

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

3003 SCOMM 134: HOUSE SPECIAL COMMITTEE ON WAYS & MEANS 2003-04

NATIONAL PAYROLL REPORTING CONSORTIUM, INC.

ADVANTAGE PAYROLL SERVICES, INC. AUTOMATIC DATA PROCESSING, INC. CERIDIAN CORPORATION COMPUPAY, INC.
FEDERAL LIAISON SERVICES, INC. FIDELITY EMPLOYER SERVICES CO, LLC INTERPAY, INC. INTUIT INC
PAYCHEX, INC. PAYROLL PEOPLE, INC. PRIMEPAY, INC. PROBUSINESS SERVICES, INC
PO Box 1836 AUBURN, ME 04211-1836 WEBSITE: WWW.NPRC-INC.ORG

May 13, 2003

Representative Mike Hawker
Co-Chair, House Ways & Means Committee
Alaska State Legislature
State Capital, Room 434
Juneau, AK 99801-1182

Dear Representative Hawker:

This letter from the NPRC is being sent to your office in response to Alaska House Bill No. 236, a proposal that would create a state tax on employment with an effective date of July 1, 2003 for Alaska workers 19-years of age or older.

The *National Payroll Reporting Consortium* (NPRC) is a non-profit trade association whose member organizations provide payroll processing and related services to over one million employers nationwide. NPRC member companies handle payroll processing for over one-third of the private sector work force, and file and pay employment taxes in every state. The group's mission is to proactively address major policy, administrative and systemic issues that impact employers and their service providers.

Although members of the NPRC take no official position on whether the State of Alaska should or should not create an employment tax, we would like to provide constructive feedback concerning some of the implications of House Bill No. 236 that could adversely impact employers, their payroll tax service providers, and the Alaska Department of Revenue (DOR).

Upon initial review of this bill, NPRC members question the ease of collection and payment methodology of this proposed employment tax. In its present form, within *Sec. 43.45.021* of HB 236, the proposed administrative strategy of this employment tax deviates significantly from the way other states direct employers to withhold employment taxes from their employees' wages.

The following bullet points are provided to communicate potential pitfalls for Alaska employers, payroll reporting agents, software vendors, and the Alaska Department of Revenue should this bill be enrolled into state law in its current form:

- Since no other state withholding tax formula is currently set-up and administered like the one proposed in House Bill No. 236, accounting and payroll tax systems commonly used today by employers to administrate and pay their state withholding tax obligations would need "special" and labor intensive programming to accommodate this very unique tax calculation (referenced in *Sec. 43.45.021* of HB 236). Significant changes to accounting and payroll tax systems typically require at least 6-months of lead-time to budget, plan,

test and execute. These tasks also require continual technical guidance and feedback from the tax agency officials who would administer this withholding tax to ensure proper compliance with the law. At this juncture, a **July 1, 2003** effective date of this tax **would not** be achievable for the employer, software vendor, and withholding tax reporting communities. NPRC members strongly suggest that this tax be administered on a calendar year basis, not on a fiscal year basis. (Note: In lieu of a the current withholding tax calculation, perhaps the Alaska legislature would consider a \$100 "head-tax", administered like an "local level" earned income tax within the Commonwealth of Pennsylvania.)

- Although *Sec. 43.45.011 (b) and (c)* briefly touches on the definition of "compensation" that would be applicable to this new employment tax, the NPRC would suggest that the final iteration of the bill elaborate on this topic further so that it is clear to employers and their reporting agents as to what type of compensation should be taxed. Perhaps the bill could follow the federal definition of wages for state income tax purposes. As well, the NPRC believes that the state should adopt the federal income tax definitions of "employer" and "employee" for the purpose of consistency and administrative convenience.
- Specifically, the particular age threshold (19 years of age) for collecting the employment tax (outlined in *Sec. 43.45.001* of HB 236) could be problematic for some employers and the accounting/payroll tax systems they may use within their organizations. Some systems may not be able to easily accommodate this age threshold requirement to collect the proposed \$100 annual withholding tax, creating a more manual age validation and tracking process for the HR and/or payroll departments of Alaska employers. NPRC members and employers would prefer to see the age threshold eliminated from the proposal.
- Especially in today's economy, some individuals frequently work for multiple employers. With this in mind, it is likely that Alaska employers would not have any knowledge or visibility of the other working relationships that their workers may potentially have with other employers. This means that without some communication and education plan executed by the Alaska Department of Revenue (with the help of the employer, accounting and payroll communities) and directed at Alaska workers on this matter, workers may have their \$100 employment tax withheld more than once during a tax year. Although House Bill No. 236 does permit taxpayers to claim a refund from the Department of Revenue when they pay more than \$100 in annual withholding tax, some taxpayers may not even notice that they paid more than required tax until they receive their annual Forms W-2 from all of their employers. This situation could create potential worker/taxpayer relations problems for employers and the Alaska Department of Revenue due to the potential whirlwind of employee/taxpayer queries about their refunds. Again, a July 1, 2003 effective date of this tax would not provide sufficient time to effectively educate workers and the accounting community about this new withholding tax.

The following questions are also items identified by NPRC members that we believe need clarification or guidance from the Alaska Department of Revenue, if and when this employment tax is implemented:

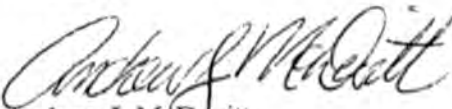
- Which classification of employee is subject to this withholding tax and which is excluded (e.g. members of the clergy)
- Will there be a withholding tax coupon to be used by employers when remitting the tax? Will the Alaska DOR require a quarterly/annual reconciliation tax return? If so, what would be the due dates of each? Will the Alaska DOR accept substitute forms from NPRC members and other reporting agents? What would be the substitute form approval process?
- What would be the deposit frequency of this withholding tax? Would there be more than one deposit frequency based on particular dollar thresholds determined by the Alaska DOR? (*Note: NPRC members would prefer a monthly deposit frequency.*)

The NPRC appreciates the opportunity to comment on this legislative proposal and would welcome the opportunity to provide you and other Alaska legislators with additional payroll tax industry knowledge on withholding tax matters, based on our experiences and best practices. Our members have many years of experience working with other state tax authorities on employment tax issues and would be willing to meet with you in person to share our perspectives on this subject.

Should you have any questions concerning our feedback, please do not hesitate to contact us at (925) 737-3196.

Thank you for your time and attention.

Sincerely,



Andrew J. McDevitt
National Payroll Reporting Consortium

C.c. NPRC Members
Alaska Department of Revenue

April 4, 2003

APR 04 2003

Representative Peggy Wilson

The issue you and I discussed on Wednesday was the definition of a "wage earner", under the proposed \$100/head tax. On the surface, the definition of "wage earner" seems very simple. The problem arises when you consider who are not wage earners. Individuals who conduct business as sole proprietors, partnerships, or limited liability companies do not receive wages and therefore would be exempt from this tax. These individuals receive distributions which are not considered a salary or wage. Some of the types of individuals who operate businesses this way include doctors, dentists, attorneys, CPA's, realtors, fisherman, and construction contractors,

Individuals who are retired and receive retirement plan distributions, social security payments, or the longevity bonus would also be exempt from this tax since none of those payments are considered wages.

When considering this proposed tax, I believe it is important for our legislators to be aware of who will be subject to this tax. You may wish to consider expanding the definition of income subject to this tax, to encompass a broader spectrum of earnings.

