600,000}{2,050,000} = 29\% \text{ of } \$12.6 \text{ million} = \$913,500$$

$$\text{Sitka's share} = \frac{350,000}{2,050,000} = 17\% \text{ of } \$12.6 \text{ million} = \$535,500$$

$$\text{Juneau's share} = \frac{600,000}{2,050,000} = 29\% \text{ of } \$12.6 \text{ million} = \$913,500$$

$$\text{Skagway's share} = \frac{500,000}{2,050,000} = 24\% \text{ of } \$12.6 \text{ million} = \$756,000$$

SB 121 • The VISA Plan
Visitor Industry Stabilization Act

Sectional Analysis

Section 1. Names the act the Visitor Industry Stabilization Act.

Section 2. Adds a new chapter establishing excise taxes on the visitor industry.

Article 1. Excise Tax Administration.

Sec. 43.52.010. Administration of tax.

- (a) Authorizes the Department of Revenue to administer the new taxes imposed by this act.
- (b) Directs the department to furnish necessary forms and adopt necessary regulations for the taxes imposed.

Sec. 43.52.020. Disposition of Receipts.

- (a) Authorizes 25% of the tax revenue collected under this chapter to be distributed to local governments where the taxes were incurred or collected.
- (b) Authorizes the legislature to use the remaining tax revenues for appropriations under AS 44.33.135 to the Tourism Development and Marketing Council for tourism development and marketing (see SB 122).

Article 2. Excise Tax on Transient Lodging Rentals.

Sec. 43.52.100. Levy of transient lodging rental tax.

Imposes an excise tax on the rental of transient lodging from May 1 through September 30 of each year.

Sec. 43.52.110. Rate of transient lodging rental tax.

Imposes an excise tax of two percent of the amount charged for transient lodging.

Sec. 43.52.120. Liability for payment of transient lodging rental tax.

- (a) The tax is payable:

- (1) by the person who provides the transient lodging; "person" includes state or municipal agency;
 - (2) in the manner and at times prescribed by regulation.
- (b) In municipalities that collect a sales tax or local lodging rental tax, the state's transient room tax shall be collected by the municipality and remitted to the department. In all other cases, the tax shall be remitted directly to the department by the person who provides transient lodging.

Sec. 43.52.130. Tax not applicable.

The transient room tax does not apply to:

- (1) occupancy subject to a lease or rental agreement subject to the Uniform Residential Landlord and Tenant Act;
- (2) lodging at a public or private institution if it is incidental to educational or training services;
- (3) occupancy by an employee whose occupancy is conditioned on the occupant's employment;
- (4) lodging aboard vessels; or
- (5) all-inclusive tour packages.

Sec. 43.52.140. Relationship to municipal levies.

The transient room tax described above is in addition to municipal taxes, including hotel and motel taxes, bed taxes or commercial sleeping accommodations taxes.

Sec. 43.52.150. Disposition of receipts.

Subject to legislative appropriation, the commissioner shall pay to each

- (1) unified municipality and to each city located in the unorganized borough 25% of the amount of tax revenue collected from the rental of transient lodging in that municipality or city;
- (2) city located within a borough 12.5% of the amount of tax revenue collected from the rental of transient lodging in that city;
- (3) borough, except the unorganized borough,
 - (A) 25% of the amount of tax revenue collected from the rental of transient lodging in the area of the borough outside cities; and
 - (B) 12.5% of the amount of tax revenue collected from the rental of transient lodging in cities located within the borough.

Article 3. Excise Tax on All-Inclusive Tour Packages.

Sec. 43.52.200. Levy of all-inclusive tour package tax.

Imposes a seasonal excise tax on the provision of overnight accommodations as part of an all-inclusive tour package, from May 1 through September 30 of each year.

Sec. 43.52.210. Rate of tax.

The all-inclusive tour package tax is \$2 per person, per night.

Sec. 43.52.220. Liability for payment of tax.

- (a) The all-inclusive tour package tax is due and payable
 - (1) by the person who provides the overnight accommodations; "person" include a state or municipal agency;
 - (2) in the manner and times required by the department.

- (b) In municipalities that collect a sales tax or a local transient lodging rental tax, the all-inclusive tour package tax shall be collected by the municipality and remitted to the department. In all other cases the tax shall be remitted directly to the department by the person who provides the accommodations.

Sec. 43.52.230. Tax not applicable.

The all-inclusive tour package tax does not apply to

- (1) occupancy under a lease or rental agreement subject to the Uniform Residential Landlord and Tenant Act;
- (2) lodging at a public or private institution if incidental to educational, training or similar services;
- (3) occupancy by an employee whose right to occupancy is conditioned on his employment;
- (4) lodging aboard vessels;
- (5) transient lodging subject to the tax in AS 43.52.100-150.

Sec. 43.52.240. Relationship to municipal levies.

The all-inclusive tour package tax is in addition to taxes which may be imposed by a municipality, including a hotel and motel tax, bed tax, or commercial sleeping accommodations tax.

Sec. 43.52.250. Disposition of receipts.

Subject to legislative appropriation, the commissioner shall pay to each

- (1) unified municipality and to each city located in the unorganized borough 25% of the all-inclusive tour package tax revenue collected in that municipality or city;
- (2) city within a borough 12.5% of the all-inclusive tour package tax revenue collected in that city;
- (3) borough, except the unorganized borough,
 - (A) 25% of the all-inclusive tour package tax revenue collected in the area of the borough outside the cities; and
 - (B) 12.5% of the all-inclusive tour package tax revenue collected in cities located within the borough.

Article 4. Excise Tax on Overnight Accommodations on Commercial Passenger Vessels.

Sec. 43.52.300. Levy of excise tax on overnight accommodations on commercial passenger vessels.

Imposes an excise tax on overnight accommodations provided on commercial passenger vessels in Alaska waters.

Sec. 43.52.310. Rate of tax.

The tax rate is \$3 per passenger, per night of accommodations.

Sec. 43.52.320. Liability for payment of tax.

The tax shall be collected and is due and payable to the department

- (1) by the person who provides overnight accommodations aboard the vessel;
- (2) in the manner and at times required by the department by regulation.

Sec. 43.52.330. Tax not applicable.

The commercial passenger vessel tax does not apply to persons transported on a vessel of the Alaska marine highway system.

Sec. 43.52.340. Prohibition on local levies.

Prohibits a municipality from imposing any form of tax on overnight accommodations on commercial passenger vessels. This applies to home rule and general law municipalities.

Sec. 43.52.350. Disposition of receipts.

- (a) The commissioner shall determine the total number of visitors to each municipality arriving on commercial passenger vessels subject to this tax. The commissioner shall calculate a ratio for determining each municipality's share of the passenger tax revenues collected by using the following formula: the numerator is the total number of visitors to the municipality arriving on passenger vessels, and the denominator is the total number of visitors to all municipalities arriving on commercial passenger vessels subject to this tax.
- (b) Subject to legislative appropriation, the commissioner shall pay to each
 - (1) unified municipality and to each city located in the unorganized borough that portion of 25% of the amount of commercial passenger tax revenue collected on vessels corresponding to the ratio determined under (a) of this section for that municipality.
 - (2) city within a borough one-half of that portion of 25% of the amount of commercial passenger tax revenue collect on vessels

- corresponding to the ratio for each city within the borough, as determined under (a) of this section; and
- (3) borough except the unorganized borough
 - (A) one-half of that portion of 25% of the commercial passenger tax collected on vessels corresponding to the ratio for each city within the borough, as determined under (a) of this section; and
 - (B) 25% of the commercial passenger tax collected on vessels corresponding to the ratio for the borough, as determined under (a) of this section, less the ratios for any cities within the borough, as determined under (a) of this section.

Article 5. Definitions.

Sec. 43.52.499. Definitions.

- (1) "all-inclusive tour package" means food, transportation, overnight accommodations, and tours, fishing, hunting and other services and experiences sold together to visitors as a package for a single price;
- (2) "commercial passenger vessel" means a boat or vessel that provide overnight accommodations for 15 or more passengers;
- (3) "night" means the period from 9:00 pm to 6:00 am Alaska time, or any portion of that period;
- (4) "passenger" means a person whom a common carrier has contracted to carry from one place to another;
- (5) "transient lodging" means lodging or space provided in a hotel, rooming or apartment house, motel, bed and breakfast, or similar lodging facility or under a similar arrangement that provides temporary lodging or living quarters.

Sec. 3. This act takes effect only if a bill establishing the Tourism Development and Marketing Council is passed by the Twenty-first Alaska State Legislature and becomes law.

Sec. 4. If this act takes effect, it is effective on the effective date of the bill establishing the Tourism Development and Marketing Council.

S B

1 2 3

FISCAL NOTE

No: 1

Bill Version: CSHB 123 (L&C)

(H) Publish Date: 3/16/99

**STATE OF ALASKA
1999 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction): _____
 Title: Exempt Vol. Ski Patrol From
 Minimum Wage
 Sponsor: House L&C
 Requester: House L&C

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: _____
 Wage and Hour
 COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

OPERATING	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS	-					
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY99) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill exempts non-profit ski patrols from the state minimum wage and overtime laws.. Currently, the only non-profit groups that may accept volunteer labor are those that are organized for religious, educational, charitable or cemetery purposes.

Prepared by: Al Dwyer, Director Phone: 465-4855
 Division: Labor Standards & Safety Date/Time: 3/8/99 10:16 AM
 Approved by Commissioner: Ed Flanagan, Commissioner
 Agency: Department of Labor Date: 3/8/99

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HB 123 adds ski patrol volunteers to the life/safety exemption for EMS and fire department volunteers from the state's minimum wage and overtime compensation requirements.

In order to address the situation where ski patrol volunteers assist in providing safety and educational services at private, municipal, military or other ski resorts where paid employees are involved in similar activities, the exemption for nonprofit activities of nonprofit organizations is expanded. This will enable organizations such as the National Ski Patrol to maintain the distinction of their volunteer activities from that of others for purposes of Alaska's Wage and Hour Act.

1-LS0577I
Cramer/
4/20/99

SENATE CS FOR CS FOR HOUSE BILL NO. 123()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the exemption from the requirement for payment of minimum
2 wage and overtime compensation for certain volunteers of nonprofit organizations;
3 exempting individuals who provide ski patrol services on a voluntary basis from
4 the requirement for payment of minimum wage and overtime compensation; and
5 providing for an effective date."

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

7 * Section 1. AS 23.10.055(6) is amended to read:

8 (6) an individual engaged in the nonprofit activities of a nonprofit
9 religious, charitable, cemetery, or educational organization or other nonprofit
10 organization where the employer-employee relationship does not, in fact, exist, and
11 where services rendered to the organization are on a voluntary basis and are related
12 only to the organization's nonprofit activities; for purposes of this paragraph,
13 "nonprofit activities" means activities for which the nonprofit organization does

1 not incur a liability for unrelated business income tax under 26 U.S.C. 513, as
2 amended;

3 * Sec. 2. AS 23.10.055(16) is amended to read:

4 (16) an individual who

5 (A) provides emergency medical services only on a voluntary
6 basis;

7 (B) [OR AN INDIVIDUAL WHO] serves with a full-time fire
8 department only on a voluntary basis; or

9 (C) provides ski patrol services on a voluntary basis.

10 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Andrew Halcro, Vice-Chairman
Representative John Harris
Representative Lisa Murkowski
Representative Jerry Sanders
Representative Tom Brice
Representative Sharon Cissna



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
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MEMORANDUM

TO: The Honorable Jerry Mackie, Chairman
Senate Labor & Commerce Committee

FROM: Representative Norman Rokeberg, Chairman
House Labor & Commerce Committee *Norman Rokeberg*

DATE: March 25, 1999

RE: Committee Substitute for House Bill 123 (L&C)

I would request a hearing on CSHB 123 (L&C) before your committee. The bill passed the House yesterday on a vote of 38-0.

Attached are the following:

1. CSHB 123 (L&C)
2. Fiscal Note (zero)
3. Sponsor Statement
4. Sectional Analysis
5. Other Information:
 - a. Testimony of Chris Ross, Alaska Division Director, Alaska Ski Patrol
 - b. Letter from 2001 Special Olympics World Winter Games Alaska
 - c. Letter from Bruce Booher, Alyeska Ski Patrol
 - d. Letter from Bob Janes, Juneau National Ski Patrol
 - e. Letter from Carrie Folsom, Moose Mountain Ski Patrol
 - f. Testimony of Sean Edwards, Southeast Region Director, Alaska Division, National Ski Patrol
 - g. Letter from Joseph F. Wehrman, Anchorage
 - h. Joint Statement of Understanding Between the National Ski Patrol and the National Ski Areas Association (Revised July 1993)

If possible, I would request a teleconference hearing so that Mr. Ross and others may testify from Anchorage.

