

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS**

April 16, 2003

7:00 a.m.

**MEMBERS PRESENT**

Representative Mike Hawker, Co-Chair  
Representative Jim Whitaker, Co-Chair  
Representative Cheryll Heinze  
Representative Norman Rokeberg  
Representative Bruce Weyhrauch  
Representative Peggy Wilson  
Representative Max Gruenberg  
Representative Carl Moses

**MEMBERS ABSENT**

Representative Vic Kohring

**OTHER LEGISLATORS PRESENT**

Representative Ralph Samuels  
Representative Harry Crawford

**COMMITTEE CALENDAR**

HOUSE BILL NO. 236

"An Act imposing a tax on employment; and providing for an effective date."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 240

"An Act establishing a state lottery."

- HEARD AND HELD; ASSIGNED TO WORKGROUP

**PREVIOUS ACTION**

BILL: HB 236

SHORT TITLE:EMPLOYMENT TAX FOR EDUCATION

SPONSOR(S): REPRESENTATIVE(S)WILSON

Jrn-Date	Jrn-Page	Action
04/02/03	0739 (H)	READ THE FIRST TIME - REFERRALS

04/02/03 0739 (H) W&M, FIN  
 04/02/03 0739 (H) REFERRED TO WAYS & MEANS  
 04/10/03 (H) W&M AT 7:00 AM HOUSE FINANCE  
 519  
 04/10/03 (H) -- Meeting Canceled --  
 04/16/03 (H) W&M AT 7:00 AM HOUSE FINANCE  
 519

BILL: HB 240

SHORT TITLE: ESTABLISH STATE LOTTERY

SPONSOR(S): ECON DEV, INT'L. TRADE & TOURISM

Jrn-Date	Jrn-Page	Action
04/04/03	0769 (H)	READ THE FIRST TIME - REFERRALS
04/04/03	0769 (H)	EDT, W&M, FIN
04/07/03	(H)	EDT AT 5:00 PM CAPITOL 120
04/07/03	(H)	Heard & Held
04/07/03	(H)	MINUTE(EDT)
04/09/03	(H)	EDT AT 5:00 PM CAPITOL 120
04/09/03	(H)	Moved CSHB 240(EDT) Out of Committee
04/09/03	(H)	MINUTE(EDT)
04/11/03	0933 (H)	EDT RPT CS(EDT) NT 1NR 3AM
04/11/03	0933 (H)	NR: DAHLSTROM; AM: KOTT, MCGUIRE,
04/11/03	0933 (H)	HEINZE
04/11/03	0934 (H)	FN1: (REV)
04/11/03	0934 (H)	REFERRED TO WAYS & MEANS
04/16/03	(H)	W&M AT 7:00 AM HOUSE FINANCE 519

**WITNESS REGISTER**

LARRY PERSILY, Deputy Commissioner  
 Department of Revenue  
 Juneau, Alaska

POSITION STATEMENT: Testified on HB 236 and answered questions;  
 during hearing on HB 240, addressed fiscal note for  
 CSHB 240(EDT).

REPRESENTATIVE TOM ANDERSON  
 Alaska State Legislature  
 Juneau, Alaska

POSITION STATEMENT: Presented gaming portions of CSHB 240(EDT)  
 and answered questions.

**ACTION NARRATIVE**

**TAPE 03-7, SIDE A**

Number 0001

**CO-CHAIR JIM WHITAKER** called the House Special Committee on Ways and Means meeting to order at 7:00 a.m. Representatives Whitaker, Hawker, Heinze, Weyhrauch, Wilson, and Moses were present at the call to order. Representatives Rokeberg and Gruenberg arrived as the meeting was in progress. Also present were Representatives Samuels and Crawford.

[Not on tape, but taken from the committee secretary's log notes, was that there would be no public testimony on either bill today.]

Number 0120

REPRESENTATIVE WILSON, sponsor of HB 236, told members she'd brought the bill forward because of the state's current fiscal situation. There are no stable sources of revenue in the state; the Constitutional Budget Reserve (CBR) is almost depleted; the state's fixed expenses such as insurance, fuel costs, Medicare, Medicaid, and so forth keep increasing; and the population is growing rapidly. When the economy is down, there is an increased need for services. She said this leaves two practical answers: cut more from the budget or find a stable source of revenue. Thus HB 236 establishes an employment tax for education; its companion bill in the Senate is SB 137.

REPRESENTATIVE WILSON, calling this a work in progress, noted that she'd requested a legal opinion from Legislative Legal and Research Services as to whether the proceeds could be dedicated based on precedent. She reported that there was a school tax prior to statehood, but it was repealed in 1980; in 1962 the proceeds were paid into the general fund. She said Legislative Legal and Research Services told her that the new school tax could not go into a dedicated fund, but the legislature could create a special account within the general fund to receive the proceeds and would then be able to appropriate the proceeds to education and better keep track of the amount collected. Noting that the Department of Revenue had many questions about how the money would be collected and so forth, she offered to go through the bill section by section.

Number 0417

CO-CHAIR HAWKER moved to adopt the proposed committee substitute (CS), Version 23-LS0921\H, Kurtz, 4/14/03, as a work draft. There being no objection, Version H was before the committee.