Donovan W. Rulien, CPA

e-mail	don@kwrcpa.com
Tel.	907-272-1421
Fax	907-272-8556

Subject: Proposed State Withholding Tax

Date: Mon, 28 Apr 2003 15:28:27 -0800

From: "Ellen Izer" <eizer@fnbalaska.com>

To: <rep.mike.hawker@legis.state.ak.us>, <dbruster@legis.state.ak.us>

CC: "Anne Marie Walker (E-mail)" <awalker@acsalaska.com>,
"Chris Thompson (E-mail)" <cthompson@kronos.com>,
"Skye Matlock (E-mail)" <s.matlock@valley-hosp.com>, "Ardie True" <atrue@fnbalaska.com>

Dear Representatives Hawker and Weyhrauch:

As an Officer of the Northern Lights Chapter of the American Payroll Association I received a copy of the fax sent to Heather Bond, Swan Employer Services regarding the Proposed State Withholding Tax. I am also the Payroll and Employee Benefits Manager for First National Bank Alaska. First National uses Automatic Data Processing (ADP) as our payroll service provider. They are the largest company in the U.S. performing that service. I would like to strongly urge you to reconsider this tax proposal.

Let me explain why from a payroll perspective.

1. Payroll's will find it impossible to manage a fiscal year taxation period. It would be better, if you must implement by 7/1/03, to use a prorated year for 2003. In other words, require a \$50 tax for 2003 and \$100 tax beginning 1/1/2004.
2. It is impossible to only tax after a certain age. I know ADP could not implement such a calculation on their system. Besides it is part of growing up to learn that a large portion of your pay goes to pay taxes.
3. Taxes should begin on the first dollar earned not after \$1,000. This notion is impractical from a payroll perspective. If I start by withholding 10% of an employee's pay until I reach \$50, then what happens if they terminate before they reach \$1,000 in earnings, do I have to refund the employee? This all becomes very costly for the employer.
4. The employer should not have to determine whether an employee has already paid the tax. Just like State Unemployment Insurance (SUI) it should be withheld regardless. If the employee overpays give them a reasonable amount of time to file for a refund and keep the employer out of the middle. If the employee did not pay their full amount then they should have to pay by the normal April 15th deadline.
5. In the proposal the definition of compensation is extremely troublesome. What does "remuneration paid for personal services" and "compensation exempt from tax under the federal law" mean? Which employers are included under personal services? According to the Anchorage office of Wage and Hour Administration their definition of personal services is a very small portion of the general workforce. As for exempt under federal law statement, which law are we talking about? I have to perform a different calculation to determine taxable wages for Medicare than for Social Security, and yet another for Federal Income Tax Withheld, and yet another for 401(k) deferrals. I have to assume it does allow for all the types of deductions from earnings that are normally exempted from taxes, i.e. medical, dental, and vision premiums. None of these match Alaska State Unemployment Insurance which already adds an extra burden to payrolls because their definition of "taxable wages" is broader than the Federal guidelines and includes exemptions for things like Life Insurance, Disability, and Federal non-pretax deductions for medical, dental, and vision.
6. Something easier to handle would be an employee tax that is a very small percentage of pay (say 1%), regardless of earnings or age, and then to cap it at the target amount say \$100. Require that the tax year follows Federal tax years, i.e. 1/1 through 12/31 and no more than an annual return submitted by employers similar to the Federal Unemployment Tax Act returns (FUTA, Form 940) with a filing deadline of 1/31. Implementing by July 1, 2003 is just about impossible for any payroll system and would create an extreme hardship for small businesses and the self-employed that may not be back to visit their CPA until next spring.

Imposing such a cumbersome tax in this manner is not practical for the reasons outlined above. The cost to employers/employees far outweighs its value to the State. Another approach should be taken. If you would like to clarify any of this information or need anything else that I can help you with, please do not hesitate to contact me.

>From a personal perspective what is this Education Tax supposed to be spent on?

Respectfully,

Ellen Izer
Payroll & Benefits Manager
First National Bank Alaska
(907) 777-3488 phone
(907) 777-3425 fax

April 4, 2003

APR 04 2003

Representative Peggy Wilson

The issue you and I discussed on Wednesday was the definition of a "wage earner", under the proposed \$100/head tax. On the surface, the definition of "wage earner" seems very simple. The problem arises when you consider who are not wage earners. Individuals who conduct business as sole proprietors, partnerships, or limited liability companies do not receive wages and therefore would be exempt from this tax. These individuals receive distributions which are not considered a salary or wage. Some of the types of individuals who operate businesses this way include doctors, dentists, attorneys, CPA's, realtors, fisherman, and construction contractors,

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When considering this proposed tax, I believe it is important for our legislators to be aware of who will be subject to this tax. You may wish to consider expanding the definition of income subject to this tax, to encompass a broader spectrum of earnings.

Donovan W. Rulien, CPA

e-mail	don@kwrcpa.com
Tel.	907-272-1421
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ALASKA COUNCIL



OF SCHOOL ADMINISTRATORS

326 Fourth Street, Suite 404 • Juneau, Alaska 99801
Phone: (907) 586-9702 • Fax: 586-5879
web site: www.alaskaacsa.org

Alaska Council of School Administrators

January 27, 2004

The Honorable Peggy Wilson
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Representative Wilson:

This letter is to support HB 236, *Employment Tax for Education*, a bill that would help address the State's fiscal problem and be part of a comprehensive fiscal plan for Alaska. The ACSA membership has endorsed a resolution (attached) calling for a three-pronged approach to deal with our state's fiscal issues.

The ACSA membership strongly urges the Legislature to consider all three options outlined in our resolution (budget discipline, POMV approach to use of the fund and broad-based taxes). We do not favor invoking one or two of the above options, but rather support using all three in some form.

ACSA contends that a variety of steps are necessary to ameliorate the current fiscal situation facing Alaskans. We think HB 236 is part of a larger solution to our state's problems.

Respectfully,

Mary A. Francis, Ph.D.
Executive Director

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Resolution 03-8

COMPREHENSIVE FISCAL PLAN

WHEREAS, the Alaska Council of School Administrators includes the educational and business leadership of public education in Alaska; and

WHEREAS, public education is a significant economic force throughout the State educating in excess of 134,000 students and employing more than 10,000 teachers, administrators and support personnel; and

WHEREAS, the economic vitality of the State impacts education's ability to conduct the business of operating Alaska's schools and school districts; and

WHEREAS, ACSA is eager to support a responsible and committed effort to address the fiscal challenges Alaska currently faces; and

WHEREAS, ACSA believes Alaska needs a comprehensive fiscal plan to address the priorities of the State in relation to the available resources and desired services; and

WHEREAS, ACSA believes that reform will require budget discipline, use of Permanent Fund earnings and the institution of broad-based taxes; now

THEREFORE IT IS RESOLVED that the Alaska Council of School Administrators supports the Percent of Market Value (POMV) approach to using earnings from the Permanent Fund as one part of a sound and responsible solution to increasing revenue to meet services and obligations of the State of Alaska.

Adopted by the Alaska Council of School Administrators (AASA, AAESP, AASSP and ALASBO) October and December 2003.

Subject: Sales Tax & Small Communities

Date: Fri, 16 May 2003 08:27:20 -0800

From: "Vince Hansen" <JVHansen@WytBear.com>

To: <Representative_Peggy_Wilson@legis.state.ak.us>

MAY 15 2003

Representative Wilson:

Thanks for your efforts in trying to deal with the current fiscal situation. I know that you already understand the impact of a sales tax in communities that already use this method of revenue generation. In Haines we tax ourselves at 5.5% and that seems to be the line where citizens make other choices (i.e. go to Whitehorse, or use a tax exempt card in Juneau). A sales tax is also the most regressive tax. Things are on the verge here economically. We feel we're about to climb out of the hole we are in and a new State sales tax will no doubt set us back. Most people I talk to would prefer a \$100 per person school type tax or even an income tax (which is a deduction on fed taxes). Thank you for having the courage to bring these alternatives forward. Let me know if there are ways I can help to have these alternatives considered.

Vince Hansen, Haines Citizen

Subject: HB 236 Education Tax

Date: Sun, 25 Jan 2004 01:21:11 -0900

From: "Ronald Jordan" <akrljordan@hotmail.com>

To: <Representative_Mike_Hawker@legis.state.ak.us>

CC: <akrljordan@hotmail.com>

Rep. Hawker and other members of the Ways and Means committee.