CS FOR HOUSE BILL NO. 123(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/16/99

Referred: Rules

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the exemption from the requirement for payment of minimum
2 wage and overtime compensation for certain volunteers of nonprofit organizations;
3 exempting individuals who provide ski patrol services on a voluntary basis from
4 the requirement for payment of minimum wage and overtime compensation; and
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9 religious, charitable, cemetery, or educational organization or other nonprofit
10 organization where the employer-employee relationship does not, in fact, exist, and
11 where services rendered to the organization are on a voluntary basis and are related
12 only to the organization's nonprofit activities;

13 * Sec. 2. AS 23.10.055(16) is amended to read:

- 1 (16) an individual who
- 2 (A) provides emergency medical services only on a voluntary
- 3 basis;
- 4 (B) [OR AN INDIVIDUAL WHO] serves with a full-time fire
- 5 department only on a voluntary basis; or
- 6 (C) provides ski patrol services on a voluntary basis.
- 7 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 123

Revision Date/Time (Note if correction): _____
 Title: Exempt Vol. Ski Patrol From
Minimum Wage
 Sponsor: House L&C
 Requester: House L&C

Department Affected: Labor
 BRU: Labor Standards & Safety
 Component: _____
Wage and Hour
 COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
CHANGE IN REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
FUND SOURCE #						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

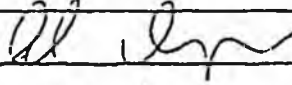

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY99) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This bill exempts non-profit ski patrols from the state minimum wage and overtime laws.. Currently, the only non-profit groups that may accept volunteer labor are those that are organized for religious, educational, charitable or cemetery purposes.

Prepared by: Al Dwyer, Director  Phone: 485-4855
 Division: Labor Standards & Safety Date/Time: 3/8/99 10:16 AM
 Approved by Commissioner: Ed Flanagan, Commissioner 
 Agency: Department of Labor Date: 3/8/99

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Representative Jerry Sanders
Representative Tom Brice
Representative Sharon Cissna



State Capitol
Juneau, AK 99801-1182
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Fax: (907) 465-2040

SPONSOR STATEMENT CSHB 123 (L&C)

An Act relating to the exemption from the requirement for payment of minimum wage and overtime compensation for certain volunteers of nonprofit organizations; exempting individual who provide ski patrol services on a voluntary basis from the requirement for payment of minimum wage and overtime compensation; and providing for an effective date.

CSHB 123 would exempt potentially thousands of *volunteers for nonprofits* and the approximately 400 *volunteer* ski patrol members who assist in saving lives and provide educational information about emergency care, avalanche danger, mountain travel, etc. The current exemption list in AS 23.10.055 does include an exemption for volunteer emergency medical providers [AS 23.10.055(16)]; and volunteers for nonprofit religious, charitable, cemetery or educational organizations [AS 23.10.055(6)]. Exemptions for general nonprofits engaged in their nonprofit activities and volunteer ski patrol members are not specifically set forth under current law.

The CS, which was fashioned in cooperation with the Department of Labor who suggested the language change addressing nonprofits in AS 23.10.055(6), would cover both nonprofits and ski patrollers. In addition to the Alaska Division of the National Ski Patrol, the bill is supported by the 2001 Special Olympics World Winter Games Alaska.

A problem arises with volunteer ski patrollers because they volunteer at private ski resorts as well as municipal or nonprofit ski resorts and perform their volunteer duties under the direction of a ski area operator, a public lands administrator, etc. In addition to the volunteer ski patrollers, there may be other paid employees involved in similar work. This brings us to the problem area and the reason the exemption is needed: Because volunteer ski patrollers are not specifically named in the authorized list of people/groups who are exempt from the minimum wage and overtime statutes in Alaska, it may be illegal to use volunteer patrollers.

Volunteers provide valuable services to all Alaskans (such as the volunteer ski patrollers did at the recent Alyeska avalanche). We would encourage the adoption of CSHB 123 (L&C) so that such services can continue to be offered. Without this language, there is a real danger that nonprofit volunteers and volunteer ski patrols in Alaska could cease to exist.

Your support would be appreciated.

ED2:03/17/99

ALASKA STATE LEGISLATURE

HOUSE LABOR AND COMMERCE COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Andrew Halcro, Vice-Chairman
Representative John Harris
Representative Lisa Murkowski
Representative Jerry Sanders
Representative Tom Brice
Representative Sharon Cissna



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4954
Fax: (907) 465-2040

SECTIONAL ANALYSIS CSHB 123 (L&C)

An Act relating to the exemption from the requirement for payment of minimum wage and overtime compensation for certain volunteers of nonprofit organizations; exempting individuals who provide ski patrol services on a voluntary basis from the requirement for payment of minimum wage and overtime compensation; and providing for an effective date.

Prepared by Rep. Norman Rokeberg

- Section 1:** Amends the nonprofit exemption contained in AS 23.10.055(6) to make clear that volunteers for nonprofits who perform activities related to the organization's nonprofit activities are exempt from the Alaska Wage and Hour Act.
- Section 2:** Adds an individual who provides ski patrol services on a voluntary basis to the list of persons exempted from Alaska Wage and Hour Act in AS 23.10.055(16).
- Section 3:** Effective date: Immediate.

ED2:03/22/99

Testimony of Chris Ross
On HB 123 at the
Labor and Commerce Committee Hearing
March 10, 1999 via Teleconference

Good afternoon Mr. Chairman, Distinguished Committee Members and Guests.

My name is Chris Ross. I am employed by NANA Development Corporation as the Corporate Health, Safety and Environmental Manager. I currently serve on the Alaska Safety Advisory Council, as an Industry Representative and chair the Governor's Annual Safety and Health Conference.

But today I am here as a member of the National Ski Patrol System where I am a volunteer ski patroller at Mt. Alyeska.

During the past twenty-two years that I have been a ski patroller I have served in training and testing capacities as a Patrol Candidate Trainer, a Region Proficiency Examiner, Region Director, the Division Mountaineering Advisor, the Division Ski and Toboggan Advisor, and the Division Certified Advisor.

I have served the patrol as the volunteer Patrol Director at Mt. Alyeska for past ten years, and I am currently the Division Director for the Alaska Division NSP.

Throughout the history of the NSP, its members have devoted a significant part of their lives to providing the public with emergency care, rescue services, and education programs that promote the safety and enjoyment of mountain recreation. As a result, thousands of injured people have received prompt, skillful emergency care, and numerous lives have been saved.

The history of NSP is rich and varied, reflecting the dedication of members who are motivated by a love of outdoor recreation and the desire to help those in need. This long tradition of promoting the enjoyment and safety of skiing prompted the United States Congress to grant a federal charter to the NSP under Public Law 96-489. The NSP is registered under Section 501(c)(1) of the Internal Revenue Service Code as a nonprofit association organized and operated exclusively for educational purposes. Subordinate units are granted exempt status under section 501(c)(3).

NSP is dedicated to providing its members with educational programs and materials that will help them fulfill their role within the outdoor recreation community, whether in the context of skiing, snowboarding, or other activities. Normally, NSP members provide this service *under the direction of a ski area operator, a public lands administrator, military base commander, ski club, or municipality*. This is a very important distinction, as it forms the basis of the current issue.

The mission of the national organization is somewhat different than that of its subunits (local patrols). The mission of the NSP *national organization* is to provide its members with educational resources to help them fulfill the duties required of them required by area management. The association's goal is to provide high quality training programs in multiple disciplines and to deliver these programs to the membership in a cost-effective manner.

Nearly 30% of the patrollers registered in Alaska are instructors, an amazing percentage. Just a few NSP programs offered locally include:

- Outdoor Emergency Care
- Basic and Advanced Avalanche
- Basic and Advanced Mountaineering
- Alpine Toboggan Handling
- Basic Patroller Training
- Instructor and Leadership Development

And many others.

The Alaska Division of the National Ski Patrol currently has nearly 400 patrollers registered in eighteen patrols across the state. Each of these patrols serves a different ski area (or geographical area in the case of the Anchorage Nordic Patrol and Pioneer Peak Ski Patrol).

Ski areas in Alaska are a bit unique in that we have a quite a mixture of ownership. We have publicly owned areas (such as Hilltop and Juneau); privately owned areas (such as Moose Mountain, Mount Aiyeska and Aurora SkiLand); military areas (such as Hillberg, Arctic Valley Military, Birch Hill, Ravenwood and Black Rapids); privately owned non-profit area (Alpenglow and Mt. Eyak) and a Nordic patrol that services most all of Southcentral Alaska on lands that are public, private, municipal, state and federal.

It is important to note, however, that a patrol, once established at a given ski area, is under the supervision and direction of the ski area manager or local public lands administrator and must abide by the policies and procedures established by management. The ski area manager or public lands administrator ultimately supervises and controls the patrolling activities of individual NSP members and patrols at each ski area. While an area's paid patrollers are *employees* of the area, the area's volunteer patroller are *agents* of the area.

By virtue of an oversight, however, the current Alaska wage and hour statutes appear to make the use of volunteer patrollers impossible at many of our local ski areas. Because the current wording in the Alaska statues (AS 23.10.055) does not expressly allow volunteer ski patrollers; a valid interpretation of the law is that volunteer patrollers are not legally allowed to patrol at any entity not specifically excluded by exemption (such as the non-profit area in Anchorage and perhaps the municipal areas). Although there is not consensus on the status of these patrollers or areas either.

We do not believe the legislature intended these results. The exemption list already provides wage and hour exemption for groups such as volunteer ambulance attendants, volunteer fireman, volunteers for non-profit associations and other similar groups.

Because only two ski resorts in Alaska are non-profit organizations (the others being military, municipal, or for-profit), these current exemptions may not apply.

Legislation is needed to include the term "volunteer ski patroller" in AS 23.10.055 (the exemption list), to allow the NSP to continue in the State of Alaska. This solution is accomplished by the wording in House Bill 123. This legislation will have zero fiscal impact. This legislation is fully supported by our all of our division ski patrol members, each ski area operator, and all public lands administrators.

So why do we want volunteer patrollers to continue to exist in Alaska?

Probably the single biggest reason is that without the support of the volunteer patrollers in Alaska, ski patrols would cease to exist as we know them today. As previously mentioned, nearly 30% of the patrollers in Alaska are instructors. Take away the instructor cadre and there will be no Outdoor Emergency Care; Avalanche or Mountaineering Training; or any other NSP educational programs. If you take away the volunteer leadership and administration there will be no direction, patrol registration, newsletters, instructor support group or funding to accomplish any of our programs.

The second reason is that the organization and the individuals have a long tradition of service and support to the outdoor community. The NSP has been volunteering at ski areas for the past sixty years - nationally and in Alaska. During that time no volunteer ever anticipated that they would be covered under the provisions of minimum wage or overtime laws. This legislation will have no effect on the status of paid patrollers - this is only to rectify the status of volunteer patrollers.

Finally the members of NSP are some of Alaska's generous volunteers. In addition to volunteering their time to serve the outdoor public, almost every patroller is involved in additional civic, community or cultural volunteer activities. Volunteerism must be allowed to flourish and grow, especially as budgets get tightened and we have fewer resources available. Alaska Division NSP members offer the community a tremendous wealth of talent, leadership, technical expertise and time. You will find our members working with mountain rescue teams, Search and Rescue Dogs, American Red Cross, American Heart Association, volunteer ambulance crews, volunteer fire departments, local sporting events (such as Run for Women, Mayor's Marathon and dozens of other events) and many more activities.

But until a new law is enacted, we may not be able to volunteer our time as ski patrollers at many of Alaska's ski resorts.

NSP volunteers want to continue to ski at the mountains where we have been patrolling for the past sixty years. We want the opportunity to continue to offer our talents to recruit and train patrollers. And we want the legislature to correct this oversight in wage and hour law by passing House Bill 123.

Thank you for your attention Mr. Chairman and Distinguished Committee members and I would be happy to answer any questions you may have.

Chris Ross
Alaska Division Director
National Ski Patrol
PO Box 92207
Anchorage, AK 99509
907-265-4113



2001 Special Olympics World Winter Games Alaska
701 W 8th Ave Suite 412
Anchorage, AK 99501
Tel: 907-277-2477
Fax: 907-277-2472

FACSIMILE COVER PAGE

To: Norm R Rokeberg	From: Ben Stevens
Fax #: 19074652040	Fax #: 907-277-2472
Company: Alaska State Leg.	Tel #: 907-277-2477

Subject:

Sent: 3/11/99 at 10:55:14 AM

Pages: 1 (including cover)

MEMO:

Dear Representative Rokeberg:

Please accept this letter in support of CSHB 123 exempting non-profit organizations from hourly and overtime wage compensation regulations for volunteers. The 2001 Special Olympics World Winter Games will require countless hours of volunteer time and commitment. Our estimates indicate we will need over 3,200 volunteers to perform myriad of tasks during the execution of these 2001 Games and our obligated pre-games in 2000.

Organizations like Special Olympics could not function without non-compensated volunteers. If compensation, payroll taxes and overtime pay were required, we would not have the financial resources to execute local Special Olympic games let alone the World Special Olympics games.

Thank you for addressing this issue and thank you for your dedication to all citizens of Alaska.