Number 0437

REPRESENTATIVE WILSON explained that Section 1 creates a new chapter in Title 43 that imposes an employment tax of \$100 a year on each individual 19 years or older who receives compensation of at least \$1,000. It requires employers to withhold the tax from the employee's paycheck; a return must be filed [by the employer], who sends the money to the Department of Revenue. A provision deals with whether the amount is deducted from two or more paychecks, which she said spreads the impact for low-income people and deals with paychecks that are less than \$50. Section 1 also makes employers liable for the tax unless there is proof provided by the employer - in the form of a paycheck stub, for instance - that the tax already has been withheld. In order to include the self-employed, it requires individuals who are subject to the tax but haven't had taxes withheld by an employer to file a return.

REPRESENTATIVE WILSON noted that Section 1 permits employees to claim a refund from the state if there was an overpayment because the employee was unable to prove to the employer that the money was withheld already; she said the department believes this is the most effective manner to deal with overpayments. This section also requires the money collected to be deposited into the general fund (GF) and accounted for separately. It permits the legislature to appropriate the proceeds for education, and defines the tax year as July 1 through June 30, the state's fiscal year.

Number 0704

REPRESENTATIVE WILSON discussed Section 2, the transition provision. The initial tax is to be remitted and [a return filed] before the 15th day of the fourth month that the tax is in effect. This is so employers don't have to file every single time they [deduct money], she said, thus reducing the filing frequency for small employers. Furthermore, the timeframe gives the department and the taxpayers more time to prepare for the tax, simplifying filing, and improving customer service during the start-up phase. Section 3 provides for an effective date.

Number 0900

REPRESENTATIVE WEYHRAUCH asked whether this tax would be owed by an individual who is self-employed, has a business license, has a simple LLC [limited liability company], has no employees, and earns a couple of thousand dollars a year.

REPRESENTATIVE WILSON replied yes, under proposed Sec. 43.45.021 [page 2, lines 16-18, subsection (d)].

Number 1008

REPRESENTATIVE WEYHRAUCH asked whether it is a function of employment or compensation, and then surmised that a person who receives more than \$1,000 and is over the age of 19 would pay.

REPRESENTATIVE WILSON affirmed that.

REPRESENTATIVE WEYHRAUCH asked whether the education tax is the way it was in the old statute, repealed in approximately 1981.

REPRESENTATIVE WILSON said yes.

REPRESENTATIVE WEYHRAUCH asked why, if the intent is to use the funds for education, the [bill's] title doesn't say so. He surmised that it is a "legislative sentiment."

REPRESENTATIVE WILSON said she didn't know whether it should be in the title.

Number 1145

CO-CHAIR HAWKER offered his experience that most payroll systems are designed on a calendar-year basis consistent with income tax reporting requirements of the Internal Revenue Service (IRS), whereas this bill uses [the state's] fiscal year. He asked whether Representative Wilson is comfortable that business, computer, accounting, and reporting systems can accommodate multiple tax years. He also asked whether the mechanism for refunds is consistent with the current mechanism for refunds of overpayments of ESC [Employment Security Contribution] taxes.

REPRESENTATIVE WILSON said [the mechanism in the bill] was recommended by the Department of Revenue. She deferred to Mr. Persily for further response.

Number 1348

LARRY PERSILY, Deputy Commissioner, Department of Revenue,

indicated he would present his testimony first. Noting that the original bill version used the calendar year of January 1 through December 31, he pointed out that Version H is similar to the committee substitute for SB 137 in [the Senate], which uses July 1 [as the beginning of the year] and has an effective date of July 1, 2003. Mr. Persily told members that although this starting date doesn't give the department much time, the department believes this date can be met.

MR. PERSILY offered to prepare a fiscal note [for Version H] either when the bill moves out of committee or while it is under consideration, and said the department would have to spend "a fair amount of money fairly quickly," depending on when this bill passes this session. He estimated a need for about \$900,000 as a "supplemental" for fiscal year 2003 (FY 03), with a lapse date to carry into FY 04, and offered the expectation that a lot of the work would be contracted out to set up the program, a web site, interaction with employers, and outreach. He said employers will need withholding information by June in order to set this up for their first payroll in July. Other than that, the fiscal note would be fairly similar to the one for the original HB 236. He emphasized that with Version H, funds would be needed this year to get started so that the program runs well in FY 04 and there is a full realization of the estimated \$39 million a year in revenue.

Number 1623

CO-CHAIR HAWKER asked about the ability to accommodate multiple tax years and whether there has been any communication or concurrence with industry, employers, or vendors of accounting and payroll software in this regard.

MR. PERSILY acknowledged that this is a little unusual, but offered his belief that it wouldn't be a problem to change the software settings to recognize July 1 as the [beginning of the] fiscal year, just as the state does. He suggested a bigger problem for employers might be getting into the habit of closing out the fiscal year for their employees on June 30; this might take a couple of years to get used to.

CO-CHAIR HAWKER inquired about communications with vendors or people who write their own payroll packages or market them commercially.

MR. PERSILY, in response to this and further questions, said there have been conversations with "a couple," and the first

reaction was that July 1 was unusual, but could be accommodated. Existing systems can handle it, but a change would be necessary because most have January 1 as a default. "But the ones we have talked to didn't believe it would be an insurmountable problem to change that date," he added. "They would just like as much notice as possible."

Number 1821

REPRESENTATIVE WILSON explained that many e-mails were received from people who didn't want the money taken out of their first two paychecks of the year, right after they'd spent all their money on Christmas. She said, however, that she was open to putting it back to January 1.

Number 1943

REPRESENTATIVE SAMUELS asked whether someone who has two different seasonal jobs would have to go through the refund process [if too much money had been withheld] or could he/she stop the tax from being taken out [by the second employer].