Ref: House Bill 236 Education tax: This bill, though well intended for education is not good as written either as an employer or as an employee. If this bill is passed as is issue is implemented it would hammer the lower wage people. I would like to suggest changes in the bill. I have talked to the sponsor of the bill Rep. Wilson about this and I do not know if I can make the hearing on the 28th at 7am. Maybe I could make one at a later date.

I would like to suggest that this section (current read)

Sec. 43.45.021. Collection of Tax. (a) An employer shall deduct and withhold \$50 of the tax from the employee's salary or other compensation on the first two regular payrolls after July 1 of each calendar.....

I would like to suggest that the wording and actions be changed to read thus.

(a) An employer shall deduct and withhold \$25. of the tax from the employee's salary or other compensation on the filing of each quarterly report filed to the department of labor

Having been in business myself and knowing that many employee's are living pay check to pay check now days. \$100. in two pay periods will hurt many of them if not all of them. Education is important and needs support. But keeping people off of the street is also important. \$100. means rent, food, medication, a warm place to stay.

Thank You
Ronald Jordan
907-345-2755
8170 Woodgreen Cr.
Anchorage, AK. 99518



Alaska State Legislature

Please enter into the record my testimony to the House Ways & Means
committee name

Committee on HB 236 Employment Tax for Education, dated April 16, 2003
bill # / subject public hearing date

I strongly support HB 236. This is a small step toward helping all Alaskans contribute to the quality of life in Alaska. We need the revenue in many programs but most importantly to fully fund education. We know there are many who work in Alaska and live outside and rarely contribute to the economic well-being of the state. I urge you to pass HB 236 and to consider an income tax on all working Alaskans. Thanks.

Signed: _____

Testifier

KPBSD School Board

Representing (optional)

36615 Chinulna Kenai, AK 99611

Address

283-9271

Phone number

SCOMM

134:5

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

April 23, 2003

The Honorable Jim Whitaker
Co-Chair, House Ways and Means Committee

The Honorable Mike Hawker
Co-Chair, House Ways and Means Committee
Alaska State Legislature
State Capitol
Juneau, Alaska

Dear Representatives Whitaker and Hawker,

In working up our estimates on revenue to the state at various prize payout rates for video gaming terminals, we put together the following research.

General Payout Percentages

We asked Montana, Oregon and South Dakota and two video terminal manufacturers if they know of any studies done on players' sensitivity to prize payout percentages. Unfortunately, the answer is no. However, all parties seem to agree that electronic gaming machine (EGM) players are sensitive to payout rates. If the payout percentage is too low, they say, players become discouraged and the amount of credits played decreases. The lowest recommended range for prize payouts we found came from WMS Gaming Inc., at 88% to 92%. (WMS is an international gaming machine supplier, with offices in Illinois, Mississippi, Colorado, California, Florida, Oregon, Michigan, Missouri, New Jersey, Canada, South Africa, Spain and Australia.)

What seems to support the argument that players are sensitive to payout rates is that all states and provinces that have video gaming terminals (not including those that are confined to only racetracks or casinos) have actual payout rates greater than 90%. At the upper limit, none have a payout rate greater than 94%. (Oregon's payout rate is now 93.8%.) One of the manufacturers said the reason for Oregon's high payout rate is the amount of choice and sophistication of players in Oregon. The average payout rate for jurisdictions reported by La Fleur's World Lottery Almanac for the United States is 92.2%, and for Canada it is 92.7%.

Setting an Exact Credit Payout Percentage

According to WMS Gaming Inc., New York recently set the payout percentage for its EGMs in Indian casinos and race tracks. Apparently this has resulted in problems

because it restricts the type of games played; the argument against setting the EGM payout rate is that it makes the machines more like scratch tickets. Please see discussion below

The Odds of Winning

Unlike pull-tabs, the payout rate for EGMs is going to depend on the number of times the game is played. That is, you only reach the actual odds when the game is played a large enough number of times. The odds of winning in pull-tabs are predetermined when the charity buys the box of tabs; for example there will always be 78% prizes in a box of 1,000 tabs with a 78% payout rate. But for video gaming, it's more like a coin toss. You may win the toss six times in a row, but if you play the game enough, eventually you will win 50% of the time. Video gaming would be the same, in that it could take a lot of play on the machine for the odds to eventually true up.

This explanation is from the Alberta provincial gaming web site: "On average, the payout rate for video terminals and slot machines is 92% of money wagered. Payout is determined by the frequency and prize value of winning combinations. Millions of plays are required to converge to 92% payout. Individual play experiences will vary."

Additionally, if choice is involved, such as your hold hand in video poker, then calculating the odds becomes more difficult (see how South Dakota resolves this problem below). Apparently, the machine shows you the "optimum" hold hand but a player can choose to ignore the machine.

South Dakota Payout Rate

Each video machine must meet the following maximum and minimum theoretical percentage payout during the expected lifetime of the machine:

- Video games that are not affected by player skill shall pay out a minimum of 80% and no more than 95% of the amount wagered. (Note: Although the law sets 80% as the minimum, we're told no game pays out less than 90%.) The theoretical payout percentage will be determined using standard methods of probability theory. For the video game of keno, the theoretical payout percentage requirements apply to each number of spots marked.
- Video games that are affected by player skill, such as video draw poker and blackjack, shall pay out a minimum of 83% and no more than 96% of the amount wagered. This standard is met when using a method of play that will provide the greatest return to the player over a period of continuous play (our guess is that this is when the player always chooses the "optimum" choice offered to him by the machine).
- Manufacturers must file a request and receive approval by the commission before manufacturing machines for placement in the state programmed for a payout greater than 92% of the amount wagered.

Oregon Payout Rate

Don Robison from the State of Oregon said that they have never decreased the payout rate for a given game because players will not stand for it. Each of their machines has 10 games on it and the game that has a payout of 95% accounts for 60% of play. They are also introducing two games with payout rates of 93% and the remainder are at 91.25%. Their experience is that as they increase payout rates, the amount of playing actually increases.

Interestingly, he said that payout percentages are more important for players of poker-type games than for players of line games (e.g., three bells in a row). Although Oregon has a minimum of 84%, the lottery commission sets the maximum. They are looking at changing this to a specific maximum.

I know this may be more than you were looking for on the issue, but we wanted to share all of the information we have learned with the committee. Please let me know if we can be of any further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Larry Persily".

Larry Persily
Deputy Commissioner

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
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April 24, 2003

The Honorable Jim Whitaker
Co-Chair, House Ways and Means Committee

The Honorable Mike Hawker
Co-Chair, House Ways and Means Committee
Alaska State Legislature
State Capitol
Juneau, Alaska

Dear Representatives Whitaker and Hawker,

As we continue to research video gaming payout rates in other states and provinces, I thought it might be a good idea to explain to committee members the difference between the payout rate on the machines and a player's actual cash-out rate when he or she stops playing.

The payout rate and the cash-out rate are two distinct elements that should not be confused with one another. The first is determined by electronic regulation of the machine, often dictated in statute; the second is determined by the player.

For example, several jurisdictions set the payout rate for players at about 92%. That means that for every dollar played, the player will win, on average, about \$0.92. This average is based on millions of games played, taking into account not only the element of chance but the number of games played and the variety of jackpots. Although states usually specify a range or a minimum payout in statute, in practice they usually target a higher payout rate to remain competitive and to attract players. This also allows them the flexibility to pay out different rates for different games and to change the payout rate as market conditions change.

The cash-out rate is not a fixed amount, however, and is not pre-determined because it is up to the player whether or not to cash out his or her winnings at any given time. Players, not the electronic gaming machines, determine the cash-out rate.