Ben A. Stevens
President & CEO

MAR 11 1999

March 10, 1999

Via: Facsimile

Representative Norm Rokeberg
House Labor and Commerce Committee
130 Seward St.
Juneau, AK. 99801

Dear Representative Rokeberg:

Please give your support to HB 123 which exempts a person who provides ski patrol services on a voluntary basis from the requirement for payment of minimum wage and overtime compensation.

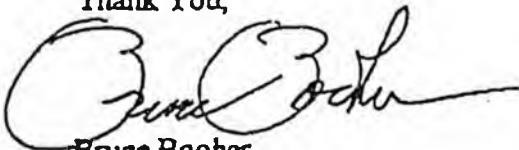
The volunteer ski patrol provides excellent on-mountain coverage to ski areas throughout Alaska with volunteers from all walks of life. As an example, the volunteer patrol at Alyeska Ski Resort includes dentists, lawyers and teachers as well as business owners, service technicians and sales people.

Training standards are high and are set by the National Ski Patrol, an organization every patroller is a member of. In Alaska it is the volunteer patrollers, certified by the National Ski Patrol, that provide training for all new volunteer and professional patrollers.

The ski patrol is an excellent way for many of us to give something of value back to our community. Each of us does so without need of, or desire for, wage or overtime compensation. Rather, it is felt to be an excellent method of attaining excellent first aid and communication skills and utilizing those skills in a way that benefits the skiing public.

Again, please support HB 123 and through that support, the volunteer ski patrol throughout Alaska.

Thank You,



Bruce Booher
Alyeska Ski Patrol - Senior Patroller
3930 North Point Dr.
Anchorage, AK. 99515

MAR 10 1999

Bob Janes
P.O. Box 240432
Douglas, Ak 99824

March 10, 1999

PUBLIC OPINION MESSAGE

FAX To: Alaska House of Representatives (465-2864)
Labor and Commerce Committee
Attention: Representative Norman Rokeberg, Chairman

Dear Representative Rokeberg:

This message is in support of HB 123 to Exempt Volunteer Ski Patrollers from the Alaska wage and hour statutes. I understand you have a committee hearing on it, scheduled for 3:15pm today.

I have been a resident of Douglas, Alaska for thirty three years, and during this period I have served as an active volunteer ski patroller with the Juneau National Ski Patrol. I believe our services to the public are very comparable to other groups that have been specifically named in the authorized list of people who are exempt from the minimum wage and overtime statutes in Alaska. Specifically, volunteer firemen, and volunteer ambulance attendants perform similar services to our patrolling duties of providing outdoor emergency care to injured persons on the ski slopes at operating ski areas throughout the state.

You already have a position paper from the Alaska Division of the National Ski Patrol which fully explains the reasoning for the requested legislation to include our group in the exemption list. As a member of that organization, I fully support the stated position.

Sincerely,



Bob Janes

Juneau National Ski Patrol

Talked with

Walker in

Jewaid that

this would

not be a

AJC confirmation

hearing. He's

OKAY.

apologized!

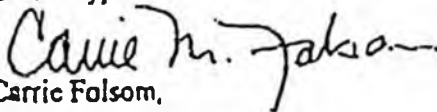
D.C.

Fairbanks Legislative Info. Office
119 N Cushman, Suite 101
Fairbanks, AK. 99701-2879
Phone: (907) 452-4448
Fax: (907) 456-3346

To Whom It May Concern:

This is pertaining to the BILL: HB 123. We, all of Ski Patrol support the HB 123 Bill. We enjoy Voluntarily putting in time to feel as though we are giving the skiing community our care and support of safe fun skiing. So please we need the exemption provided in the HB 123 Bill. "We Need Your Support."

Sincerely,



Carrie Folsom,
Fairbanks, AK.
Moose Mtn. Ski Patrol.

Testimony of Sean Edwards
On HB 123 at the
Labor and Commerce Committee Hearing
March 10, 1999

Good afternoon Mr. Chairman, Distinguished Committee Members and Guests.

My name is Sean Edwards, I am a volunteer ski patroller at Eaglecrest here in Juneau. I have been involved in the Juneau Ski Patrol for most of the past 15 years. I have served as Patrol Director, Outdoor Emergency Care and Avalanche Instructor, and I am currently the Southeast Region Director for the Alaska Division.

Today I would like to talk about the roles we play as members of the National Ski Patrol and at the local patrol level. As members of the National Ski Patrol we are involved in providing our membership with exceptional training programs such as Outdoor Emergency Care. As members of the local patrol we provide Emergency Rescue and Care to the skiing public.

As the skiing industry evolved it became necessary to define the roles of the National Ski Patrol, its members and ski area management. The Joint Statement of Understanding Between the National Ski Patrol and the National Ski Areas Association gives us this definition. I have included a copy with my written testimony.

In a nutshell when we are providing our members with the National Ski Patrol training programs we are involved in a non-profit educational organization which is clearly exempted from wage and hour laws. When we are providing patrol services we act as agents of the ski area management or public lands administrator. This is where the situation becomes less clear, because of the variety of entities responsible for ski area operations such as private companies, public lands administrators, military commanders ski clubs or municipalities.

Most of the ski areas in the state are not run by non-profit organizations and this is where the potential conflict lies. Without a specific exemption many volunteer patrollers may be subject to wage and hour laws which would end volunteer ski patrolling in Alaska.

As a volunteer patroller I ask that you pass HB 123 which will allow myself and the 400 other members of the National Ski Patrol in Alaska to continue to volunteer and spend our time patrolling.

Thank you for your time and attention. If you have any questions I would be happy to answer them as best I can.

Sean Edwards
Southeast Region Director
Alaska Division
National Ski Patrol
4350 Taku Blvd.
Juneau, AK 99801
907-789-1224

Friday, March 12, 1999

VIA FAX

Representative Norman Rokeberg
State House of Representatives
State Capitol, Room 24
Juneau, Alaska 99801-1182

MAR 12 1999

Dear Representative Rokeberg:

I am writing in absolute support of HB 123 exempting the volunteer members of the National Ski Patrol from the requirements of the wage and hour provisions under Alaska Statutes. The United States has long been a country where the spirit of volunteerism has been the cornerstone of life. From the days of the "barn raising", to helping a neighbor in need with home maintenance, to relief from natural disasters such as floods and fires, people volunteering to help their neighbors and strangers alike have made this country strong and tied its people together.

It is ironic that the State would have an oversight in legislation that discourages the substantial contribution of volunteers. As someone who has spent their entire life helping people in one forum or another with great personal satisfaction, I would like to see the legislation passed this session (HB123) in order that I might continue.

The National Ski Patrol volunteers provide a wide variety of assistance to all types of outdoor sports enthusiasts throughout the year. We have helped with foot and mountain bike races in the summer; cross country ski meets, adventure skiing such as the annual Nordic Ski Train, extreme skiing national events at Valdez, skier safety education and emergency first aid at all the alpine ski areas (and many wilderness ski areas such as Hatcher Pass) in Alaska, and backcountry search and rescue for avalanche situations. I sincerely believe that the State and its residents have benefited greatly from these activities.

Now the increases in litigation and people trying to pass on liability for their own actions have expanded to threaten even such benign activities as National Ski Patrol volunteerism. When I injured my knee training for the Ski Patrol some eight years ago, it never occurred to me that anyone else should be liable for that injury except myself. I know that most of my fellow volunteers feel the same way. The statutory change is required to protect from lawsuits the groups and areas that allow volunteers to help make the experiences safer and care for injured sports participants to minimize the disruptions in their lives.

This legislation does NOT open a "Pandora's Box" of further legislation. It cannot be construed as applying to other groups - or be extrapolated to other groups of volunteers. I fail to comprehend how any individual or agency in good conscience could challenge the value of volunteers in any form to contribute to society. The fact is that the volunteers of the National Ski Patrol make great efforts to provide for increased

enjoyment and safety of outdoor sports participants without asking for anything in return except the satisfaction of helping others. It should be of paramount importance to the legislature that the public is not denied the benefits of the services provided by the volunteers of the National Ski Patrol in the future.

You and your fellow legislators have the opportunity at hand to make a continuation of volunteerism a reality without harming anyone. How much more of a positive statement can you make in this period of increasing demands on our citizens? I urge you to seize this opportunity to make a positive contribution to outdoor sports enthusiasts throughout Alaska by passing this legislation and following it up through the Senate to insure it becomes a reality!

Sincerely:

Joe Wehrman

Joseph F. Wehrman III
P.O. Box 244435
Anchorage, Alaska 99524

(907) 522-3611

∴ Representative Rokeberg - please share this with your fellow Committee Members and any others you feel appropriate. A lot of people really would benefit from this legislation!

Thanks!

Joe Wehrman

mefect@alyska

Joint Statement of Understanding Between the National Ski Patrol and the National Ski Areas Association (Revised July 1993)

This Joint Statement of Understanding is intended to define the relative positions of general ski area management, through the auspices of the National Ski Areas Association (hereafter NSAA), and the National Ski Patrol (hereafter NSP) and its member volunteer patrols and patrollers. It is recognized that matters which may not be covered in this Joint Statement may develop from time to time in the future, and that such matters may, by mutual agreement, be the subject of a further expansion of this Joint Statement of Understanding, if necessary and agreed upon.

It is recognized between the parties to this Joint Statement or Agreement that individual groups of volunteer patrollers may form and/or belong to a patrol organization that is itself a member of the NSP. However, any NSP member or group of patrollers performing ski patrol services at a ski area in the United States is subject to the following:

1. A patrol, once established at a given ski area, is under the supervision of the ski area management and must abide by the policies and procedures established by that management.
2. The patrol director of any NSP volunteer patrol shall, if required by area management, certify that all patrollers at that area have completed the training and educational requirements set forth by the NSP Board of Directors and have met all Outdoor Emergency Care (OEC) requirements.
The NSAA encourages its member areas to require patrollers at each area to meet the current NSP training and educational criteria or their equivalent.
3. Management shall, at all times, have the right to approve the selection of the volunteer patrol director. Management shall likewise have the right to dismiss the patrol director or any patroller at any time. If requested by area management, the NSP division director shall confirm management's decision in this regard.
4. NSP and NSAA recognize the importance of educating lift evacuation participants as to appropriate lift evacuation techniques and the specific implementation details in the ski area lift evacuation plan. The establishment of necessary policies and procedures for lift evacuation, lift evacuation training, and the selection of equipment to be used in conjunction with such evacuation or training is the sole responsibility of ski area management. Patrollers will participate in lift evacuation and lift evacuation training only as ski area management shall direct.
5. Both the NSP and ski area management agree that incident investigation and documentation is an important element of patrol activity. To that end, ski area management shall establish a procedure for accurate compilation, safe retention, authorized disclosure of and controlled access to information and documentation relating to any incident. As such, no patroller shall make any statement regarding any incident to anyone, other than to proper authorities having rightful jurisdiction. Any such inquiry shall, in any event, and in the first instance, be referred to area management or its appointed representative.
6. It is recognized that ski area management ultimately supervises and controls many of the patrolling activities of individual NSP members and patrols at each ski area. As such, it may be asserted that the ski area bears legal responsibility for such acts of its patrollers. It is also understood and agreed that there are services provided by individual NSP members based upon their training received from NSP. To the extent that claims are made against individual ski areas relating to activities over which ski area management has ultimate supervision or control, it is agreed that the ski area should make no claim or demand or suit against NSP or its directors, officers, and employees. Likewise, to the extent that the basis for any such claim relates to areas of specialty training of individual patrollers by NSP, NSP should not make any claim against individual ski areas, regardless of any claim made against them.
7. It is specifically understood between the parties to this Agreement that nothing herein, and nothing contained in any individual agreement between the NSP and individual ski areas based on the Joint Statement of Understanding, shall in any way vary the clear, non-employee status of individual volunteer patrollers. In fact, it is expressly understood between the NSP and the NSAA, as well as the membership of both organizations, that the volunteer patrollers are not and have not been employees, but agents when acting within the scope of their assigned duties, in view of the voluntary nature of their patrolling services.

Post-It [®] brand fax transmittal memo 7671		# of pages	1
To	Senator Jerry Mackie		
Co.	Mackie		
Dept.			
Fax #			
From	Larry Daniels		
Co.			
Phone #			
Fax #			

April 14, 1999

Senator Tim Kelly
 State Capitol
 Juneau Alaska 99801-1182
 Fax (907) 465-3756

Re: HB 123

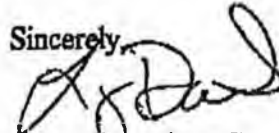
Dear Senator Kelly;

First of all, let me apologize for not having an Alyeska Resort representative at the Senate Labor and Commerce Committee Hearing on Tuesday. I am told that you had a concern about volunteer patrollers losing their worker's compensation coverage if HB 123 passed.

Alyeska Resort currently covers volunteer patrollers under our worker's compensation insurance and intends to continue this coverage. We have no problem with a statutory requirement to do so.

We will have a representative telephonically present at your next hearing on Thursday should you have any further questions.