MR. PERSILY highlighted the provision for showing the second employer that the tax has been paid, by showing a pay stub, for example. If it were taken out twice, the process would be similar to the way unemployment taxes are refunded; for those, a person fills out a form and sends it in to request a refund. If an employer or employee made a mistake and there was an overpayment, forms would be available [at the department's web site] and the person could file for and receive a timely refund.

Number 2014

REPRESENTATIVE GRUENBERG asked about people who have substantial income from investments.

REPRESENTATIVE WILSON answered that this is [a tax] on people who work, not on money earned from a portfolio. She suggested that people [with investment income] may be retired, for example.

REPRESENTATIVE GRUENBERG asked whether it was Representative Wilson's specific intent not to include those people [with investment income], no matter how much money they make. [There was no audible response.]

Number 2102

REPRESENTATIVE WEYHRAUCH asked whether there had been any brainstorming about whether the tax could be deducted from a permanent fund dividend (PFD) check.

REPRESENTATIVE WILSON said it had come up. Reiterating that this is a work in progress, she said she is open to suggestions.

Number 2139

REPRESENTATIVE GRUENBERG surmised that this would "catch" some people who earn money in the state but aren't eligible for the PFD. He asked whether that was the intent as well.

REPRESENTATIVE WILSON answered in the affirmative. She said she wanted to be able to collect from people who come to Alaska to work and make a good income, perhaps during summer or on the North Slope, and then leave; these people wouldn't be included if this were just connected to PFD checks. She said 25 percent of the people who work in Alaska aren't residents.

Number 2231

MR. PERSILY brought attention to a problem with withholding \$100 from the PFD. If it is assumed that someone will receive a PFD and there is no withholding of wages, the person may later be deemed ineligible for a PDF because of residency, child support [owed], or prison time. Meanwhile, the opportunity may have been lost to withhold wages during the summer, for example, when people often are able to find jobs. Mr. Persily told members that the department has tried to keep the fiscal note for operations as small as possible. He suggested it makes sense to use payroll withholding as a mechanism or, for people who receive compensation but not wages, to have them "self-report and self-pay."

Number 2341

CO-CHAIR WHITAKER assigned a subcommittee to meet and report back the next week with a proposed CS. He named Representatives Weyhrauch, Gruenberg, and Hawker as members, with Representative Hawker chairing; he asked that Representative Wilson participate.

[HB 236 was held over.]

HB 240-ESTABLISH STATE LOTTERY



Number 2423

CO-CHAIR WHITAKER announced that the final order of business would be HOUSE BILL NO. 240, "An Act establishing a state lottery."

[The bill was sponsored by the House Special Committee on Economic Development, International Trade and Tourism, which Representative Heinze chairs. During the 4/9/03 hearing in that committee, Representative Anderson had presented the gaming portions of what became CSHB 240(EDT). In packets were the original bill, which pertained only to a state lottery, and CSHB 240(EDT), which added charitable gaming and was officially before the committee.]

CO-CHAIR WHITAKER announced that this would be a discussion among committee members, that staff may not be recognized, and that [unspecified] committee substitutes that were available would not be brought before the committee. He asked Representative Anderson to address fiscal issues pertaining to electronic gaming machines (EGMs), including the fiscal notes.

Number 2706

REPRESENTATIVE TOM ANDERSON, Alaska State Legislature, pointed out that Mr. Persily [one of the preparers of the Department of Revenue's fiscal note dated 4/15/03] was present and could answer technical questions. Representative Anderson told members it appears the "EGM amendment" [CSHB 240(EDT)] brings the fiscal note to \$50 million. There is a start-up cost, as well as factors relating to accounting and services rendered by the division that will oversee electronic gaming. He offered his understanding that the Department of Revenue had attempted to compare revenue from other states such as South Dakota, and that Mr. Luckhaupt, the legislative drafter, had expertise in gaming law.

REPRESENTATIVE ANDERSON indicated this bill mirrors [much of] South Dakota's legislation. Calling himself one of the authors in terms of looking at electronic gaming, Representative Anderson alluded to CSHB 240(EDT) and said Oregon and Rhode Island were also reviewed. He suggested it was difficult for the Department of Revenue to find a mirror image [when preparing the fiscal note], since aspects of CSHB 240(EDT) deviate from South Dakota's and Montana's formats.

REPRESENTATIVE ANDERSON pointed out that CSHB 240(EDT) has a payout of 30 percent to the state; 30 percent to the vendor, which would be a club licensee or a full liquor-licensed dispensary - a bar that serves people over the age of 21; and 10 percent to the government of the locale where the EGM is played. He suggested this is a unique and salient aspect of the new bill version.

REPRESENTATIVE ANDERSON referred to the analysis attached to the department's fiscal note, emphasizing that some things can't be measured yet, including the first year's play, who will play, the level of tourism, the level of migrant workers from out of state, and so forth. He offered his belief that the Department of Revenue can testify that this should bring in a high amount of income.

Number 3034

LARRY PERSILY, Deputy Commissioner, Department of Revenue, discussed the fiscal note. He first addressed the \$52-million estimate for fiscal year 2009 (FY 09), indicating that by then, it is believed activity will have ramped up after several years of people getting used to this and playing the game. He said the \$52 million breaks down into three components, approximately as follows: \$50 million for the state's share from EGMs, which is the video terminals in bars and private clubs; \$1.5 million in revenue to the state from [provisions included in] the original HB 240, which provides for a twice-a-year lottery with a "50-50" prize drawing; and \$0.5 million in fees collected from licensing operations of EGMs. The largest chunk would be the state's share from [EGMs].