For example, if a player starts with \$1.00, he or she will win, on average, 92% of that amount, or \$0.92. If the player decides to cash out that amount, then the cash-out rate also is 92% (\$0.92 on \$1.00). If the player does not cash out that amount and decides to bet again, he or she will again win, on average, 92% of the \$0.92, which is \$0.85. If the player decides to cash out that amount, the cash-out rate is 85% (\$0.85 on the

original \$1.00 played). But the cash-out rate does not change the payout rate, which remains at 92%.

If the player does not cash out that amount and decides to bet again, he or she will win, once again, on average, 92% of the \$0.85, which would be \$0.78. This would continue until the player stops playing the game.

We prepared the following table to illustrate the declining cash-out rate vs. the constant payout rate.

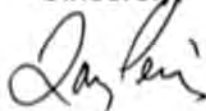
	Bet	Payout Rate	Average Win	Cash-out Rate (If winnings cashed out)
Initial bet	\$1.00	92%	\$0.92	92%
Credits won and replayed	\$0.92	92%	\$0.85	85%
Credits won and replayed	\$0.85	92%	\$0.78	78%
Credits won and replayed	\$0.78	92%	\$0.72	72%

TOTAL \$1.00 in cash resulted in \$3.55 credits played.
 Of the \$3.55 played, the player "won" \$3.27, for a 92% payout rate.
 If the player stops playing after four tries, as shown above, the actual cash-out rate would be 72% of the original \$1.00.

The result of the hypothetical player above is similar to that of a pull-tab player in Alaska. The calendar 2001 pull-tab gross receipts of \$274 million reported by charitable organizations represent not \$274 million of actual cash put on the counter by players but the total amount of pull-tabs played as people play their winning credits multiple times. The \$274 million in pull-tab receipts is similar to the \$3.55 in the table above, in that it doesn't represent real cash but rather the total of the same recirculating cash brought to the game.

I hope this information helps in your discussion of any video gaming or other gaming legislation. Please let me know if we can provide any additional information for the committee as you continue your work this session and during the interim.

Sincerely,



Larry Persily
Deputy Commissioner

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

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April 15, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature

The Honorable Jim Whitaker
Co-Chair, House Ways and Means Committee

The Honorable Mike Hawker
Co-Chair, House Ways and Means Committee

The Honorable Tom Anderson
Sponsor, Committee Substitute for HB240

The Honorable Cheryll Heinze
Chair, House Economic Development Committee

Re: CSHB240(ED)

Dear Representatives,

I apologize for the tardiness of this letter, but we wanted to take as much time as possible (in hindsight, too much time) to review all of the issues of this legislation. I appreciate all the work that has gone into this bill, and our comments are intended to assist you in your efforts, not to diminish your work.

The Department of Revenue believes CSHB240(ED) raises a number of important issues that we are confident will be addressed in the legislative process. This letter, which addresses only the issues raised by electronic gaming machines, is offered to help you in that endeavor.

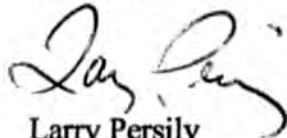
- HB240, as amended last week by the House Economic Development Committee, has two separate components:
 1. The original bill would allow for one drawing twice a year administered by a newly created Alaska State Lottery Commission (essentially a 50-50 cash drawing).
 2. The committee substitute expanded the bill to allow for electronic gaming (video gaming terminals) administered by the Department of Revenue.

- Whereas there may be advantages (or disadvantages) of placing these two separate functions under a new Lottery Commission in one case and the Department of Revenue in the other case, it does appear to be a duplicate of administrative effort, and we believe consideration should be given to merging the two operations.
- Electronic gaming machines (video terminals) will most likely attract patrons to bars, and critics could argue this would have the unwanted effect of indirectly promoting alcohol consumption. However, it actually is possible that some patrons may drink less because they would have less discretionary money in their pockets after playing the video terminals, but that argument could be outweighed by the possibility of an increased amount of interest in going to bars and staying there a longer time to play the games.
- There have always been concerns among some about the failure in state law to restrict charitable gaming permit holders to only those organizations that qualify for IRS non-profit status under 501(c)(3) of the Internal Revenue Code. Such a restriction would avoid many of the alleged abuses that result from trade and other organizations holding permits where the gaming proceeds are used to benefit and promote the interests of individual group members of for-profit businesses.
- There are many more potential permit holders in the state than there are vendors (bars and private clubs, under this legislation) that would be allowed to operate the games for charitable organizations. As a result of demand exceeding supply, the permit holders would have little, if any, bargaining power in signing up vendors to play their games. The more traditional type charities already are finding it difficult to take advantage of the existing gaming option of pull-tabs because of the large number of competing non-charity organizations. This legislation would continue to foster the segregation into the "haves" and "have-nots," as the organizations that cannot find a vendor to play their game would be at a fund-raising disadvantage. This supply-and-demand imbalance could be remedied if the bill allowed only IRS 501(c)(3) organizations to engage in video gaming.
- This bill would require the department to review contracts between permit holders and vendors, but fails to set any standards for what the contracts may or should contain. Without standards in statute, there will be no basis to disapprove a contract unless it was obviously illegal. Given the unequal bargaining position of the charities, we would expect the contracts to favor vendors by perhaps charging space rental for the machines, allocating a portion of employee salaries and general overhead to the permit holders, and requiring the permit holders to pay these expenses out of their 30% take from the machine's net income (net income would be after prizes).
- It is not clear from this legislation whether the restrictions that generally apply to net proceeds under existing law are intended to also apply to the use of net income from the video gaming machines. That should be addressed if there is to be any limitation on how a permit holder may use its net income. For example, there does not appear to be a limit on expenses in this legislation and, consequently, as stated above, permit holders could see much of their 30% net income taken away for expenses charged by the vendor.

- Whether permitting video blackjack, keno and other games for charitable organizations opens the door to these games at the table in Native casino operations is a legal question that arises from this legislation. We will defer to the Department of Law to address this issue.
- It also may be useful, before expanding gaming in Alaska, to review the findings from the National Gaming Impact Study Commission as they relate to the overall context of charitable gaming in Alaska.
- Finally, there is no bonding requirement in this bill. Consequently, there is the risk that the state would not have any recourse if a permit holder failed to pay the required percentage of net income to the state. There also would be no recourse for the state if a vendor failed to pay either the permit holder or the state.

I hope these comments are of help as you consider this legislation. Please let me know if you have any questions, or if we can provide any additional information on these topics.

Sincerely,



Larry Persily
Deputy Commissioner

c: Mike Tibbles, Office of the Governor

J1060
GAMING23-LS0914\U
Luckhaupt
4/15/03

CS FOR HOUSE BILL NO. 240()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL
TRADE, AND TOURISM

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to establishing a state lottery; and providing for an effective date."

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

3 * Section 1. AS 05 is amended by adding a new chapter to read:

4 Chapter 18. Lottery.

5 Article 1. Administration.

6 Sec. 05.18.010. Creation of commission. (a) The Alaska State Lottery
7 Commission is established for the purpose of generating revenue for the state. The
8 commission is established in the Department of Revenue. The commission consists of
9 five members appointed by the governor, subject to confirmation by the legislature.
10 One member shall be appointed from each of the four judicial districts of the state.
11 The fifth member shall be an at-large member. Not more than three of the five
12 members may be members of the same political party. The governor shall appoint one
13 member to serve as chair of the commission.

14 (b) Members serve staggered terms of five years. A member may be
15 reappointed but may not serve for more than 10 years.

1 (c) A member of the commission does not receive a salary for service on the
2 commission but is entitled to per diem and travel expenses authorized for members of
3 boards and commissions under AS 39.20.180.

4 (d) A member of the commission may not have a pecuniary interest in a
5 contract or agreement entered into by the commission.

6 (e) A person may not serve as a member of the commission if that person

7 (1) has been convicted of

8 (A) a felony; or

9 (B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a
10 comparable provision of municipal, state, or federal law;

11 (2) holds a license, permit, or registration under AS 05.15; or

12 (3) is an elected official of the state or of a political subdivision of the
13 state.