Sincerely,



Larry K. Daniels, General Manager
 - Alyeska Ski Area & The Anchorage Golf Course

- xc. Chairperson Senator Jerry Mackie,
 Senate Labor and Commerce Committee, Fax (907) 465-3517
- Chris Ross, National Ski Patrol, Fax 265-4382
- Gary Mendavil, Eagle Crest Ski Area, Fax (907) 586-5677



P.O. Box 248
 GLENWOOD, ALASKA 99807
 TELEPHONE (907) 754-2211
 FAX (907) 754-2200

SB

141

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 141

Revision Date/Time (Note if correction) _____ Dept. Affected DOT&PF
 Title Contracts/Sub-Contracts BRU Commissioners Office
 Component _____
 Sponsor Senator Leman
 Requester (S) L&C Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by Dennis Poshard, Legislative Liaison Phone 465-3904
 Division Office of the Commissioner Date/Time 4/19/99 11:28 AM
 Approved by Commissioner [Signature] Date 4/19/99
 Agency Department of Transportation and Public Facilities

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1-LS0827G ✓
Bannister
4/20/99

CS FOR SENATE BILL NO. 141(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR LEMAN BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to construction contracts and subcontractors; relating to design-
2 build construction contracts; and providing for an effective date."

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

4 * Section 1. AS 36.30.115(b) is amended to read:

5 (b) A construction contractor or the [THE] apparent low bidder for a
6 construction contract may replace a listed subcontractor if the subcontractor

7 (1) fails to comply with AS 08.18;

8 (2) files for bankruptcy or becomes insolvent;

9 (3) fails to execute a contract with the construction contractor or

10 bidder involving performance of the work for which the subcontractor was listed and

11 the construction contractor or bidder acted in good faith;

12 (4) fails to obtain bonding;

13 (5) fails to obtain insurance acceptable to the state;

14 (6) fails to perform the contract with the construction contractor or

1 bidder involving work for which the subcontractor was listed;

2 (7) must be substituted in order for the [PRIME] contractor to satisfy
3 required state and federal affirmative action requirements;

4 (8) refuses to agree or abide with the [BIDDER'S] labor agreement of
5 the construction contractor or bidder; or

6 (9) is determined by the procurement officer not to be a responsible
7 subcontractor.

8 * Sec. 2. AS 36.30.115 is amended by adding new subsections to read:

9 (f) In addition to the circumstances described in (b) of this section, a
10 construction contractor may request permission from the procurement officer to add
11 or replace a listed subcontractor. The request must be in writing, specifically detailing
12 the basis for the request, and include appropriate supporting documentation. The
13 procurement officer shall approve the request if the procurement officer determines in
14 writing that the requested addition or replacement is in the best interest of the state.

15 (g) The requirements of this section do not apply to a design-build construction
16 contract.

17 (h) In this section, "construction contractor" means a person who enters into
18 a construction contract with an agency.

19 * Sec. 3. AS 36.30.200(c) is amended to read:

20 (c) When the commissioner of transportation and public facilities determines
21 that it is advantageous to the state, a procurement officer may issue a request for
22 proposals requesting the submission of offers for a design-build construction
23 contract [TO PROVIDE CONSTRUCTION IN ACCORDANCE WITH A DESIGN
24 PROVIDED BY THE OFFEROR]. The request for proposals must [SHALL] require
25 that each proposal submitted contain a single price for the entire design-build
26 construction contract [THAT INCLUDES THE DESIGN/BUILD].

27 * Sec. 4. AS 36.30.210(b) is amended to read:

28 (b) An offeror for a construction contract shall submit evidence of the offeror's
29 registration under AS 08.18. A request for sealed proposals for a construction
30 contract, except a design-build construction contract, must require the offeror, no
31 later than five working days after the proposal that is the most advantageous to the

1 state is identified, to list subcontractors the offeror proposes to use in the performance
2 of the construction contract. The list must include the information required under
3 AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to a
4 construction contractor or an apparent low bidder [AS 36.30.115(b) - (e)] apply
5 to offerors submitting competitive sealed proposals for construction contracts, except
6 design-build construction contracts.

7 * Sec. 5. AS 36.30.210 is amended by adding a new subsection to read:

8 (f) In this section, "construction contractor" has the meaning given in
9 AS 36.30.115.

10 * Sec. 6. AS 36.30.990 is amended by adding a new paragraph to read:

11 (23) "design-build construction contract" means a contract to provide
12 construction in accordance with a design provided by the contractor.

13 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189
Web Site: <http://www.akrepublicans.org/Leman.htm>

Session: State Capitol, Juneau, AK 99801 (907) 465-2095
Email: Senator_Loren_Leman@legis.state.ak.us

Sponsor Statement for SB141

"An Act relating to construction contracts and subcontractors; relating to design-build construction contracts; and providing for an effective date."

Background/Legislative Intent

This bill was introduced on behalf of the Department of Transportation and Public Facilities and is intended to accomplish two things:

- 1) Excludes Design/Build contracts from the requirement to list subcontractors within five days after award of the contract

Currently, AS 36.30.115 gives direction on listing and replacing subcontractors, and penalties that may apply when a bidder violates provisions of this statute. AS 36.30.115 was enacted in 1986 with the purpose of encouraging and stimulating competition, giving a fair and equal opportunity to all prospective subcontract vendors, assuring that all qualifying vendors have the opportunity to bid, and providing a deterrent to the practice of bid shopping.

The problem with AS 36.30.115 is the five-day contractor notice requirement that states:

- (a) Within five working days after the identification of the apparent low bidder for a construction contract, the apparent low bidder shall submit a list of the subcontractors the bidder proposes to use in the performance of the construction contract.*

The statute negates the ability to do design/build procurements and comply with the law at the same time.

The operating framework of design/build contracting is different from that of all other types of construction contracts. The contractor often does not know who his subcontractor(s) will be until he is well into the design and/or construction process - certainly past the five-day notification requirement.

The legislation changes the restrictive statutory language allowing design/build contracting without subcontractor selection notification as a condition of contract award.

2) Provides for the addition or replacement of a subcontractor when found to be in the state's best interest

In certain circumstances, during the performance of a construction contract, it may be necessary to add or delete a subcontractor from the contract. The state needs specific authority to take such action, when shown to be in the state's best interest.

When a contract must be expanded or decreased due to changed conditions, the state's project manager may need to have the ability to add or release a subcontractor under the contract. Without the statutory authority to make these subcontractor additions or deletions, the contractor would be in violation of the law if they took this action, even if the state supported the change.

Under this legislation, the requirement of having each such request submitted and approved in writing before such action is taken preserves the integrity of the procurement/contract process.



SENATOR LOREN LEMAN

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Session: State Capitol, Juneau, AK 99801 (907) 465-2095
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Analysis of Bill/Program Effects

1) Under this legislation, AS 36.30.115 is amended by adding new language that specifically excludes design/build projects from conformity with the subcontractor notification requirements prior to contract award.

2) Under this legislation, AS 36.30.115 is amended by adding new subsections that will specifically allow for the state to add or replace a subcontractor when found in the best interest to so do.

There will be certain administrative and procedural advantages realized by this legislation relative to the design/build method of procurement/contracting and subcontractor addition or replacement. This legislation will not change or decrease the original intent of the law in either respect nor will there be any adverse budgetary impacts.

3) The Association of General Contractors supports these changes.

SB

144

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 144

Revision Date/Time (Note if correction) _____ Dept. Affected DOT&PF
 Title Charitable Gaming and Gaming on Ferries BRU Commissioners Office
 Component _____
 Sponsor Senator Taylor
 Requester (S) L & C Component Serial No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	------------	------------	------------	------------	------------	------------

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Specify Type)	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Prepared by Dennis Poshard, Legislative Liaison Phone 465-3904
 Division Office of the Commissioner Date/Time 4/19/99 11:23 AM
 Approved by Commissioner [Signature] Date 4/19/99
 Agency Department of Transportation and Public Facilities

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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 19, 1999

SUBJECT: Charitable Gaming and State Ferries
Sectional Summary - SB 144 (Work Order No. 20-LS0730\A)

TO: Senator Robin Taylor
Attn: Mel Krogseng

FROM: Gerald P. Luckhaupt *GL*
Legislative Counsel

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

Section 1 makes changes in the regulation authority of the Department of Revenue to account for the creation of video lottery vendors.

Section 2 expands the department's authority to examine books to account for the creation of video lotteries.

Section 3 adds video lottery machines in regard to the department's functions under this section.

Section 4 authorizes the department to issue video lottery permits to permittees.

Section 5 expands the reach of this section to account for the addition of video lotteries.

Section 6 provides that permittees make not contract with operators to conduct video lotteries.

Section 7 allows municipal prohibition of video lotteries.

Section 8 makes a change to account for the addition of video lotteries.

Section 9 eliminates political uses as a charitable use of gaming proceeds and makes a video lottery conforming amendment.

Section 10 adds video lotteries to this section.

Senator Robin Taylor
April 19, 1999
Page 2

Section 11 makes a conforming change due to the addition of video lottery gaming.

Section 12 makes a conforming change for the addition of video lottery machines.

Section 13 adds video lotteries to the list of authorized activities under this section.

Section 14 excludes video lotteries from the \$1,000,000 prize limitation of this section.

Sections 15, 16, 17, and 18 make technical changes to account for the creation of video lottery vendors.

Section 19 adds sections authorizing and providing for video lotteries.

Section 20 adds video lotteries in this local option provision.

Section 21 creates a new subsection for video lotteries in this provision relating to local option elections.

Section 22 provides a technical amendment for the change made in sec. 16 and to account for the creation of video lotteries.

Section 23 provides new criminal penalties relating to the use and misuse of video lottery machines.

Section 24 eliminates political and labor organizations from the list of qualified organizations eligible to perform charitable gaming.

Section 25 amends the definition of vendor necessitated by the of video lotteries.

Section 26 provides definitions.

Section 27 modifies the definition of gambling under the criminal code to allow for video lotteries on state ferries.

Section 28 modifies the definition of gambling device under the criminal code.

Section 29 provides that a vessel of the Alaska Marine Highway System conducting video lottery gaming is not a gambling enterprise.

Section 30 authorizes the Alaska Marine Highway System to operate video lottery machines on board its vessels.

Sections 31 and 32 provide technical amendments to ch.13, SLA 1995.

Section 33 provides repealers.

Senator Robin Taylor
April 19, 1999
Page 3

Section 34 authorizes the Department of Revenue to begin adopting regulations before the effective date of the rest of the bill.

Sections 35 and 36 provide effective dates.

GPL:glc
99-191.glc

Revenue Drivers

① NO CONTROLS OVER EXPENSES

② WHO CAN ENTER MARKET
of permits/operators

③ Rate of pay goes up

\$ 2 MAX of 1000⁰⁰ /
VERSUS 500⁰⁰

DEPT of Revenue +
SOCIAL CONSCIENCE

+ Regulate power operators
+ Regulate but at the machine
no bad "crash course of spending"

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 144

Revision Date/Time (Note if correction) _____ Dept. Affected DOT&PF
 Title "An Act relating to charitable gaming and to BRU Alaska Marine Highway System
gaming on state ferries;..." Component Southeast Vessel Operations
 Sponsor Senator Taylor
 Requester Senate Labor and Commerce Component Serial No. 630

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual		13.5	27.1	27.1	27.1	27.1
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	13.5	27.1	27.1	27.1	27.1
CAPITAL EXPENDITURES	0.0	160.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	90.5	181.0	181.0	181.0	181.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
AK Marine Highway System Fund		13.5	27.1	27.1	27.1	27.1
TOTAL	0.0	13.5	27.1	27.1	27.1	27.1

Estimate of any current year (FY99) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

(See Attached)

Prepared by Dennis Poshard, Legislative Liaison Phone 465-3904
 Division Office of the Commissioner Date/Time 4/21/99 2:08 PM
 Approved by Commissioner [Signature] Date 4/20/99
 Agency Department of Transportation and Public Facilities

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Fiscal Note Analysis

SB 144

"An Act relating to charitable gaming and to gaming on state ferries; and providing for an effective date."

Department of Transportation and Public Facilities

This bill would permit the use of video lottery machines aboard the Alaska marine highway system vessels. If the Department of Transportation were to implement the use of these machines, we estimate a total of 16 machines would be purchased for use aboard the vessels. These machines would be placed in the bar areas of the vessels which is restricted to those ages 21 and older. It is assumed an implementation date of January 1, 2001. Cost and revenue estimates follow:

Capital Costs:

Video lottery machines cost about \$10,000 each. The total initial capital cost would therefore be 16 X \$10,000 or \$160,000.

Operating costs:

The cost of maintaining the machines is estimated at 15 % of the net machine revenues. We estimate a total yearly net revenue of \$181,000. The cost of maintenance would therefore be \$27,100 per year in contractual services.

Other operating costs would include power, telecommunications, and perhaps fees to the Dept. of Revenue. It is estimated these costs would be negligible.