MR. PERSILY explained that in comparing this with other states, using South Dakota as a reference, adjustments were made for population differences, including the number of people over the age of 21 - the only ones who may play. This legislation has a municipal opt-out provision similar to those for alcohol; thus a municipality may vote to exclude video terminals from the community. However, [the fiscal note] assumes no municipalities opt out. If any do, it will reduce the \$50-million total. He added that there are "prior to" expenses for the program. He opined that if anything, the amount might be lower, and that he didn't believe it would be higher.

Number 3252

CO-CHAIR WHITAKER inquired about the projected revenue from a

lottery and EGMs and the expected loss of pull-tab revenue.

MR. PERSILY answered that from the twice-a-year raffle, the estimate is about \$1.5 million; about \$50 million a year is expected from EGMs. Noting that the department hadn't come up with a specific number, he added that from looking at other locations, the department believes it would significantly cut into pull-tab [revenue]. Referring to page 3 of the fiscal note analysis, he pointed out that the department had looked at Saskatchewan, where pull-tab gaming declined 63 percent after electronic gaming was introduced. Mr. Persily offered the expectation that even if pull-tab revenue dropped by half, charities would lose \$10 million to \$12 million, and the state, under the current tax regime, would lose about \$1 million.

Number 3351

REPRESENTATIVE ROKEBERG asked how much the charities would receive under the EGM scenario.

MR. PERSILY answered that the charities would receive the same percentage as the state - 30 percent - but that is before expenses; there would be some sizable expense in owning those machines. He opined that the charities would still come out ahead if the estimates are correct, however, and would make more, even after expenses, than they do now with pull-tabs. He added, "As we pointed out, it'd be nice to see in the legislation some limitation on expenses so that charities did see a net gain."

Number 3508

MR. PERSILY, in response to a question from Representative Weyhrauch, related the belief that if EGMs are put in, people will spend a lot less money on pull-tabs and spend more on [EGMs]; how much that would affect pull-tabs is just an estimate. However, if a charity was able to obtain a location to operate electronic gaming, it probably would make more money than through pull-tabs. There could be a loss for specific charities that couldn't find a bar to operate in, since there would be more charities with permits that wanted their games played than there would be locations to do so. But charities in total probably would receive more money from electronic gaming, as the state would.

MR. PERSILY clarified that the bill doesn't end pull-tabs, bingo, or raffles. Those would remain in statute, and charities

could still run them. In response to Representative Wilson, he explained that FY 09 is when the height of revenue is expected - about \$50 million, before expenses, to the state from EGMs; about \$1.5 million from the twice-a-year lottery, which is probably a high estimate; and about \$0.5 million from fees collected from vendors. That is why there is a total of \$52 million.

Number 3744

REPRESENTATIVE WILSON asked how much would be the total net gain from the EGMs for the state.

MR. PERSILY responded that the state would get about \$50 million in income before expenses and the expenses would be approximately \$2.5 million. He added that there could be some additional expense for advertising.

REPRESENTATIVE WILSON commented that it has been statistically proven that once gaming, EMGs, and lotteries are in place a significant expense is incurred in advertising to keep these programs going. She pointed out that other states have spent a lot of money on advertising on TV, and billboards, for example.

Number 3849

MR. PERSILY clarified that the figure he mentioned with respect to expenses does not include any funding for advertising. He stated that whatever advertising that would be necessary to promote the game would be in the state's best interest to increase or maintain the revenue. There would need to be an advertising component added to the fiscal note, he commented.

CO-CHAIR WHITAKER stated for the record that Representative Joule had joined the meeting.

Number 3913

REPRESENTATIVE JOULE asked how communities would decide if they wanted to offer gaming.

MR. PERSILY responded that in Section 21 there is a provision that allows for a community to vote as to whether they want electronic gaming machines within their boundaries.

Number 3938

REPRESENTATIVE JOULE asked if there was ever any consideration given to reversing the process. In other words, a community would have to vote to allow EGMs in their communities.

Number 4011

REPRESENTATIVE HEINZE said that Dennis Jackson, former director of the Idaho state lottery and currently the chairman of the National [North American] Association of State and Provincial Lotteries is on line. She noted that he worked with Mr. Persily while he was here last week, and could be a great source of information.

CO-CHAIR WHITTAKER explained that Mr. Jackson was on line earlier, but is not at this time.

Number 4053

REPRESENTATIVE WEYHRAUCH asked Mr. Persily what other revenue sources the state has that generates approximately \$50 million per year other than oil.

MR. PERSILY replied that if there is an advertising component added to the fiscal note the amount received would be comparable to HB 236, the employment tax bill, which would produce approximately \$39 million. In further response to Representative Weyhrauch, Mr. Persily related that all the fees, taxes, and assessments paid by the commercial fishing industry, in a good year, would total gross receipts of approximately \$50 million before refunds to communities.

CO-CHAIR HAWKER related his understanding that the state would receive an amount theoretically equivalent to what the charities receive before operating costs [are deducted]. He inquired as to the prize payout factor that was used in the fiscal note calculations.

MR. PERSILY answered, "Eighty-five percent." In further response to Co-Chair Hawker, Mr. Persily informed the committee that pull-tabs in Alaska average a 78 percent payout and thus this proposal would payout a better percentage than pull-tabs. He noted that 85 percent would be a bit less than Montana, Oregon, and South Dakota. He mentioned that [the 85 percent payout] is in between other states' payout for video gaming, but a little higher than the existing payout for pull-tabs in Alaska.

Number 4319

REPRESENTATIVE ROKEBERG pointed out that the legislation provides for 10 percent revenue sharing with municipal governments on the EGM portion. He inquired as to why that percentage was chosen and why municipalities should participate.