14 (f) A person may not serve as a member of the commission until the
15 investigation required under AS 18.65.080(b) is completed.

16 (g) Three members of the commission constitute a quorum for the transaction of
17 business.

18 (h) The governor may remove a member for cause, including incompetence,
19 neglect of duty, or misconduct in office. A member being removed for cause shall be
20 given a copy of the charges and afforded an opportunity to publicly present a defense in
21 person or by counsel upon not less than 10 days' notice. If a member is removed for
22 cause, the governor shall file with the lieutenant governor a complete statement of all
23 charges made against the member and the governor's findings based on the charges,
24 together with a complete record of the proceedings.

25 (i) The governor may immediately suspend a member for a violation of law or
26 for misconduct in office pending removal from office under (a) of this section.

27 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
28 the call of the chair, at the request of a majority of the members, or at a regularly
29 scheduled time set by the commission.

30 (b) An action of the commission is not binding unless taken at a meeting
31 where three or more of the members are present and vote in favor of the action.

1 **Sec. 05.18.030. Duties and powers of commission.** The commission shall

2 (1) enter into contracts and agreements necessary to carry out the
3 provisions of this chapter, including contracts with other jurisdictions for the conduct
4 of multi-jurisdictional lotteries;

5 (2) adopt regulations necessary to carry out the provisions of this
6 chapter;

7 (3) determine policy direction for the operation and administration of
8 the lottery;

9 (4) report to the governor and the legislature each year; the report must
10 include a full and complete statement of lottery revenue, lottery prize disbursement,
11 and other expenses, and recommendations for changes in this chapter;

12 (5) report to the governor and the legislature as frequently as the
13 commission determines necessary on conclusions from the analysis of the reaction of
14 state residents to the lottery and on matters that require changes in the law to prevent
15 violations or evasions of this chapter or to correct undesirable conditions in connection
16 with the operation or administration of the lottery;

17 (6) monitor the operation of the lottery throughout the state;

18 (7) study and investigate the operation and administration of the lottery
19 laws of other states and of federal laws that affect the lottery; and

20 (8) conduct the lotteries that the commission determines are
21 appropriate.

22 **Sec. 05.18.040. Regulations.** The commission shall adopt regulations under
23 AS 44.62 (Administrative Procedure Act) to establish

24 (1) the types of lotteries to be conducted, the prices for the tickets, the
25 manner of conducting the lotteries, and the calculation and awarding of lottery prizes;

26 (2) the procedures for contracting with persons to be agents and the
27 manner and amount of compensation to be paid agents; the amount of compensation
28 paid to an agent may not exceed five percent of the retail price of the ticket sales by
29 the agent; a contract may provide for up to an additional one percent bonus for
30 attaining sales volumes or other incentives as are appropriate for the lottery games;

31 (3) other matters necessary or desirable to carry out this chapter, to

1 operate the lottery efficiently and economically, and to make the purchase of lottery
2 tickets, and the distribution of lottery prizes convenient.

3 **Sec. 05.18.050. Executive director and employees.** (a) The commission
4 shall employ an executive director who is qualified by training and experience to
5 conduct the day-to-day work of the commission. The director may not engage in
6 another profession or occupation.

7 (b) Subject to the approval of the commission, the director may appoint
8 deputies required to carry out the functions and duties of the commission. The
9 director may appoint professional, technical, and clerical employees necessary to
10 perform the duties of the commission.

11 (c) The director and other employees of the commission are in the exempt
12 service under AS 39.25.110.

13 (d) The commission may not employ a person who has been convicted,
14 including conviction based on a guilty plea or plea of nolo contendere, of an offense
15 that disqualifies a person from being a member of the commission.

16 **Sec. 05.18.060. Duties of director.** The director shall

- 17 (1) supervise the operation and administration of the lottery;
18 (2) act as secretary to the commission;
19 (3) contract with agents to sell lottery tickets;
20 (4) provide for the security of the lottery including by employment of a
21 deputy director for security and through agreements with the Department of Public
22 Safety; the deputy director must be eligible for certification as a peace officer under
23 AS 18.65.130 - 18.65.290, and shall be responsible for obtaining background
24 investigations of employees, retail sales agents, and contractors, and shall develop a
25 security plan;
26 (5) meet at least quarterly with the commission on the operation and
27 administration of the lottery;
28 (6) make available for inspection by the commission, on request, all
29 books, records, files, and other information and documents of the commission;
30 (7) advise the commission and make recommendations to improve the
31 operation and administration of the lottery;

(8) suspend or revoke a contract issued under this chapter for a violation of this chapter or the regulations adopted under this chapter;

(9) subject to the approval of the commission, enter into contracts for the operation and administration of the lottery, except that agent contracts are not subject to the approval of the commission; and

(10) provide each month to the commission a full and complete statement of lottery revenue, lottery prize disbursements, and other expenses for the preceding month.

Sec. 05.18.070. Subpoenas. (a) The director or the commission may subpoena witnesses and documents in a matter over which the commission has jurisdiction, control, or supervision. The director or the commission may administer oaths and affirmations to persons whose testimony is required.

(b) If a person fails to obey a subpoena or refuses to answer a relevant question or to exhibit a document when ordered to do so by the director or the commission, the director or the commission may apply to the superior court for an order directing the person to comply with the subpoena or the order. The court may order the person to comply.

Article 2. Lottery Retail Sales Agents.

Sec. 05.18.100. Lottery retail sales agents. (a) The director may contract with persons on behalf of the commission to be lottery retail sales agents.

(b) A lottery retail sales agent may

(1) sell lottery tickets;

(2) hire employees to perform the services under (1) of this subsection.

(c) An agent shall supervise each employee of the agent in the employee's performance of the services under (b)(1) of this section.

Sec. 05.18.110. Qualifications for agent contracts. (a) A person who wishes to contract with the commission to be an agent shall apply on a form provided by the commission. The director shall charge the applicant a fee to cover the costs of processing the application and checking the background of the applicant.

(b) Before contracting with an applicant, the director shall require a prospective agent to disclose to the commission the applicant's name and address and

1 the following:

2 (1) if the prospective lottery retail sales agent is a corporation, names
3 and addresses of the officers, directors, and each stockholder in the corporation;
4 except that, in the case of stockholders of publicly held equity securities of a publicly
5 traded corporation, only the names and addresses of those known to the corporation to
6 own five percent or more of the securities need be disclosed;

7 (2) if the prospective lottery retail sales agent is a trust, names and
8 addresses of the trustees and all persons entitled to receive income or benefit from the
9 trust;

10 (3) if the prospective lottery retail sales agent is an association, the
11 names and addresses of the members, officers, and directors;

12 (4) if the prospective lottery retail sales agent is a subsidiary, the
13 names and addresses of the officers, directors and each stockholder of the parent
14 corporation of the subsidiary; except that, in the case of stockholders of a publicly
15 traded corporation, only the names and addresses of those known to the corporation to
16 own five percent or more of such securities need be disclosed;

17 (5) if the prospective lottery retail sales agent is a partnership or joint
18 venture, the names and addresses of all the general partners, limited partners, or joint
19 venturers;

20 (6) if the parent company, general partner, limited partner, or joint
21 venturer of any prospective lottery retail sales agent is itself a corporation, trust,
22 association, subsidiary, partnership, or joint venture, the names and addresses required
23 under (1) - (5) if this subsection shall be disclosed for the other entity as of it were
24 itself a prospective lottery retail sales agent to the end that full disclosure of ultimate
25 ownership be achieved;

26 (7) if any member of the immediate family of any prospective lottery
27 retail sales agent is involved in the lottery retail sales agent's business in any capacity,
28 then the names and addresses of the immediate family member shall be disclosed as if
29 the immediate family member were a prospective lottery retail sales agent;

30 (8) the details of any felony conviction of a criminal offense, state or
31 federal, of the retail sales agent or any person whose name and address are required by

1 the disclosure requirements of this subsection; and

2 (9) the details of any disciplinary action of a judicial nature taken by
3 any state against the retail sales agent or any person whose name and address are
4 required by this subsection regarding any matter related to the selling, leasing, offering
5 for sale or lease, buying, or servicing of gaming materials or equipment.