Revenue:

Estimates from other states indicate we can expect \$400 in net machine revenue for each week a machine is in operation. The total number of machine operating weeks for the Marine Highway fleet would be approximately 452. This takes into account the number of weeks the vessels are in service as well as how many machines are aboard each vessel. Our total annual revenue is therefore 452 X \$400 or \$181,000.

Note: The operating costs and revenues for FY 2001 are half the yearly total because of a start date of January 1, 2001, which would only provide six months of service the first year.

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. SB 144

Revision Date/Time (Note if correction) April 21, 1999 Dept. Affected Revenue
 Title Charitable Gaming and Gaming on State Ferries BRU Revenue Operations
 Component Income and Excise Audit
 Sponsor Senator Taylor
 Requester (S) L&C Component Serial No. 113

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services		357.9	784.0	693.4	693.4	693.4
Travel		9.0	58.0	58.0	58.0	58.0
Contractual		1,481.9	1,821.9	1,821.9	1,821.9	1,821.9
Supplies		11.0	16.0	14.0	14.0	14.0
Equipment		60.5	27.5			
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	1,920.3	2,707.4	2,587.3	2,587.3	2,587.3

CAPITAL EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
CHANGE IN REVENUES (increase)	0.0	3,104-7050	8,278-18,801	9,313-21,151	10,348-23,502	10,865-24,678

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	1,920.3	2,707.4	2,587.3	2,587.3	1,821.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	1,920.3	2,707.4	2,587.3	2,587.3	2,587.3

Estimate of current year (FY99) cost: 0.0

POSITIONS

POSITIONS	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Full-time		10	15			
Part-time		1	1			
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** see attached analysis

Prepared by Brett Fried, Economist Phone 465-3682
 Division Income and Excise Audit Date/Time April 21, 1999
 Approved by Wilson L. Condon Date April 21, 1999
 Commissioner Wilson L. Condon
 Agency Department of Revenue

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**SECTIONAL ANALYSIS AND GENERAL OVERVIEW
BY THE DEPARTMENT OF REVENUE OF SB 144 –VIDEO LOTTERIES**

Section 1 amends AS 05.15.060(a) to extend the regulation authority of the department to video lotteries, including the issuance, renewal and revocation of vendor registrations, the investigation of vendors, and the disposition of funds in the possession of vendors.

Consistent with the addition of video lottery vendors under the bill to pull-tab vendors under current law, the bill makes numerous amendments in AS 05.15 to envelop and differentiate between the two types of vendors.

Section 2 amends AS 05.15.070 to extend the authority of the department to examine the books and records of a video lottery vendor, video lottery manufacturer, and video lottery distributor.

Section 3 amends AS 05.15.095(a) to extend the current law general provisions relating to the filing of applications and reports and payment of fees to licensed video lottery machine manufacturers and distributors and to registered video lottery and pull-tab vendors.

Section 4 amends AS 05.15.100 to provide that municipalities and qualified organizations must obtain a permit to conduct video lotteries through the use of video lottery machines by registered video lottery vendors.

Section 5 amends AS 05.15.105(a) to provide that persons convicted of certain crimes may not be involved in video lottery operations and that licenses may not be issued to vendors who employ such persons.

Section 6 amends AS 05.15.115(c) to provide that a permit holder may not contract with an operator to conduct video lotteries.

Section 7 amends AS 05.15.124 to extend the ability of municipalities to prohibit video lotteries in addition to pull-tab businesses.

Section 8 amends AS 05.15.128(a), pertaining to the revocation of an operator's license for the failure to report and pay certain minimum percentages, to exclude from coverage video lotteries consistent with Section 6 since operators may not engage in these activities.

Section 9 amends AS 05.15.150(a) to provide that net proceeds from gaming may not be used for political purposes or for payment to a lobbyist. However, the proceeds of raffles and lotteries may continue to be used for the designated political purposes specified in AS 05.15.150(a)(3)

Section 10 amends AS 05.15.160(d) to exclude video lotteries from the 90% expense limitation.

Section 11 amends AS 05.15.170, dealing with the suspension and revocation of permits, licenses, and registrations, to include video lottery vendors along with pull-tab vendors.

Section 12 amends AS 05.15.180(a), dealing with the limitations on the use of coin-operated machines and other gambling devices, to allow the use of such devices to the extent allowed under the video lottery provisions.

Section 13 amends AS 05.15.180(b) to add video lotteries as an activity that may be licensed even though not conducted in that form before January 1, 1959.

Section 14 amends AS 05.15.180(g) to remove video lotteries from the statutory prize limitations. Bingo continues to enjoy the same exemption from the prize limitation.

Sections 15, 16, 17 and 18 are housekeeping amendments to various provisions dealing only with pull-tabs.

Section 19 adds a new article 2A on Video Lotteries. Pursuant to AS 05.15.300, the department may issue a video lottery endorsement to a permit holder. The permit holder may contract with a video lottery vendor or conduct its own activities if it has a club license. A video lottery vendor is a venture with a business license under AS 43.70 and a beverage dispensary license under AS 04.11.090 or a package store license under AS 04.11.150 that conducts video lotteries on behalf of a permit holder.

An endorsement is issued for each gaming location. The permit holder must register a vendor and pay a fee of \$100 for each gaming location and \$100 for each video lottery machine at each location. A video lottery machine is an electronic video game of chance that simulates poker, keno, or blackjack using video display and microprocessors.

The video lottery endorsement must be posted at each location. The department must issue a permit for each machine and the permit must be posted on each machine. The department must be notified if a location changes. The failure to inform the department of changes, or to return permits after a change, is ground for suspension or revocation of a gaming permit.

Permit holders must execute written contracts with vendors. The department may inspect a contract and the department may declare the contract void and suspend or revoke the vendor registration and the permit if the contract would violate the gaming laws or regulations. The contracts are required to contain provisions to allocate the costs of buying or leasing the video lottery machines. A permit holder may not contract with more than five video lottery vendors and a vendor may not have more than 10 machines at any location.

The department must approve the breed of all video lottery machines. A permit holder may buy a machine from a distributor, or enter into a lease or lease-purchase agreement that must be approved by the department.

Vendor contracts must provide that net machine income is distributed 30% to the permit holder, 30% to the vendor, 15% to the state, and 25% to either the municipality or the state if the machine is located in the unorganized borough. Net machine income is the money inserted into a machine less cash credits paid back. The timing of the distributions is to be established by the department in regulation.

The game odds must be posted near each machine. The posting and the manner in which the odds are calculated is determined by the department. The machines may not be played by persons under age 21 or outside the legal hours of operation. The vendors must monitor the machines by a physical presence, video cameras, or mirrors, as well as by personal inspections.

Neither the permit holder nor the vendor may advertise the availability of the machines on the premises. If a municipality is "dry" but gaming is authorized, the department may issue an endorsement to a permit holder to conduct gaming in the manner permit holders with club licenses are authorized to conduct gaming but only if access is restricted to persons age 21 or over.

Pursuant to AS 05.15.310, a video lottery machine must meet specified conditions to be approved. The machine:

1. games must be authorized by the department.
2. must have no means of manipulation to affect the odds.
3. must accept cash and be designed to require a resetting if tampered with.
4. must have a non-resettable meter that maintains a permanent record of receipts, winnings, and credits.
5. must pay off winners by printing a ticket voucher containing various information.
6. must have software to maintain an electronic record of receipts, winnings, credits, and payback percentages.
7. must be linked to a central communications system although it need not be on-line or in constant communication. The department must approve the communication system and it cannot limit participation to only one manufacturer on either a cost basis to enable it to communicate or based upon the inability of a machine to communicate with the central communications system. This provision should be made clear regarding the nature of the linkage and whether there is a central communication requirement.
8. must not allow more than \$2 to be played on a game or award free games or credits in excess of \$125 per credit value of \$.25 played. This results in a maximum prize of \$1,000 on a \$2 bet.
9. total payoff must be 80% of the value of a \$.25 credit. This is unclear. It may be interpreted to mean that 80% of all credits wagered as reported by the machine, as

opposed to money paid in, must be paid out or credited to players. The basic formulas are assumed to be as follows:

- a) cash (credits) in + credits won – credits played – credits paid = 0
- b) cash (credits) in – credits paid = credits in + credits won – credits played
- c) cash (credits) in – credits paid = net machine income

Therefore, the effective cash payoff rate will be less than 80% as a player continues to play with the credits won.

Pursuant to AS 05.15.320, a manufacturer, seller, or distributor of video lottery machines and related equipment must be licensed by the department. The manufacturer's license is \$5,000. The department must examine prototypes of machines intended to be manufactured, sold or distributed in the state or may contract with another person or state to perform the examination. The manufacturer is to pay the costs of the examinations. A manufacturer may distribute machines only to licensed video lottery machine distributors. A manufacturer must report to the department each machine sold or distributed by the last business day of the month following the month of the sale or distribution.

Pursuant to AS 05.15.330, a video lottery machine distributor license is required to distribute a machine. The license fee is \$5,000. The machines may only be distributed from a location in the state. A distributor must report to the department each machine distributed by the last business day of the month following the month of the distribution. A distributor may not sell a machine to a video lottery vendor.

Pursuant to AS 05.15.340, the endorsement of a permit holder or the registration of a vendor is to be revoked if the specified percentages are not paid at the time required by the department.

AS 05.15.350 provides that the state's percentage is to be deposited in the general fund. The legislature may appropriate the money to provide for education.

AS 05.15.360 provides that the department is to contract out the state's role under video lottery charitable gaming.

Section 20 amends AS 05.15.620(c), the local prohibition on charitable gaming, to include video lotteries.

Section 21 amends AS 05.15.620 by adding a new subsection that allows municipal voters to determine if video lotteries will be prohibited in the municipality.

Section 22 amends AS 05.15.680 to extend the penalty provisions to video lotteries.

Section 23 amends AS 05.15.680 by adding a new subsection making it a class A misdemeanor for a person with criminal negligence to allow a person under age 21 to use

a machine and for the person under age 21 to use a machine. It is also a class A misdemeanor if a person manipulates or tampers with a machine.

Section 24 amends AS 05.15.690(36) to exclude labor and political organizations from the definition of a qualified organization.

Section 25 amends AS 05.15.690(44) to define pull-tab vendors.

Section 26 amends AS 05.15.690 by adding 3 new paragraphs to define additional terms under the video lottery provisions. "Net machine income" means the money inserted into a machine less cash credits paid back. "Video lottery machine" means an electronic video game of chance that simulates poker, keno, or blackjack using video display and microprocessors. "Video lottery vendor" means a venture with a business license under AS 43.70 and a beverage dispensary license under AS 04.11.090 or a package store license under AS 04.11.150 that conducts video lotteries on behalf of a permit holder. A hotel or similar business that caters to the public as a substantial part of its business is a video lottery vendor only if conducts the video lotteries in a room in which there is regularly maintained a fixed counter or service bar where alcoholic beverages are sold or served to the public for consumption.

Section 27 amends AS 11.66.280(2) to exclude, from the definition of gambling, the operation of video lottery machines aboard the Alaska marine highway system.

Section 28 amends AS 11.66.280(3) to exclude, from the definition of a gambling device, a video lottery machine.

Section 29 amends AS 11.66.280(4) to exclude, from the definition of a gambling enterprise, vessels of the Alaska marine highway system that are lawfully conducting video lottery machine operations.

Section 30 amends AS 19.65 to add new sections governing the conduct of video lotteries aboard the Alaska marine highway system. AS 19.65.035 provides that the department may license an Alaska marine highway system vessel to operate video lottery machines in an area of the vessel that persons under age 21 are prohibited from entering. The license is valid in state waters only unless authorized by the jurisdiction in which the vessel is located. DOTPF shall operate the gaming or contract it out. The department is to adopt regulations to implement this provision.

AS 19.65.040 prohibits an employee of the Alaska marine highway system from allowing persons under age 21 to use a video lottery machine. It is also unlawful for a person under age 21 to use a machine or for any person to manipulate or tamper with a machine. A violation is a class A misdemeanor.

AS 19.65.045 provides that the revenues from video lottery machines on the Alaska marine highway system are to be deposited in the general fund and may be appropriated by the legislature for the Alaska marine highway system.

AS 19.65.050 provides that the definition of a video lottery machine is tied to the definition under AS 05.15.690.

Section 31 repeals and reenacts AS 05.15.115(c) to reach the same result as in Section 6.

Section 32 repeals and reenacts AS 05.15.180(b) to reach the same result as in Section 13.

Section 33 repeals the definition of labor organization and political organization in AS 05.15.690(25) and AS 05.15.690(34).

Section 34 allows the department to begin the regulation process in order to enable regulations to be effective on January 1, 2001.

Section 35 provides that the Act is effective on January 1, 2001, except for Section 34.

Section 36 provides that Section 34 has an immediate effective date.

Overall Analysis

The department believes that the proposed legislation raises a number of policy issues that should be addressed. Some of these issues are set out below.