REPRESENTATIVE ANDERSON informed the committee that he had been the head of the Anchorage Cabaret Hotel Restaurant & Retailers Association (CHARR), and one aspect of CHARR's mission was to generate sources of revenue for charities with whom they work. The CHARR reviewed the option of EGMS and several legislators contacted CHARR suggesting the review of alternative revenue sources, such as EGMS. As CHARR reviewed alternative revenue sources, a task force comprised of various folks from the community was formed. Although CHARR's task force report didn't endorse EGMS, it analyzed EGMS in other states and suggested that a municipal distribution would be beneficial. He explained that sharing income [derived from EGMS] was the intent.

REPRESENTATIVE ANDERSON, in further response to Representative Rokeberg, related that he believes the intent of the amended legislation is that if an EGM is played, there would be a determination regarding where the EGM was played. If the EGM was played in an organized borough or first class city, the 10 percent would go to that organized borough or first class city while the 10 percent derived from EGMS in an unorganized borough would go to state.

REPRESENTATIVE ROKEBERG inquired as to how this proposal would compare with other states that adopted the EGM play. He surmised that there is a relationship between the state distribution/income vis-a-vis the local share.

REPRESENTATIVE ANDERSON directed attention to page 5 of the fiscal note where the explanation delineates the differences between Montana, Oregon, South Dakota and the [proposal embodied in HB 240].

**TAPE 03-7, SIDE B**

REPRESENTATIVE ANDERSON continued by noting that he hasn't investigated the levels going to local communities. However, he related his belief that this legislation is unique compared to other states because of the extra distribution. He reiterated that [this legislation] proposes a unique 4-way split.

REPRESENTATIVE HEINZE informed the committee that Mr. Jackson is now back on-line.

CO-CHAIR WHITAKER informed Mr. Jackson that the committee is discussing the fiscal implications of EGMs as well as a state lottery for Alaska.

Number 4521

DENNIS JACKSON, GTECH Corporation, informed the committee that he is the former lottery director for the State of Idaho. He explained that GTECH is the world's largest manufacturer of EGMs and supplier of computerized systems that control lotteries and video lottery machines. Mr. Jackson said that he would be happy to act as a resource, although he didn't believe it wouldn't be appropriate to advocate any solutions for Alaska.

REPRESENTATIVE HEINZE inquired as to the experience Mr. Jackson has had in other states with lotteries versus EGMs regarding what each brought to the charities and the general fund.

MR. JACKSON informed the committee that currently there are 39 states with some type of lottery. Only two states, Hawaii and Utah, have no gambling at all. In terms of revenue to the state, he estimated that around 18-20 percent of every \$1 wagered on the lottery goes to the state. For instance, the Idaho state lottery returns about \$20 million to the state government and those funds are used for education. The video lottery produces significantly higher [returns]. He estimated that electronic gaming in Alaska would probably result in returns in the of amount \$60 million year.

Number 4220

REPRESENTATIVE HEINZE recalled that Mr. Jackson viewed Commissioner Persily's quotes as low. She asked if Mr. Jackson still believes that to be the case.

MR. JACKSON confirmed that he believes Commissioner Persily's estimates to be a bit conservative, based on his experience in other states. However, he highlighted that states' returns range from conservative to highly optimistic, which he attributed to the type of legislation passed and how restrictive it is. He reiterated that he believes Commissioner Persily's estimates are conservative, although they aren't wrong.

COMMISSIONER PERSILY said that the fiscal note may be

conservative and the department would rather err on the conservative side.

Number 4033

REPRESENTATIVE ANDERSON recalled Representative Rokeberg's earlier question regarding the two states that have local distributions.

COMMISSIONER PERSILY, in response to the question regarding whether other states share any revenue from EGMs with municipalities directly, said he didn't know and deferred to Mr. Jackson.

MR. JACKSON confirmed that there are states in which the proceeds from [EGMs] are shared with municipalities, although it isn't standard as a general rule. Generally, if there is an entity other than the state government that shares in the proceeds, it is a municipality or some gambling prevention fund.

Number 3838

MR. JACKSON, in response to Representative Heinze, clarified that he believes if a lottery is to be a success, that is to produce the maximum revenue for good causes as intended, then the legislation should allow [the lottery] to operate as a business. This is a unique enterprise for state government. Generally, the only places in state government that have a profit motive are gambling or liquor sales. Those lotteries that are successful, that is those that generate the maximum return for good causes, have "good" legislation that allows the lottery oversight entity to make good business-like decisions.

REPRESENTATIVE HEINZE informed the committee that Mr. Jackson had worked with her to develop the two CS's he thought would be good legislation for EGMs and lotteries.

Number 3702

REPRESENTATIVE WILSON inquired as to how much money some states have set aside for problems associated with gambling.

MR. JACKSON answered that the amount of money set aside for problems associated with gambling varies. For example, Nebraska [puts aside] the first \$500,000 and then 1 percent of sales. Generally, [the funds set aside for these purposes] is up to 1 percent of the revenue [generated by the] gambling.



REPRESENTATIVE HEINZE asked if Mr. Jackson had any idea how much a lottery would impact pull-tab sales.

MR. JACKSON said he was sure there would be some "cannibalization" of pull-tab sales. However, he couldn't provide any estimates because it would depend upon whether lottery products would be offered in the same venue as pull-tab sales. Typically, lottery products are sold in convenience stores and small grocery stores versus the adult settings of bars and taverns where pull-tabs are generally sold. Therefore, there wouldn't be a tremendous loss of sales because pull-tabs and lottery products aren't offered in the same venue.