6 (c) Before contracting with an applicant to be an agent, the director shall
7 consider

8 (1) the financial responsibility and security of the applicant and the
9 applicant's business or activity;

10 (2) the accessibility of the applicant's place of business or activity to
11 the public;

12 (3) the ability of the applicant to promote the retail sale of lottery
13 tickets;

14 (4) the sufficiency of existing agent contracts to serve the public
15 convenience;

16 (5) the volume of expected sales; and

17 (6) other factors the director determines are relevant.

18 (d) The director may not contract with an applicant to be an agent if the
19 applicant

20 (1) would be engaged in business exclusively as an agent;

21 (2) is an individual under 18 years of age;

22 (3) has a contract with the commission regarding the operation and
23 administration of the lottery; or

24 (4) has been convicted of a felony or a gambling or gaming
25 misdemeanor, including conviction based on a guilty plea or plea of nolo contendere.

26 **Sec. 05.18.120. Duration of agent contracts.** The director may contract with
27 an agent for a term of not more than two years but may renew the contract.

28 **Sec. 05.18.130. Revocation or suspension of agent contracts.** (a) The
29 director shall suspend or cancel the contract of an agent who violates AS 05.18.470.

30 (b) The director may suspend or cancel the contract of an agent who violates a
31 regulation adopted under this chapter or a provision of this chapter other than

1 AS 05.18.470.

2 (c) The director shall conduct proceedings to suspend or cancel an agent
3 contract under AS 44.62 (Administrative Procedure Act).

4 **Sec. 05.18.140. Compensation of agents.** (a) The director shall establish the
5 levels of compensation for agents consistent with AS 05.18.040(3). The director may
6 establish bonus or incentive awards as permitted by AS 05.18.040(3).

7 (b) When establishing the compensation for agents, the director shall consider

8 (1) the time and the cost of overhead necessary to make the lottery
9 tickets available at convenient times and for sufficient hours to accommodate the
10 public;

11 (2) the time necessary for an agent to keep adequate records of the
12 sales of lottery tickets and to prepare the deposits and reports required under
13 AS 05.18.150;

14 (3) other criteria the director considers relevant.

15 **Sec. 05.18.150. Deposit of receipts and reports.** (a) Each agent shall
16 deposit to the credit of the state in a bank designated by the director all money
17 received by the agent from the sale of lottery tickets. The director shall provide for
18 periodic automatic withdrawals from the bank of the funds due the lottery.

19 (b) Each agent shall file with the director on a form provided by the
20 commission weekly reports of the receipts and transactions in the sale of lottery
21 tickets.

22 (c) The director shall impose a service charge on an agent if the payor bank
23 dishonors an electronic transfer of funds to the state lottery fund from the account of
24 the agent for money received from the sale of lottery tickets.

25 (d) The director may charge an agent interest on money that is not paid to the
26 state within 10 days after the due date and may impose an additional service charge in
27 an amount to cover administrative costs if the debt is referred for collection.

28 (e) The amount, including any interest or service charge, owed to the
29 commission by an agent is a lien on the property of the agent at the time that the
30 commission files a claim of lien in the recorder's office of the recording district of the
31 principal place of business of the agent.

1 **Sec. 05.18.160. Bond.** (a) Each applicant for an agent contract shall, at the
2 time of application under AS 05.18.110, file with the commission and maintain during
3 the term of an agent contract a bond running to the state with a corporate surety
4 qualified to do business in the state. The amount of the bond shall be determined by
5 the commission.

6 (b) The bond required by this section remains in effect until cancelled by
7 action of the surety, the principal, or the commission.

8 (c) The state or another person may not bring an action on the bond more than
9 three years after its cancellation.

10 **Article 3. Lottery Prizes.**

11 **Sec. 05.18.200. Assignment of lottery prizes.** A person may not assign a
12 right to a lottery prize. However, a lottery prize may be paid to a person other than the
13 prize winner under a court order or to the estate of a deceased prize winner. The state
14 is discharged of all further liability when a lottery prize has been paid under this
15 section.

16 **Sec. 05.18.210. Payment of lottery prizes to persons under 18 years.** (a)
17 If a person entitled to a lottery prize is under 18 years of age, the director may deliver
18 the prize by depositing the amount of the prize in a bank to the credit of an adult
19 member of the minor's family, or a guardian of the minor, as custodian for the minor.
20 The person named as custodian shall have the same duties and powers as a person
21 designated as a custodian under AS 13.46.

22 (b) The state is discharged of all further liability after payment of a lottery
23 prize to a minor under this section.

24 (c) In this section,

25 (1) "bank" has the meaning given in AS 45.14.105;

26 (2) "guardian" has the meaning given in AS 13.06.050;

27 (3) "member of the minor's family" has the meaning given in
28 AS 13.46.990.

29 **Sec. 05.18.220. Unclaimed prize money.** The director shall retain unclaimed
30 lottery prize money for the person entitled to it for one year after the prize is awarded.
31 If the winner does not claim the lottery prize money within the year, the commission

1 shall return the money and accrued interest to the state lottery fund.

2 **Article 4. Miscellaneous Provisions.**

3 **Sec. 05.18.300. State lottery fund and appropriations.** There is created in
4 the general fund the state lottery fund. The state lottery fund consists of all revenue
5 received from the sale of lottery tickets and all other money credited or transferred to
6 the fund from another fund or source.

7 **Sec. 05.18.310. Audit.** The commission shall have an audit of the books and
8 accounts of the commission performed at least once in each year by certified public
9 accountants. The commission may have special audits performed at any time on its
10 own motion or at the request of the director. The commission shall file a copy of each
11 audit with the commissioner of revenue and the legislature.

12 **Sec. 05.18.320. Prohibited acts.** (a) A person may not

13 (1) knowingly act as an agent or sell a lottery ticket unless the person
14 has a contract with the commission to be an agent, or is an employee of an agent and
15 sells lottery tickets under the supervision of the agent;

16 (2) knowingly sell a lottery ticket at a price greater than that fixed by
17 the commission;

18 (3) knowingly sell or offer to sell a lottery ticket to a person under 18
19 years of age;

20 (4) knowingly present a counterfeit or altered lottery ticket for
21 payment or transfer a counterfeit or altered lottery ticket to another person to present
22 for payment;

23 (5) with intent to defraud, falsely make, alter, forge, utter, pass, or
24 counterfeit a lottery ticket;

25 (6) impersonate an employee or contractor of the commission.

26 (b) A lottery retail sales agent, the governor, or an officer, employee, or
27 contractor of the commission or the Office of the Governor may not purchase a lottery
28 ticket or receive a lottery prize.

29 (c) An agent may not knowingly withhold funds owed to the commission.

30 (d) This section does not prohibit a person from giving a lottery ticket to
31 another person of any age.

(e) In this section, "knowingly" has the meaning given in AS 11.81.900.

Sec. 05.18.330. Assignment of contracts. A person that enters into a contract under this chapter may not assign the contract without the approval of the commission.

Sec. 05.18.340. Penalty. A person that violates AS 05.18.150 - 05.18.200, 05.18.320, or 05.18.330 is guilty of a class C felony.

Sec. 05.18.350. Statement of odds. Each lottery ticket must indicate the odds of winning a lottery prize in the particular lottery game represented by the lottery ticket.

Sec. 05.18.510. Applicability of other laws. Other laws regarding the sale of lottery tickets or the administration of a lottery do not apply to the sale of lottery tickets under this chapter.

Article 5. General Provisions.