1. This activity can be expected to replace some of the pull-tab vendor activities that currently take place in bars. The vendors pay charities a minimum of 70% of the ideal net of pull-tab games. The video games under this legislation would pay only 30% to the permittees, and permit the costs of the operation to be deducted from that percentage.
2. Video gaming will almost certainly draw patrons to bars. This could be viewed as promoting increased alcohol consumption by enticing individuals into bars with video machines.
3. The department is concerned with the failure to restrict the permit holders to IRC 501(c)(3) charitable organizations. The department has seen abuses with allowing trade and other associations to obtain charitable gaming permits. The legislation would be improved if the permittees were limited to true charities. The legislation does not allow labor and political organizations to qualify for a gaming permit under the bill. Trade associations should be similarly excluded.
4. There are currently many more permittees in the state than there are vendors and operators who will run games for those permittees. As a result, they do not have much

bargaining power with respect to those who run games. This legislation may continue to foster the difference between the "have" and the "have not" qualified organizations. Again, the bill would be strengthened if limited to 501(c)(3) permittees.

5. The legislation provides that the permittee and the vendor will allocate costs between them. Given the uneven bargaining power, it is predictable that the charities will bear most of the costs. Other charitable gaming activities (such as pull tabs and bingo) are limited in the amount of permitted costs. There is no cost limitation for video gaming.

6. Pull-tab prizes are limited to \$500. This legislation allows a prize of \$1000 on a \$2 wager.

7. While the vendors appear to be the prime beneficiaries of the revenue generated, the state is responsible for the cost of the central computer and its operation. This is the system that interfaces with the individual machines. The state is also charged with the cost of administering the system. It is unclear if the state or permit holder is responsible for the telecommunication costs, which will be a substantial part of the cost of running the system.

9. The significant cost of the video gaming machines – from \$7,500 to \$10,000 – may foreclose smaller charities from being able to participate in video lotteries, and may favor trade organizations and the like over the IRC 501(c)(3) charities.

10. The legislation would require that the department review and approve contracts between permit holders and vendors, but sets no standards or rules for what those contracts can or should contain. Without standards, the department will not have grounds to disapprove a contract. Given the limited bargaining power of most permittees, we would expect that these contracts will favor vendors, with permittees bearing most of the costs. The vendor may charge space rental for the machines, a portion of employee salaries, and make an allocation of general overhead expenses of the establishment to the permit holder. The vendor may also provide that the permit holder is liable for the telecommunication expenses between the machines and the central computer. The bill does not preclude this result, and the department is without authority to void a contract that is not in violation of the bill.

11. It is not clear, in the bill, whether the restrictions that generally apply to the use of net proceeds will apply to the use of net machine income. For example, it's not clear whether the permittees may use the income to purchase other gaming machines. Current law precludes that type of use by requiring that the "net proceeds" of the gaming activity be used for charitable and other uses in the state. Net proceeds are defined to start with the gross receipts from the activity less the expenses and prizes of the activity. The receipt of only a percentage of net machine income therefore does not fit neatly within "net proceeds". The bill should make it clear if there is to be a limitation on how net machine income may be used.

12. The bill appears to permit video lottery proceeds to be used by a permittee to support political candidates or parties. The law currently prohibits the use of net proceeds for these purposes, except for proceeds from lotteries or raffles. If video lotteries are "lotteries" then political use of proceeds would be permitted.

13. It is possible that authorization to provide blackjack, keno and other games on video machines would require the state to permit these games outside the video context, in Indian casino operations. This legal question should be answered before legislation is passed.

14. A computer video gaming system, to the extent that it replaces current gaming operations, would be more accountable than the manual pull-tab gaming already in place. But the legislation does nothing to address the current abuses that we have seen in, especially, MBP-run operations. We question whether the advantage of superior accountability outweighs the other concerns raised by the bill.

OPERATING EXPENDITURES

The Department of Revenue does anticipate additional costs for administering the provisions of this bill. In our cost estimates we assume that all costs (including telecommunications costs) for purchasing and running the video lottery terminals will be borne by the permittees and vendors. The State will then assume all costs for administering the program and leasing and maintaining a central computing system. The purpose of the central computing system will be to monitor all video terminal transactions, produce all necessary reports and account for funds transferred to the Department electronically.

Although the state could purchase a central computer (estimates range from \$4.0 to \$5.5 million) and the maintenance contract (estimated at \$250,000 annually), we show the cost of leasing a central computer system. These estimates were provided to us by International Gaming Technologies. Additionally, a staff will be needed to perform inspections, to do background checks, to answer questions from permittees, vendors, contractors and the public, and to run the central computer facility. We have turned to South Dakota for information on their staffing requirements because they have a central computing facility (Montana does not have a central computing facility), they do not own, lease or maintain the video terminals (Oregon owns or leases and maintains video terminals) and they allow a maximum of 10 machines per vendor (Oregon allows for 5 and Montana 20).

Staff estimates are as follows:

Central Computing Facility and Help Desk
Analyst Programmer III (supervisor) - 1
Operators - 3.5

Investigations

Investigator I - 3
Investigator III - 2
Investigator IV - 1

Administration, Accounting Licensing and Collections:

Revenue Auditor III - 1
Administrative Clerk - 1
Accounting Technician - 3

REVENUE

Alaska's unique mix of games, geography, unique features of the bill and lack of experience with video gaming make revenue estimation particularly difficult. Additionally, because telecommunications and other costs will be higher in Alaska there is more risk in the purchase and maintenance of video terminals. The distribution of revenue and costs is also different in SB 144 than in any of the six states we contacted. For revenue estimation purposes we have only included Oregon, South Dakota and Montana. We chose these states for the following three reasons: geography, population density and experience with video gaming.

Although video lottery gaming will reduce the demand for pull-tabs and possibly bingo, we do not have enough information to estimate this difference. The only State listed in La Fleur's World Gambling Abstract that has both video gaming and pull-tabs is Oregon. However, even as far back as 1992 when video gaming was first introduced pull-tabs sales in Oregon were small relative to pull-tab sales in Alaska (approximately 9%). Additionally, although pull-tab sales dropped by almost one-half within three years of the introduction of video lottery terminals, other factors such as the introduction of Keno, wider distribution of scratch-it cards and lack of emphasis on pull-tabs by the Oregon State Lottery contributed to the decline in pull-tab sales.

On the attached revenue spreadsheet you will find a low and a high revenue scenario. We use the population over 21 years old because this is the population of potential gamers. We then adjusted revenue estimates to reflect timing and market maturation issues. Because the effective date of this bill is January 1, 2001, we reduced FY 01 collections by one-half. Additionally, it will take time before the video lottery market matures enough so that vendors, contractors and permittees provide the necessary investment to match the demand for these machines. We use South Dakota as our model of how the video lottery market will mature. South Dakota was chosen because purchase, maintenance and

Charitable Gaming and Gaming on State Ferries

SB 144

April 21, 1999

Page 11 of 12

telecommunications costs associated with the video terminals is borne by the vendors and contractors. Consequently, we use a 60% adjustment factor in the first 6 months, an 80% adjustment factor in the first full year and a 90% adjustment factor in the second full year. After the fourth year we have the market leveling off and growing at 5% annually (see attached spreadsheet).

Income and Excise Audit Division

Charitable Gaming and Gaming on State Ferries
 SB 144
 April 21, 1999
 Page 12 of 12

Assumptions:

Alaska Population Over 21 years Old:	389,745	Source:
Low Scenario: Per Capita (over 21years old) Net Machine Income:	\$177	Oregon
High Scenario: Per Capita (over 21 years old) Net Machine Income:	\$402	Montana
Adjustments for effective date (January 2001) and market development:	0.3	South Dakota
Adjustment for first full-year market development (FY 02):	0.8	South Dakota
Adjustment for second full-year market development (FY 03):	0.9	South Dakota
Percentage to Permittee	30%	
Percentage to Vendor	30%	
Percentage to State	15%	
Percentage to Municipalities	25%	
Growth factor after FY 04	1.05	

	FY 00	FY 01*	FY 02	FY 03	FY 04	FY 05
Low Scenario						
Net Machine Income to Permittee		\$6,208,638	\$16,556,368	\$18,625,914	\$20,695,460	\$21,730,232
Net Machine Income to Vendor		\$6,208,638	\$16,556,368	\$18,625,914	\$20,695,460	\$21,730,232
Net Machine Income to Municipalities		\$5,173,865	\$13,796,973	\$15,521,595	\$17,246,216	\$18,108,527
Net Machine Income to State		\$3,104,319	\$8,278,184	\$9,312,957	\$10,347,730	\$10,865,116
Total Net Machine Income	\$0	\$20,695,460	\$55,187,892	\$62,086,379	\$68,984,865	\$72,434,108
High Scenario						
Net Machine Income to Permittee		\$14,100,974	\$37,602,598	\$42,302,922	\$47,003,247	\$49,353,409
Net Machine Income to Vendor		\$14,100,974	\$37,602,598	\$42,302,922	\$47,003,247	\$49,353,409
Net Machine Income to Municipalities		\$11,750,812	\$31,335,498	\$35,252,435	\$39,169,373	\$41,127,841
Net Machine Income to State		\$7,050,497	\$18,801,299	\$21,151,461	\$23,501,624	\$24,676,705
Total Net Machine Income	\$0	\$47,003,247	\$125,341,992	\$141,009,741	\$156,677,490	\$164,511,365

* Bill has an effective date of January 1, 2001 (6 months left in the fiscal year).

Sources: La Fleur's 1994 and 1996 World Gambling Abstract, Telephone conversations with government officials in SD, OR and MT; U.S. Bureau of Census and U.S Bureau of Economic Analysis.

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PUBLIC HEARING SENATE LABOR & COMMERCE

LTN1150
BY:JNU
FOR:ALL

LOCATION: ANCHORAGE

SB 144		JOHN	LOPEZ	TESTIFY
SB 144		KENT	HARTZBERG	TESTIFY
SB 144		MICHAEL	SLEZAK	TESTIFY

LOCATION: FAIRBANKS

SB 144	MR.	TERENCE	REESE	TESTIFY
SB 144	MR.	DAVID	LAMBERT	TESTIFY
SB 144	MS.	RUTH	EWIG	TESTIFY

LOCATION: KENAI LIO

SB 144	MR.	JAMES	SHOWALTER	KENAITZE	TESTIFY
SB 144	MR.	GEORGE	WRIGHT	ANB#2	TESTIFY
SB 144	MR.	DOUG	CAMPBELL	KENAI NATIVE	TESTIFY
SB 144	MR.	STEVE	EARLY	LAST CHANCE	TESTIFY
SB 144	MRS.	DONNA	EARLY	LAST CHANCE	TESTIFY
SB 144	MS.	CAROL	SEGURA	DENA' INA	TESTIFY

LOCATION: MATSU

SB 144	MS.	MINNIE	FISHER	TESTIFY
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SB144 OFFNET
NINILCHIK

MS. DIANE COVEY (ANN) TEST.
(HAS OTHERS TO TEST SEN. SEC. WILL NEED
ADDRESS OF EACH PARTICIPANT)

Alaska State Legislature

Chairman,
Judiciary Committee
Administrative Regulations
Revenue Committee

Vice Chairman,
Resources Committee



Senator Robin L. Taylor

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SPONSOR STATEMENT

SB 144 Charitable Gaming and Gaming on Ferries

Senate Bill 144 was introduced as a means of making charitable gaming more accountable. The bill will authorize the use of electronic video gaming machines capable of being linked to a central computer system. The use of these machines will greatly increase our ability to account for the millions of dollars spent annually on charitable gaming in Alaska.

One of the major concerns expressed over the use of pull tabs is the lack of accountability and susceptibility to theft, fraud, and other criminal activity. Many charities appear to be receiving less than their fair share of the proceeds.

SB 144 also directs that proceeds from video games be distributed differently than those from pull tabs. It gives 30% to the permittee or charity, 30% to the vendor, 15% to the state, and 25% to the municipality where the machine is located. If the machine is located in the Unorganized Borough, outside a municipality, that share would go to the state.

If the Alaska Marine Highway System so desires, SB 144 contains a provision allowing AMHS to be licensed to operate video gaming on the state ferries.

It is the sponsor's conviction that as Alaska's charities become familiar with video gaming and its accountability, they will gradually phase out the less accountable pull tabs in favor of this new technology.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

Alaska's Video Lottery

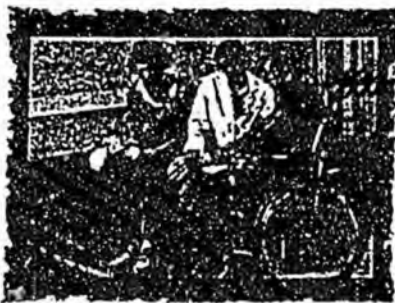


What is Video Lottery?



- ❖ Video lottery games may include poker, keno, blackjack and bingo.
- ❖ A Video lottery terminal will accept \$1, \$5, \$10 and \$20 bills.
- ❖ Each credit is worth 25 cents. A player may wager from one to eight credits per game.
- ❖ A video lottery terminal will not dispense cash. A terminal will print a cash slip for a player wanting to be paid for credits on the terminal.
- ❖ Video lottery terminals can be hooked up to a central state computer where all transactions can be recorded and monitored.