Number 3438

COMMISSIONER PERSILY, in response to Co-Chair Hawker, related his understanding that Co-Chair Hawker is interested in how much more [revenue] would be available for distribution to the state, municipalities, and vendors as the payout percentage drops [or changes]. If the payout factor changes from 85 percent to 75 percent, he guessed it would be substantial.

CO-CHAIR HAWKER turned to the three benchmark cases provided on page 5 of the fiscal note and pointed out that the prize payout rate is in excess of 90 percent. He requested a sensitivity scale report for evaluation. He inquired as to the basis for the conclusion that every Alaskan over 21 years of age will on average invest \$403.

COMMISSIONER PERSILY answered that South Dakota was used as a reference case. "Slightly less than Montana, much higher than Oregon," he related. There is no scientific evidence that specifies how much an Alaskan will invest in electronic gaming, and therefore the department reviewed other states. In further response to Co-Chair Hawker, Commissioner Persily explained that South Dakota was chosen as a reference because the games in use there operate close to what is envisioned in this legislation. Furthermore, South Dakota is a smaller state.

Number 3039

REPRESENTATIVE ROKEBERG inquired as to Mr. Jackson's opinion of Alaska having a biennial lottery.

MR. JACKSON said that the twice a year legislation isn't what those in the industry would refer to as a lottery, but rather a

raffle. He opined that such wouldn't be successful in achieving any dividend return to the state. Mr. Jackson suggested that Alaska should consider joining a multi-state lottery and those drawings are generally held twice a week.

REPRESENTATIVE ROKEBERG asked if Alaska could be connected to these other states through the Internet.

MR. JACKSON replied yes, and noted that Alaska is a bit unique in that there may be lottery terminals located where there are no telephone lines. He explained that a lottery system usually works through a terminal connected by a telephone line connected to a central computerized system. He suspected that in Alaska that system would probably have to be wireless. He indicated that he had thought [an option for Alaska would be] Powerball, a multi-jurisdictional game, which is currently played in 24 jurisdictions. If Alaska joined, Alaska would be part of a game played by other jurisdictions and some 70 million people. In further response to Representative Rokeberg, he confirmed that there are other small population states that are part of the Powerball association. He explained that the larger the Powerball jackpot the more likely people are to play. He informed the committee that the following states are involved in Powerball: Oregon, Idaho, Montana, South Dakota, Nebraska, New Mexico, Arizona, Indiana, West Virginia, and Rhode Island. Generally, the small population states are involved in Powerball.

Number 2725

REPRESENTATIVE ROKEBERG asked if the state sells its own prizes or games at the same terminal as the Powerball, would there be a third party administrator system that would handle the administration [of the game] on line.

MR. JACKSON replied yes. He envisioned that if a lottery was in place in Alaska, the state would seek a competitive bid from companies that run these computers and have a large library of games from which the company would recommend specific games to fit the state's needs or desire.

REPRESENTATIVE ROKEBERG turned to electronic gaming and related his understanding that legislation is designed such that individual vendors would purchase or lease machines and there would be a central computer system. He asked if electronic gaming machines are available for both purchase and/or lease. Furthermore, would it be possible for the State of Alaska to

contract with another state to tie into that state's system and have that state manage the operation.

MR. JACKSON said that as a general rule, states that have video lottery under state control, of which there are few states, have machines that are connected to a central computerized system maintained by a vendor. He said he guessed that it would be problematic to "piggyback" with another state because typically, the system is located in a state and that state pays a fee, which is usually a percent of sales. He commented that he wasn't sure that it wouldn't be best for a state to have its own system.

Number 2414

REPRESENTATIVE ROKEBERG requested that Mr. Jackson comment on the ramp-up time for both the lottery and an EGM system. He related his assumption that if there was a request for proposals (RFP) out for a contract administrator a lease purchase would be less capital intensive, and therefore he asked if those are available in the industry.

MR. JACKSON replied yes. He predicted that most people who would compete for this business would suggest that this system based on participation -- a percentage on sales of the lottery or the net win on the video lottery. Therefore, the vendor would be the state's partner and thus the vendor would have an interest in sales as does the state. Furthermore, [the vendor would have a vested interest] in providing a good maintenance program for the machine. With regard to the timing, he indicated that from the moment of request it would probably be possible to obtain a computerized system within four to six months. However, the process from the time Alaska would issue an RFP [request for proposals], the time for the company to review it and respond, and the time for a question and answer period, and evaluation by the state would be around one year.

REPRESENTATIVE ROKEBERG requested that Mr. Jackson review the pitfalls in drafting legislation, particularly in relation to the administrative side.

MR. JACKSON commented that he has reviewed Representative Heinze's legislation, which looks good. He reiterated the need to operate [a gambling venture] in a business-like fashion. Sometimes, due to the controversy surrounding this business, legislation will restrict advertising or attempt to tax lottery proceeds. The aforementioned legislates the business into a bad

business, and therefore he suggested not going that route. Mr. Jackson said that the legislation should relate to the lottery commission and director that this business should be conducted in a manner that is consistent with the sensibility of the citizens of the state. Furthermore, the legislation should include strong language with regard to security. He opined that there should be a security director employed by the lottery commission and this security director should perform background checks on operators, employees, et cetera in order to avoid people with a dubious past. He indicated that he helped Representative Heinze with her legislation and it embodies much of what he believes is the best legislation for Alaska.