Sec. 05.18.900. Definitions. In this chapter, unless the context requires otherwise,

(1) "agent" means a person who has contracted with the commission to be a lottery retail sales agent under this chapter;

(2) "agent contract" means a contract under AS 05.18.100 between the commission and a person for the person to be an agent;

(3) "commission" means the Alaska State Lottery Commission;

(4) "department" means the Department of Revenue;

(5) "director" means the executive director of the commission;

(6) "lottery" or "state lottery" means the lottery established and operated under this chapter;

(7) "lottery ticket" means a ticket, receipt, card, or other item, received by a person from an agent or an employee of an agent as evidence of participation in the lottery;

(8) "operation and administration" includes accounting, sales, promotion, and security;

(9) "person" has the meaning given in AS 01.10.060 and also includes an estate, receiver, trustee, assignee, referee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and a department,

1 commission, agency, or instrumentality of the state, including a municipality and an
2 agency or instrumentality of a municipality;

3 * **Sec. 2.** AS 11.66.280(2) is amended to read:

4 (2) "gambling" means that a person stakes or risks something of value
5 upon the outcome of a contest of chance or a future contingent event not under the
6 person's control or influence, upon an agreement or understanding that that person or
7 someone else will receive something of value in the event of a certain outcome;
8 "gambling" does not include

9 (A) bona fide business transactions valid under the law of
10 contracts for the purchase or sale at a future date of securities or commodities
11 and agreements to compensate for loss caused by the happening of chance,
12 including contracts of indemnity or guaranty and life, health, or accident
13 insurance;

14 (B) playing an amusement device that

15 (i) confers only an immediate right of replay not
16 exchangeable for something of value other than the privilege of
17 immediate replay; and

18 (ii) does not contain a method or device by which the
19 privilege of immediate replay may be cancelled or revoked; or

20 (C) an activity authorized by the Department of Revenue under

21 AS 05.15 or AS 05.18;

22 * **Sec. 3.** AS 18.65.080 is amended by adding a new subsection to read:

23 (b) The Department of Public Safety shall investigate and ascertain whether a
24 person appointed by the governor to serve as a member of the Alaska State Lottery
25 Commission has been convicted of a crime set out in AS 05.18.010(e) and shall perform
26 other services for the commission as may be required.

27 * **Sec. 4.** AS 18.65.290(6) is amended to read:

28 (6) "police officer" means

29 (A) a full-time employee of the state or a municipal police
30 department with the authority to arrest and issue citations; detain a person
31 taken into custody until that person can be arraigned before a judge or

1 magistrate; conduct investigations of violations of and enforce criminal laws,
2 regulations, and traffic laws; search with or without a warrant persons,
3 dwellings, and other forms of property for evidence of a crime; and take other
4 action consistent with exercise of these enumerated powers when necessary to
5 maintain the public peace;

6 (B) an officer or employee of the Department of Transportation
7 and Public Facilities who is stationed at an international airport and has been
8 designated to have the general police powers authorized under
9 AS 02.15.230(a);

10 (C) a University of Alaska public safety officer with general
11 police powers authorized under AS 14.40.043;

12 (D) the deputy director for security for the Alaska State

13 Lottery Commission;

14 * Sec. 5. AS 39.25.110(11) is amended to read:

15 (11) the officers and employees of the following boards, commissions,
16 and authorities:

17 (A) [REPEALED

18 (B)] Alaska Permanent Fund Corporation;

19 (B) [(C)] Alaska Industrial Development and Export Authority;

20 (C) [(D)] Alaska Commercial Fisheries Entry Commission;

21 (D) [(E)] Alaska Commission on Postsecondary Education;

22 (E) [(F)] Alaska Aerospace Development Corporation;

23 (F) [(G)] Alaska Natural Gas Development Authority;

24 (G) Alaska State Lottery Commission;

25 * Sec. 6. AS 39.50.200(b) is amended by adding a new paragraph to read:

26 (58) Alaska State Lottery Commission (AS 05.18).

27 * Sec. 7. The uncoded law of the State of Alaska is amended by adding a new section to
28 read:

29 REGULATIONS. Notwithstanding the effective date of this Act, the Department of
30 Revenue shall begin the process under AS 44.62 (Administrative Procedure Act) of adopting
31 regulations to implement those sections of this Act so that the regulations can take effect

- 1 January 1, 2004, or as soon thereafter as is possible.
- 2 * Sec. 8. Except as provided in sec. 9 of this Act, this Act takes effect January 1, 2004.
- 3 * Sec. 9. Section 7 of this Act takes effect immediately under AS 01.10.070(c).

*w/video
gaming*23-LS0914/Q
Luckhaupt
4/14/03

CS FOR HOUSE BILL NO. 240()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL
TRADE, AND TOURISM

A BILL

FOR AN ACT ENTITLED

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9 The commission is established in the Department of Revenue. The commission
10 consists of five members appointed by the governor, subject to confirmation by the
11 legislature. One member shall be appointed from each of the four judicial districts of
12 the state. The fifth member shall be an at-large member. Not more than three of the
13 five members may be members of the same political party. The governor shall appoint
14 one member to serve as chair of the commission.

1 (b) Members serve staggered terms of five years. A member may be
2 reappointed but may not serve for more than 10 years.

3 (c) A member of the commission does not receive a salary for service on the
4 commission but is entitled to per diem and travel expenses authorized for members of
5 boards and commissions under AS 39.20.180.

6 (d) A member of the commission may not have a pecuniary interest in a
7 contract or agreement entered into by the commission.

8 (e) A person may not serve as a member of the commission if that person

9 (1) has been convicted of

10 (A) a felony; or

11 (B) an offense under this chapter, AS 11.66.200 - 11.66.280, or a
12 comparable provision of municipal, state, or federal law;

13 (2) holds a license, permit, or registration under AS 05.15; or

14 (3) is an elected official of the state or of a political subdivision of the
15 state.

16 (f) A person may not serve as a member of the commission until the
17 investigation required under AS 18.65.080(b) is completed.

18 (g) Three members of the commission constitute a quorum for the transaction of
19 business.

20 (h) The governor may remove a member for cause, including incompetence,
21 neglect of duty, or misconduct in office. A member being removed for cause shall be
22 given a copy of the charges and afforded an opportunity to publicly present a defense in
23 person or by counsel upon not less than 10 days' notice. If a member is removed for
24 cause, the governor shall file with the lieutenant governor a complete statement of all
25 charges made against the member and the governor's findings based on the charges,
26 together with a complete record of the proceedings.

27 (i) The governor may immediately suspend a member for a violation of law or
28 for misconduct in office pending removal from office under (a) of this section.

29 **Sec. 05.18.020. Meetings.** (a) The commission shall meet at least quarterly at
30 the call of the chair, at the request of a majority of the members, or at a regularly
31 scheduled time set by the commission.

(b) An action of the commission is not binding unless taken at a meeting where three or more of the members are present and vote in favor of the action.

Sec. 05.18.030. Duties and powers of commission. The commission shall

(1) enter into contracts and agreements necessary to carry out the provisions of this chapter, including contracts with other jurisdictions for the conduct of multi-jurisdictional lotteries;

(2) adopt regulations necessary to carry out the provisions of this chapter;

(3) determine policy direction for the operation and administration of the lottery and electronic gaming;

(4) report to the governor and the legislature each year; the report must include a full and complete statement of lottery and electronic gaming revenue, lottery prize disbursement, and other expenses, and recommendations for changes in this chapter;

(5) report to the governor and the legislature as frequently as the commission determines necessary on conclusions from the analysis of the reaction of state residents to the lottery and electronic gaming, and on matters that require changes in the law to prevent violations or evasions of this chapter or to correct undesirable conditions in connection with the operation or administration of the lottery and electronic gaming;

(6) monitor the operation of the lottery and electronic gaming throughout the state;

(7) study and investigate the operation and administration of the lottery and gaming laws of other states and of federal laws that affect the lottery and electronic gaming; and

(8) conduct the lotteries and electronic gaming that the commission determines are appropriate.