Why Video Lottery?



- ❖ Revenue for state and local governments
- ❖ Expanded opportunity for non-profit organizations
- ❖ Enhanced accountability and security

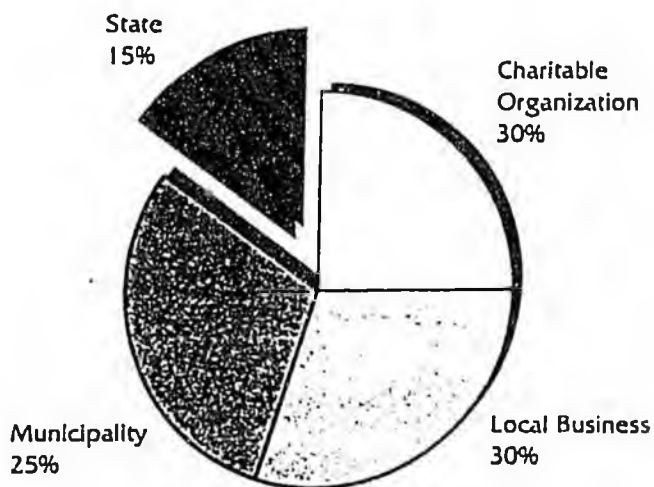


The inclusion of video lottery into Alaska's charitable gaming will provide revenue to four groups:

Local non-profit organizations,
Local businesses,
Local governments, and
The State.



Video Lottery Net Revenue Distribution



Net profits = money played - money paid out



Expanded Opportunities for Non-Profits

Implementation of video lottery will increase revenues for the charities that hold gaming permits. Groups such as the Special Olympics, fraternal organizations, senior centers and little leagues will all have the potential to generate substantially higher revenues than under our existing gaming laws. It will also mean that more charities and non-profits will have access to these revenues.

Revenue For State and Local Governments

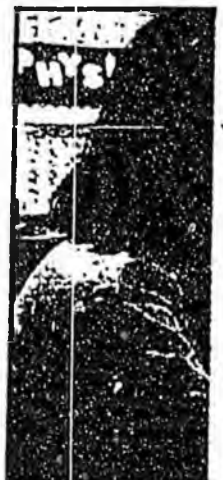
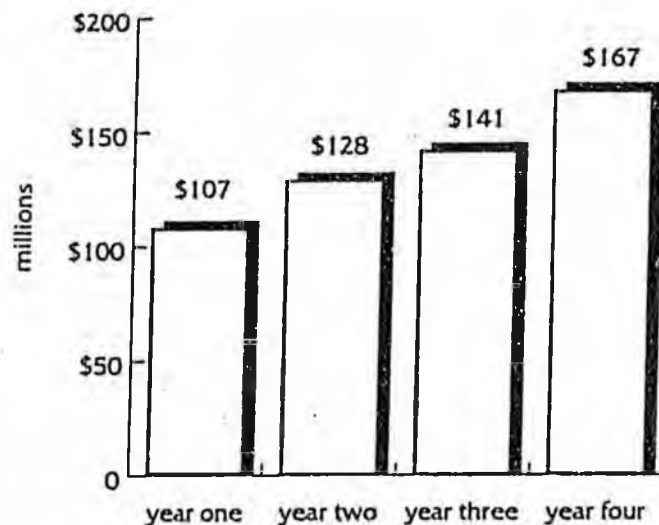
In 1995, the State of Alaska earned approximately \$726,000 from gaming revenues. It is estimated that in the first full year of operation, video lottery machines will generate approximately \$107 million in net revenues. Every state that has implemented video lottery has, by far, surpassed its original revenue expectations.

Lower oil prices and declining state revenues dictate a need for a new source of income. Video lottery can help us meet our State revenue shortfall – without implementing a state income tax or a sales tax. Video lottery can help meet our budget shortfall by distributing a percentage of the net proceeds to the State's general fund.

With diminishing state and federal funding sources, it is important that long-term revenue sources be made available for our local communities in the future. In the first year alone, video lottery has the potential to contribute over \$26 million to municipal and local governments.



Net Revenue Potential



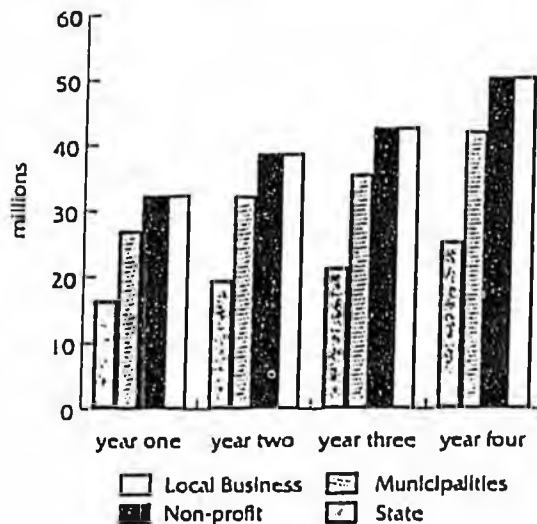
Enhanced Accountability

- ❖ Every video lottery terminal can be linked to a central computer where a permanent record of all transactions will be kept. These machines can be monitored via this computer at any time, 24 hours a day. It is virtually impossible to tamper with this reporting system.
- ❖ Video lottery gaming is limited to those areas within a licensed beverage dispensary establishment that are restricted to adults over the age of 21. This condition will help prevent minors from accessing gaming environments, and will further increase the security and accountability of the gaming process.
- ❖ Thousands of dollars are leaving the state every week as a result of the proliferation of on-line gaming. There are literally hundreds of Internet sites where consumers may simply plug in a credit card number with little to no accountability by the vendor. Alaska consumers will benefit from a safe gaming environment and Alaska businesses will benefit from more gaming dollars remaining within the state.



Revenue Distribution

(based on estimated returns)



Alaska Cabaret, Hotel,
Restaurant & Retailers
Association

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TONY KNOWLES, GOVERNOR

DEPARTMENT OF REVENUE

INCOME AND EXCISE AUDIT
P. O. BOX 110420
JUNEAU, AK 99811-0420
FAX: (907) 465-2375

April 19, 1999

Members of the Legislature:

In accordance with the provisions of AS 05.15.090, the attached report is submitted for your review.

GAMES OF CHANCE AND SKILL
PRELIMINARY ANNUAL REPORT
FOR CALENDAR YEAR 1998

This report was posted to the Department of Revenue's Home Page on April 14, 1999 and can be accessed at <http://www.revenue.state.ak.us/iea/gaming/index.htm>.

The Preliminary Annual Report summarizes the gaming activity of all permittees and licensees who filed 1998 annual reports on or before April 8, 1999. Updates to this report will be posted to the Department's home page. We expect to complete the comprehensive annual report by this fall.

Larry E. Meyers
Director

State of Alaska

Department of Revenue
Income and Excise Audit Division
Gaming Unit



PRELIMINARY ANNUAL REPORT
For Calendar Year 1998

Tony Knowles, Governor
Wilson Condon, Commissioner

Alaska Department of Revenue
Income and Excise Audit Division
Larry Meyers, Director
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Home page: <http://www.revenue.state.ak.us/iea/gaming/index.htm>

INTRODUCTION

Under Alaska law, municipalities and qualified non-profit organizations may conduct certain charitable gaming activities. The purpose of these activities is to derive public benefit in the form of money for the charities and revenues for the state. The Income and Excise Audit Division is responsible for ensuring that the appropriate level of public benefit is being derived for the charities and the state.

To ensure that the appropriate level of public benefit is being derived, the division does the following: (1) issues permits to charities; (2) licenses all operators, distributors and manufacturers; (3) collects fees and taxes; (4) audits various permittees and licensees; (5) inspects gaming locations; and (6) investigates complaints.

This preliminary report summarizes 1998 Charitable Gaming Program financial activity reported by permittees and operators as of April 8, 1999. Charitable gaming in Alaska has many variations in the types of gaming businesses and nonprofit organizations who conduct gaming activities. In reviewing the financial information it is important to be aware of various classifications and to interpret the information provided accordingly.

Last year, the division established a goal to have the 1998 annual financial information available by April 15, 1999. This preliminary report will continue to be updated as information is received. The comprehensive annual report is expected to be completed by this fall.

1998 Gaming Industry Trends

The data presented in this report has been compiled from 1998 annual reports filed with the division as of April 8, 1999. When reading this report, you should note the following:

- 1998 permittee calendar year data is based on the reports of 764 organizations that filed 1998 annual financial statements as of April 8, 1999. There are 356 annual reports outstanding as of the date of this report.
- 1998 MBP calendar year data is based on the annual reports of 15 MBPs and the quarterly reports of one MBP that requested an extension of time to file its annual report.
- 1998 operator calendar year data is based on the annual reports of 20 operators and the first and second quarterly reports of two operators whose licenses have been suspended or revoked.
- 1997 permittee calendar year data is based on the reports of 973 organizations that filed 1997 annual financial statements.
- 1997 MBP calendar year data is based on the annual reports of 17 MBPs. Bingo paper and supplies expense and net proceeds, as previously reported, have been adjusted to reflect a data capture error.
- 1997 operator calendar year data is based on the annual reports of 21 operators.
- Gross receipts compiled in this report include the dollar value of play-backs (winning pull-tabs which the player has returned to the seller in exchange for additional pull-tabs in lieu of receiving his or her prize in cash). Therefore, gross receipts do not represent the dollar amount of cash collected from pull-tab games.
- Net proceeds as reported by operators and multiple-beneficiary permittees (MBPs) represent gross receipts, less prizes, less taxes, less expenses and do not necessarily represent the actual amount of cash paid by operators and MBPs to permittees. This is generally because the statutory minimum payment requirements are sometimes greater than calculated net proceeds.
- In 1998 the division undertook a major compliance effort to ensure that net proceeds paid by MBPs met the statutory minimum payment requirements. As a result of these efforts, permittees received over a million dollars more in 1998 than they received from similar activity in 1997.

Department of Revenue
Income and Excise Audit Division
April 8, 1999

Schedule of Charitable Gaming Activity ⁽¹⁾

	1998		1997	
	<u>Amount</u>	<u>% Gross Receipts</u>	<u>Amount</u>	<u>% Gross Receipts</u>
Gross Receipts	\$238,391,391		\$279,697,957	
Less: Taxes	617,912	0.26%	645,615	0.23%
Prizes	182,467,889	76.54%	213,032,760	76.17%
Expenses	<u>36,640,818</u>	15.37%	<u>41,849,219</u>	15.14%
Net Proceeds	<u>\$ 18,664,772</u>	7.83%	<u>\$ 24,170,363</u>	8.46%

Breakdown of Expenses

	<u>1998</u>	<u>1997</u>
Rent & Janitorial	\$ 4,241,427	\$ 4,893,649
Utilities	682,041	794,656
Building & Equipment Repairs	335,514	719,332
Insurance	525,611	541,526
Contract & Professional Svc	1,232,007	1,566,232
Accounting	789,347	917,928
Wages & Payroll Tax	12,260,044	14,318,236
Operator Fee	3,909,664	3,262,314
Vendor Fee	1,205,333	1,760,818
DOR Permit/License Fees	400,826	227,302
Pull-Tab Purchases	4,685,743	5,594,509
Pull-Tab Tax	1,216,761	1,514,826
Bingo Paper & Supplies ⁽²⁾	1,445,143	1,566,415
Door Prizes	257,502	- o -
Printing & Advertising	420,788	486,238
Office and Other Supplies	416,693	360,142
Postage / Freight	67,145	96,926
Non-Alcoholic Beverage	148,397	205,079
Eqpt Purchase / Lease	168,293	304,210
Misc & Other Expenses	2,122,855	2,684,243
Building Depreciation	<u>109,684</u>	<u>34,638</u>
Total Expenses ⁽³⁾	<u>\$ 36,640,818</u>	<u>\$ 41,849,219</u>

(1) See Note (i) on Pages 4, 5, and 6

(2) 1997 Bingo Paper and Supplies Expense has been adjusted for data capture error.