REPRESENTATIVE HEINZE noted her appreciation to Mr. Jackson and Jerry Luckhaupt, Attorney, Legislative Legal Services and Research, for their work on this legislation.

Number 1856

REPRESENTATIVE ROKEBERG pointed out that the fiscal note specifies the need for investigators, accountants, and supervision. Representative Rokeberg said that HB 240 is somewhat unique because of the use of Title 4, beverage dispensary licenses as a background or basis. Therefore, he asked if this legislation would also include restaurant and eating place licenses. He asked if there are some ways in which administrative costs for the lottery could be cut by reviewing the functions of the Alcoholic Beverage Control (ABC) Board in relation to background checks and the licensure procedures under Title 4.

COMMISSIONER PERSILY said there could be some savings. However, he pointed out that the legislation proposed an EGM operation run within [the Department of Revenue] while there would be a separate lottery commission to run the twice a year raffle. In a letter to the co-chair of the House Special Committee on Ways and Means, the department suggested that it might be appropriate to combine those into one operation. However, there would be no savings with regard to investigation staff because no investigation staff was included for the lottery commission. For the electronic gaming portion, the department requested five positions for investigations. For comparison, he informed the committee that in Montana there are 13 investigators and in Oregon there are 30-40 investigators. With regard to combining it with the ABC Board, Commissioner Persily pointed out that it has four investigators for the entire state and thus are already stretched thin. Therefore, he didn't believe there would be any

savings realized by combining this with the ABC Board. However, he recognized that it might make sense to put the lottery and electronic gaming together under one operation.

REPRESENTATIVE ROKEBERG said that it seems that some of the activities, such as the background checks, are already being undertaken by the ABC Board. Therefore, he opined that there is significant synergy because these machines would be placed in Title 4 establishments. He requested that Commissioner Persily comment on the notion of the present staff administering pull-tab and bingo operations.

COMMISSIONER PERSILY agreed that [the ABC Board] would perform a background check for a liquor license, and therefore it wouldn't be necessary to do it twice if the individual is also running an EGM. In further response to Representative Rokeberg, he explained that the charitable gaming section within the Tax Division has eight positions to police and enforce, license, and audit the returns for raffle, bingo, and pull-tabs. In calendar year 2001, charitable gaming in Alaska grossed about \$350 million.

REPRESENTATIVE HEINZE interjected that the new amendment [committee substitute] covers the above.

Number 1417

COMMISSIONER PERSILY returned to the question regarding why South Dakota was chosen as a reference case. He explained that South Dakota limits [EGMs] to 10 units per establishment and the machines are only allowed in bars, just as this legislation proposes. With regard to the potential to make money off tourists, Alaska isn't unique in having a tourist component. In fact, Alaska's tourist component is small compared to other states. For instance, South Dakota has about twice as many tourists as Alaska. Furthermore, the issue with Alaskan tourists is that most arrive on cruise ships that have casinos. Therefore, the fiscal note doesn't factor in a large amount of money coming from the tourists as compared to other states.

Number 1251

CO-CHAIR WHITAKER remarked that it should be clear to the committee that there are some challenges with regard to the fiscal discussion on this issue. Representative Heinze has a committee substitute and it would behoove the committee to study it. Co-Chair Whitaker acknowledged that there are people who

are very concerned about gambling and EGMs. He also acknowledged that from a moral perspective, this is a very controversial issue. Therefore, he announced that the committee members have half an hour during which they may discuss the moral implications and the cost associated with EGMs and/or a lottery.

REPRESENTATIVE CRAWFORD related his belief that [with this legislation] "a bad moon is coming over Alaska." He informed the committee that he grew up in Louisiana where he saw what the gambling industry did. Therefore, he suggested that before Alaska enters into this, one should take a long hard look at it because there have been many implications that haven't been addressed today. He pointed out that South Carolina has banned electronic gaming after several years experience with it. South Carolina at one point had 34,000 EGMs. He noted that one of the governor's of South Carolina lost his job because he fought against gambling interests. He recalled that in Louisiana \$1 of every \$3 donated to political campaigns comes from gambling interests. Therefore, he predicted that [the gambling industry] would be the dominant factor in political campaigns [if gambling is allowed in Alaska]. Former South Carolina governor David Beasley said in his state of the state speech that studies show that every dollar spent on gambling costs another \$3 to pay for its consequences. Furthermore, every dollar placed in a machine is a dollar less for local businesses, family budgets, food, and clothes. Representative Crawford noted that the great refrain is "You can't legislate morality." However, he questioned what one would call the body of law forbidding drug use, prostitution, and a variety of human behaviors legislatures have deemed inappropriate for the state. Routinely [legislators] are asked to decide between right and wrong, and this is another case. Representative Crawford requested that [gambling] be banned once and for all. He related his personal experience with some of his renters in Louisiana and how gambling consumed them to the point he had to evict them. This is such an insidious question being considered in this legislation. He highlighted some of the ill partners to gambling such as suicide and prostitution. Representative Crawford said that this is a moral and an economic issue, and this state can't afford [electronic gaming] because the [state] would pay out far more in other costs than the few dollars that [gambling] might bring in.

Number 0709

MR. JACKSON agreed there is no question that there are people

with compulsive problems related to gambling. How large the problem is depends upon with whom one talks or the poll reviewed. As a member of the industry, Mr. Jackson pointed out that [gambling] is one of the largest growing businesses in the country. He said this is a decision that Alaskans must make and he wouldn't attempt to influence the state one way or the other.

Number 0449

REPRESENTATIVE ROKEBERG related that it's clear that Alaska already has gaming, and therefore the question is whether the state wants to expand it or maintain the status quo. He recalled that there have been at least two advisory votes on which the people of Alaska rejected legalized gambling, the last being in 1990. However, he recalled that those votes were considering casino gambling. With passage of the federal Indian Gaming Act, there has been a revolution in this country with regard to the pervasiveness of casino gambling throughout country. Fairly recently, the legislature reviewed the gaming laws in Alaska in light of the federal act to restrict Alaskan tribes from entering into gaming as a matter of public policy. He related his belief that the growth of Indian gaming across the country has broken down a lot of barriers. For instance, only two states don't have some form of gaming. This issue should be reviewed in context of the national policy and what has happened in other jurisdictions.

**TAPE 03-8, SIDE A**

Number 0007

REPRESENTATIVE HEINZE said that she has a list of all the lotteries in North America and wanted to share the following information. The Arizona lottery provided \$355.91 million to education alone; the California lottery provided \$14 billion to education, the Colorado lottery provided \$8.5 million to education, the Connecticut [lottery] provided \$4.8 billion to the state's general fund, and the Indiana [lottery] provided \$387.5 million for education. She offered to provide this information to anyone interested.

REPRESENTATIVE WILSON said the legislature needs to be careful with its approach to this because there is no desire to make things worse in the state. She said she understood how pointing to how much [gambling] contributes to education in other states can look good. However, she expressed the need to review how much of an increase in education spending occurred in those

states. Alaska is very unique in that it has the highest suicide rates, alcohol problems, and fetal alcohol syndrome incidences in the nation. Representative Wilson recalled living in North Carolina when the neighboring State of Virginia implemented a lottery. In Virginia, during the first year everyone played the lottery. However, after the first year people from high and middle income levels quit playing the lottery. Overall, lower income people continued to play because it was the only way they could make it "big." Furthermore, grocery stores saw a decrease in income, which meant that people were spending their grocery money [gambling]. The State of Virginia found that the social problems of the state increased dramatically. In Canada, a group established the "Responsible Gambling Council," which is a nonprofit bipartisan organization to help communities deal with the problems [associated with gambling]. She related the following quote [from the aforementioned council]: "The study also revealed that gambling problems are clearly related to poor health. About one in four moderate or severe problem gamblers reported being under a doctor's care for emotional or physical problems due to stress. And more than one in three reported feeling seriously depressed at times. About one in fifteen ... severe problem gamblers had considered suicide." She continued, "The authors also identified a significant relationship between gambling and substance abuse. The proportion of Ontario adults who reported having an alcohol or drug problem increased from 6.1 percent among nongamblers to 24.2 percent among those with severe gambling problems." Representative Wilson pointed out that Alaska is ratcheting down [funding] in prevention areas related to alcohol centers, although there should be increased [funding] in these areas due to the problems in the state. However, if gambling is implemented in this state, [the legislature] should determine how [funding] could be increased in these areas because she predicted an increase in the problems associated with [gambling].

REPRESENTATIVE WEYHRAUCH informed the committee that "National Indian Gaming Industry" appointed Robert Loescher who is a valuable local resource.

Number 0755

REPRESENTATIVE CRAWFORD recalled hearing that the revenues the state receives from video lotteries is a tax on the willing, but he said it would soon become a tax on the desperate because the "willing," the upper and middle income people, tend to drop out. However, lower income people are hurt the worst and hit the



hardest by any gambling scheme. Representative Crawford related the following statistic about South Carolina. Each year South Carolina is \$424,000 poorer because of machine gambling; that is the cost to the general populace. The players individually use a total of \$610 million annually. South Carolina dug itself into a hole and he said he didn't want Alaska to do the same. He returned to what happened in his home state of Louisiana which failed to outright ban gambling. However, Louisiana went to a local option and all but five of sixty-four parishes have banned video gaming. Representative Crawford opined that [this legislature] isn't taking the necessary time to consider this.

Number 1012

REPRESENTATIVE HEINZE informed the committee that on the Internet the National Association of State Lotteries website contains a wealth of knowledge regarding some of the questions being discussed today.

REPRESENTATIVE ANDERSON pointed out that in the most current Newsweek magazine, there is a report that specifies that approximately \$6 billion was spent on Internet gaming in the U.S. alone. He said he didn't believe Internet gaming generates any taxes or fees that go to any state. He echoed the earlier comment that gaming already exists in Alaska.

Number 1214

MR. JACKSON related that whenever "we" do demographic studies of lottery players across the county, which all states do rather regularly, in almost every state it is found that the average lottery player mirrors the average citizen of state in age, income, and education. In Idaho the average lottery player is around age 35 with some education past high school and earns approximately \$30,000 a year. Mr. Jackson related that when [GTECH] studies people across the nation, there are a small percentage of people who merely want to play and there are small percentage of people who believe that no amount of money is worth the evil of gambling. Therefore, most people are in the middle and wouldn't want to restrict someone else's opportunity to play. In the last study, 2-3 people polled said that lotteries are an acceptable way to raise money.

Number 1447

REPRESENTATIVE CRAWFORD clarified that he was referring to problem gamblers who are in the lower income and thus would be

more impacted. The surveys are of every player, and therefore the occasional player skews the averages.

CO-CHAIR WHITAKER announced that there would be a working group on this matter. He appointed Representatives Heinze, Rokeberg, Whitaker, and Moses to discuss this subject and, if the working group so desires, bring legislation to the committee for consideration.

[HB 240 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Ways and Means meeting was adjourned at 8:59 a.m.