(3) Total Expense reported on Schedule C, prior to any limitations

Department of Revenue
Income and Excise Audit Division
April 8, 1999

1998 Permittee Self-Directed Activity by Game Type ⁽¹⁾

<u>Game Type</u>	<u>Gross Receipts</u>	<u>Taxes</u>	<u>Prizes</u>	<u>Expenses</u>	<u>Net Proceeds</u>
Pull-Tab	\$ 79,428,070	\$242,669	\$ 61,446,720	\$ 9,519,714	\$ 8,218,967
Bingo	18,051,276	74,298	13,407,856	3,328,462	1,240,660
Raffle or Lottery	5,093,725	8,965	1,877,106	548,520	2,659,134
Fish Derby	1,227,609	- o -	788,725	203,221	235,663
Ice Classic	606,419	- o -	300,000	258,930	47,489
Contest of Skill	276,729	- o -	56,645	110,506	109,578
Dog Musher Contest	162,063	- o -	709,771	510,775	(1,058,483)
Miscellaneous *	4,591	- o -	- o -	- o -	4,591
Salmon Classic	3,598	- o -	1,799	1,121	678
Goose Classic	1,848	- o -	750	37	1,061
Deep Freeze Classic	1,795	- o -	3,035	2,356	(3,596)
Rain Classic	4,360	- o -	237	- o -	4,123
Snow Machine Classic	20,215	- o -	22,500	- o -	(2,285)
Total	<u>\$104,882,298</u>	<u>\$325,932</u>	<u>\$ 78,615,144</u>	<u>\$14,483,642</u> ⁽²⁾	<u>\$11,457,580</u>

* Sale of Gaming Equipment and Supplies

1998 Vendor Activity by Game Type ⁽¹⁾

<u>Game Type</u>	<u>Gross Receipts</u>	<u>Taxes</u>	<u>Prizes</u>	<u>Expenses</u>	<u>Net Proceeds</u>
Pull-Tab	<u>\$ 16,164,159</u>	<u>\$ 13,005</u>	<u>\$ 12,461,646</u>	<u>\$ 1,592,128</u> ⁽³⁾	<u>\$ 2,097,380</u>
	As % of Gross Receipts	0.08%	77.09%	9.85%	12.98%

(1) Based on the reports of 764 annual financial statements filed as of April 8, 1999.
There are 356 annual reports outstanding as of the date of this report.

(2) Total Expense reported on Schedule C, prior to any limitations.

(3) Total Expense reported on Schedule AV, prior to any limitations.

Preliminary Annual Report

Department of Revenue
Income and Excise Audit Division
April 8, 1999

1998 Operator Activity by Game Type ⁽¹⁾

	<u>Pull-Tab</u>	<u>Bingo</u>	<u>Fish Derby</u>	<u>Total</u>
Gross Receipts	\$44,885,467	\$7,499,030	\$84,800	\$ 52,469,297
Less: Taxes	243,096	- 0 -	- 0 -	243,096
Prizes	34,719,076	5,446,599	70,725	40,236,400
Expenses	<u>8,511,151</u>	<u>2,170,278</u>	<u>12,134</u>	<u>10,693,563</u>
Net Proceeds	<u>\$ 1,412,144</u>	<u>\$ (117,847)</u>	<u>\$ 1,941</u>	<u>\$ 1,296,238</u>
Net Proceeds Paid				<u>\$ 3,237,543</u>

Breakdown of Expenses

	<u>Pull-Tab</u>	<u>Bingo</u>	<u>Fish Derby</u>	<u>Total</u>
Rental of Facility	\$ 752,140	\$ 157,826	\$ 4,500	\$ 914,466
Janitorial	39,400	17,849	- 0 -	57,249
Utilities	111,889	46,735	- 0 -	158,624
Building Cost	17,442	4,722	- 0 -	22,164
Equipment Repairs	5,055	1,954	- 0 -	7,009
Insurance Non-Bldg.	103,329	37,937	- 0 -	141,266
Contract Services	155,160	6,797	- 0 -	161,957
Professional Services	32,228	16,601	- 0 -	48,829
Accounting	183,463	14,043	1,393	198,899
Wages	1,561,797	609,124	- 0 -	2,170,921
Payroll Tax	259,902	56,097	- 0 -	315,999
Operator Fee	3,521,056	382,608	6,000	3,909,664
Permit Fees	1,700	- 0 -	- 0 -	1,700
Pull-Tab Purchases	1,082,553	- 0 -	- 0 -	1,082,553
Pull-Tab Tax	263,571	- 0 -	- 0 -	263,571
Bingo Paper	- 0 -	291,613	- 0 -	291,613
Bingo Supplies	- 0 -	92,406	- 0 -	92,406
Printing Tickets	- 0 -	- 0 -	241	241
Advertising	27,006	17,453	- 0 -	44,459
Supplies Non-Bingo	13,352	11,773	- 0 -	25,125
Non-Alcoholic Beverage	1,873	- 0 -	- 0 -	1,873
Equipment Purchase	9,846	3,857	- 0 -	13,703
Other	<u>368,389</u>	<u>400,883</u>	<u>- 0 -</u>	<u>769,272</u>
Total Expenses ⁽²⁾	<u>\$ 8,511,151</u>	<u>\$2,170,278</u>	<u>\$12,134</u>	<u>\$ 10,693,563</u>

(1) Based on the annual reports of 20 operators and the first and second quarterly reports of 2 operators whose licenses have been suspended or revoked.

(2) Total Expense reported on Schedule C, prior to any limitations.

Department of Revenue
Income and Excise Audit Division
April 8, 1999

1998 Multiple-Beneficiary Permittee Activity by Game Type ⁽¹⁾

	<u>Pull-Tab*</u>	<u>Bingo</u>	<u>Misc**</u>	<u>Raffle</u>	<u>Total</u>
Gross Receipts	\$43,172,393	\$21,084,400	\$ 14,866	\$ 3,978	\$ 64,875,637
Less: Taxes	35,879	- o -	- o -	- o -	35,879
Prizes	34,327,850	16,824,860	- o -	1,989	51,154,699
Expenses	6,014,035	3,852,640	4,810	- o -	9,871,485
Net Proceeds	\$ 2,794,629	\$ 1,006,900	\$ 10,056	\$ 1,989	\$ 3,813,574
Net Proceeds Paid					<u>\$ 3,943,835</u>

Breakdown of Expenses

	<u>Pull-Tab*</u>	<u>Bingo</u>	<u>Misc**</u>	<u>Raffle</u>	<u>Amount</u>
Rental of Facility	\$ 1,134,701	\$ 779,672	\$ - o -	\$ - o -	\$ 1,914,373
Janitorial	75,299	66,196	- o -	- o -	141,495
Utilities	135,538	65,604	- o -	- o -	201,142
Building Cost	13,658	9,752	- o -	- o -	23,410
Building Depreciation	56,842	38,826	- o -	- o -	95,668
Equipment Repairs	13,119	113,064	- o -	- o -	126,183
Insurance Non-Bldg.	107,659	60,049	- o -	- o -	167,708
Contract Services	102,963	113,437	- o -	- o -	216,400
Professional Services	112,124	93,599	- o -	- o -	205,723
Accounting	73,662	21,451	- o -	- o -	95,113
Wages	2,180,818	1,275,260	- o -	- o -	3,456,078
Payroll Tax	220,143	119,982	- o -	- o -	340,125
Vendor Fee	104,457	- o -	- o -	- o -	104,457
Permit Fees	6,073	1,754	- o -	- o -	7,827
Pull-Tab Purchases	927,021	- o -	- o -	- o -	927,021
Pull-Tab Tax	312,572	- o -	- o -	- o -	312,572
Bingo Paper	- o -	358,258	- o -	- o -	358,258
Bingo Supplies	- o -	365,457	- o -	- o -	365,457
Printing Tickets	- o -	- o -	- o -	- o -	- o -
Advertising	52,522	33,249	- o -	- o -	85,771
Supplies Non-Bingo	59,900	22,484	4,810	- o -	87,194
Non-Alcoholic Beverage	13,192	4,724	- o -	- o -	17,916
Equipment Purchase	6,012	13,932	- o -	- o -	19,944
Other	305,760	295,890	- o -	- o -	601,650
Total Expenses ⁽²⁾	\$ 6,014,035	\$ 3,852,640	\$ 4,810	\$ - o -	\$ 9,871,485

* Includes MBP Vendor Activity

** Sale of Gaming Equipment and Supplies

(1) Based on the annual reports of 15 MBP's and the quarterly reports of one MBP that requested an extension of time to file its annual report.

(2) Total Expense reported on Schedule C, prior to any limitations.

Preliminary Annual Report

Department of Revenue
Income and Excise Audit Division
April 8, 1999

Permittee Self-Directed Activity ⁽¹⁾

	1998		1997	
	<u>Amount</u>	<u>% Gross Receipts</u>	<u>Amount</u>	<u>% Gross Receipts</u>
Gross Receipts	\$104,882,298		\$138,378,972	
Less: Taxes	325,932	0.31%	316,913	0.23%
Prizes	78,615,144	74.96%	102,949,493	74.40%
Expenses	<u>14,483,642</u>	<u>13.81%</u>	<u>19,847,698</u>	<u>14.34%</u>
Net Proceeds	<u>\$ 11,457,580</u>	<u>10.92%</u>	<u>\$ 15,264,868</u>	<u>11.03%</u>

Breakdown of Expenses

	1998		1997	
	<u>Amount</u>	<u>% Expenses</u>	<u>Amount</u>	<u>% Expenses</u>
Rental of Facility	\$ 985,955	6.81%	\$ 1,717,612	8.65%
Janitorial	227,889	1.57%	286,366	1.44%
Utilities	322,275	2.23%	448,043	2.26%
Building Cost	109,810	0.76%	531,960	2.68%
Building Depreciation	14,016	0.10%	- o -	0.00%
Equipment Repairs	46,938	0.32%	51,499	0.26%
Insurance Non-Bldg.	216,637	1.50%	285,946	1.44%
Contract Services	395,386	2.73%	598,910	3.02%
Professional Services	203,712	1.41%	278,731	1.40%
Accounting	495,335	3.42%	646,672	3.26%
Wages	5,182,368	35.78%	7,171,218	36.13%
Payroll Tax	794,553	5.49%	1,138,142	5.73%
Permit Fees	391,299	2.70%	227,302	1.15%
Pull-Tab Purchases	2,285,519	15.78%	2,860,232	14.42%
Pull-Tab Tax	540,016	3.73%	722,527	3.64%
Bingo Paper	147,343	1.02%	239,180	1.21%
Bingo Supplies	190,066	1.31%	309,877	1.56%
Printing Tickets	115,259	0.80%	131,450	0.66%
Advertising	175,058	1.21%	189,044	0.95%
Supplies Non-Bingo	304,374	2.10%	360,142	1.81%
Non-Alcoholic Beverage	128,608	0.89%	168,818	0.85%
Equipment Purchase	134,646	0.93%	216,123	1.09%
Other	<u>1,076,580</u>	<u>7.41%</u>	<u>1,267,904</u>	<u>6.39%</u>
Total Expenses	<u>\$ 14,483,642</u>		<u>\$ 19,847,698</u>	

(1) See Notes (1) and (2) on Page 4

Preliminary Annual Report

Page 7

Department of Revenue
Income and Excise Audit Division
April 8, 1999

Operator Activity ⁽¹⁾

	1998		1997	
	<u>Amount</u>	<u>% Gross Receipts</u>	<u>Amount</u>	<u>% Gross Receipts</u>
Gross Receipts	\$ 52,469,297		\$ 52,492,626	
Less: Taxes	243,096	0.50%	248,212	0.47%
Prizes	40,236,400	76.68%	40,069,282	76.33%
Expenses	<u>10,693,563</u>	<u>20.34%</u>	<u>9,509,616</u>	<u>18.12%</u>
Net Proceeds	<u>\$ 1,296,238</u>	<u>2.48%</u>	<u>\$ 2,665,516</u>	<u>5.08%</u>
Net Proceeds Paid	<u>\$ 3,237,543</u>	<u>6.09%</u>	<u>\$ 3,443,108</u>	<u>6.56%</u>

Breakdown of Expenses

	1998		1997	
	<u>Amount</u>	<u>% Expenses</u>	<u>Amount</u>	<u>% Expenses</u>
Rental of Facility	\$ 914,466	8.55%	\$ 842,566	8.86%
Janitorial	57,249	0.54%	86,788	0.91%
Utilities	158,624	1.48%	148,651	1.56%
Building Cost	22,164	0.21%	13,231	0.14%
Equipment Repairs	7,009	0.07%	1,870	0.02%
Insurance Non-Bldg.	141,266	1.32%	106,469	1.12%
Contract Services	161,957	1.51%	262,686	2.76%
Professional Services	48,829	0.46%	43,077	0.45%
Accounting	198,899	1.86%	153,304	1.61%
Wages	2,170,921	20.30%	1,910,758	20.09%
Payroll Tax	315,999	2.96%	289,181	3.04%
Operator Fee	3,909,664	36.56%	3,262,314	34.32%
Permit Fees	1,700	0.02%	- 0 -	0.00%
Pull-Tab Purchases	1,082,553	10.12%	1,026,557	10.79%
Pull-Tab Tax	263,571	2.46%	326,223	3.43%
Bingo Paper	291,613	2.73%	271,753	2.86%
Bingo Supplies	92,406	0.86%	74,403	0.78%
Printing Tickets	241	0.00%	230	0.00%
Advertising	44,459	0.42%	45,776	0.48%
Supplies Non-Bingo	25,125	0.23%	- 0 -	0.00%
Non-Alcoholic Beverage	1,873	0.02%	2,764	0.03%
Equipment Purchase	13,703	0.13%	12,855	0.14%
Other	<u>769,272</u>	<u>7.19%</u>	<u>628,160</u>	<u>6.61%</u>
Total Expenses	<u>\$ 10,693,563</u>		<u>\$ 9,509,616</u>	

(1) See Notes (1) and (2) on Page 5.