Sec. 05.18.040. Regulations. The commission shall adopt regulations under AS 44.62 (Administrative Procedure Act) to establish

(1) the types of lotteries to be conducted, the prices for the tickets, the manner of conducting the lotteries, and the calculation and awarding of lottery prizes;

1 (2) the types of electronic games to be conducted, the prices to play
2 those games, the manner of conducting the games, and the calculation and award of
3 payoffs;

4 (3) the procedures for contracting with persons to be agents and the
5 manner and amount of compensation to be paid agents; the amount of compensation
6 paid to an agent may not exceed five percent of the retail price of the ticket sales by
7 the agent; a contract may provide for up to an additional one percent bonus for
8 attaining sales volumes or other incentives as are appropriate for the lottery games;

9 (4) the procedures for contracting with persons to be vendors and the
10 manner and amount of compensation to be paid vendors;

11 (5) other matters necessary or desirable to carry out this chapter, to
12 operate the lottery and electronic gaming efficiently and economically, and to make
13 the electronic gaming, the purchase of lottery tickets, and the distribution of lottery
14 prizes convenient.

15 **Sec. 05.18.050. Executive director and employees.** (a) The commission
16 shall employ an executive director who is qualified by training and experience to
17 conduct the day-to-day work of the commission. The director may not engage in
18 another profession or occupation.

19 (b) Subject to the approval of the commission, the director may appoint
20 deputies required to carry out the functions and duties of the commission. The
21 director may appoint professional, technical, and clerical employees necessary to
22 perform the duties of the commission.

23 (c) The director and other employees of the commission are in the exempt
24 service under AS 39.25.110.

25 (d) The commission may not employ a person who has been convicted,
26 including conviction based on a guilty plea or plea of nolo contendere, of an offense
27 that disqualifies a person from being a member of the commission.

28 **Sec. 05.18.060. Duties of director.** The director shall

29 (1) supervise the operation and administration of the lottery and
30 electronic gaming;

31 (2) act as secretary to the commission;

- 1 (3) contract with agents to sell lottery tickets;
- 2 (4) contract with vendors to conduct electronic gaming;
- 3 (5) provide for the security of the lottery and electronic gaming
- 4 including by employment of a deputy director for security and through agreements
- 5 with the Department of Public Safety; the deputy director must be eligible for
- 6 certification as a peace officer under AS 18.65.130 - 18.65.290, and shall be
- 7 responsible for obtaining background investigations of employees, retail sales agents,
- 8 vendors, and contractors, and shall develop a security plan;
- 9 (6) meet at least quarterly with the commission on the operation and
- 10 administration of the lottery and electronic gaming;
- 11 (7) make available for inspection by the commission, on request, all
- 12 books, records, files, and other information and documents of the commission;
- 13 (8) advise the commission and make recommendations to improve the
- 14 operation and administration of the lottery and electronic gaming;
- 15 (9) suspend or revoke a contract issued under this chapter for a
- 16 violation of this chapter or the regulations adopted under this chapter;
- 17 (10) subject to the approval of the commission, enter into contracts for
- 18 the operation and administration of the lottery and electronic gaming, except that agent
- 19 and vendor contracts are not subject to the approval of the commission; and
- 20 (11) provide each month to the commission a full and complete
- 21 statement of lottery and electronic gaming revenue, lottery prize disbursements, and
- 22 other expenses for the preceding month.

23 **Sec. 05.18.070. Subpoenas.** (a) The director or the commission may
24 subpoena witnesses and documents in a matter over which the commission has
25 jurisdiction, control, or supervision. The director or the commission may administer
26 oaths and affirmations to persons whose testimony is required.

27 (b) If a person fails to obey a subpoena or refuses to answer a relevant
28 question or to exhibit a document when ordered to do so by the director or the
29 commission, the director or the commission may apply to the superior court for an
30 order directing the person to comply with the subpoena or the order. The court may
31 order the person to comply.

Article 2. Lottery Retail Sales Agents.

Sec. 05.18.100. Lottery retail sales agents. (a) The director may contract with persons on behalf of the commission to be lottery retail sales agents.

(b) A lottery retail sales agent may

(1) sell lottery tickets;

(2) hire employees to perform the services under (1) of this subsection.

(c) An agent shall supervise each employee of the agent in the employee's performance of the services under (b)(1) of this section.

Sec. 05.18.110. Qualifications for agent contracts. (a) A person who wishes to contract with the commission to be an agent shall apply on a form provided by the commission. The director shall charge the applicant a fee to cover the costs of processing the application and checking the background of the applicant.

(b) Before contracting with an applicant, the director shall require a prospective agent to disclose to the commission the applicant's name and address and the following:

(1) if the prospective lottery retail sales agent is a corporation, names and addresses of the officers, directors, and each stockholder in the corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own five percent or more of the securities need be disclosed;

(2) if the prospective lottery retail sales agent is a trust, names and addresses of the trustees and all persons entitled to receive income or benefit from the trust;

(3) if the prospective lottery retail sales agent is an association, the names and addresses of the members, officers, and directors;

(4) if the prospective lottery retail sales agent is a subsidiary, the names and addresses of the officers, directors and each stockholder of the parent corporation of the subsidiary; except that, in the case of stockholders of a publicly traded corporation, only the names and addresses of those known to the corporation to own five percent or more of such securities need be disclosed;

(5) if the prospective lottery retail sales agent is a partnership or joint

1 venture, the names and addresses of all the general partners, limited partners, or joint
2 venturers;

3 (6) if the parent company, general partner, limited partner, or joint
4 venturer of any prospective lottery retail sales agent is itself a corporation, trust,
5 association, subsidiary, partnership, or joint venture, the names and addresses required
6 under (1) - (5) if this subsection shall be disclosed for the other entity as of it were
7 itself a prospective lottery retail sales agent to the end that full disclosure of ultimate
8 ownership be achieved;

9 (7) if any member of the immediate family of any prospective lottery
10 retail sales agent is involved in the lottery retail sales agent's business in any capacity,
11 then the names and addresses of the immediate family member shall be disclosed as if
12 the immediate family member were a prospective lottery retail sales agent;

13 (8) the details of any felony conviction of a criminal offense, state or
14 federal, of the retail sales agent or any person whose name and address are required by
15 the disclosure requirements of this subsection; and

16 (9) the details of any disciplinary action of a judicial nature taken by
17 any state against the retail sales agent or any person whose name and address are
18 required by this subsection regarding any matter related to the selling, leasing, offering
19 for sale or lease, buying, or servicing of gaming materials or equipment.

20 (c) Before contracting with an applicant to be an agent, the director shall
21 consider

22 (1) the financial responsibility and security of the applicant and the
23 applicant's business or activity;

24 (2) the accessibility of the applicant's place of business or activity to
25 the public;

26 (3) the ability of the applicant to promote the retail sale of lottery
27 tickets;

28 (4) the sufficiency of existing agent contracts to serve the public
29 convenience;

30 (5) the volume of expected sales; and

31 (6) other factors the director determines are relevant.

(d) The director may not contract with an applicant to be an agent if the applicant

(1) would be engaged in business exclusively as an agent;

(2) is an individual under 18 years of age;

(3) has a contract with the commission regarding the operation and administration of the lottery; or

(4) has been convicted of a felony or a gambling or gaming misdemeanor, including conviction based on a guilty plea or plea of nolo contendere.

Sec. 05.18.120. Duration of agent contracts. The director may contract with an agent for a term of not more than two years but may renew the contract.

Sec. 05.18.130. Revocation or suspension of agent contracts. (a) The director shall suspend or cancel the contract of an agent who violates AS 05.18.470.

(b) The director may suspend or cancel the contract of an agent who violates a regulation adopted under this chapter or a provision of this chapter other than AS 05.18.470.

(c) The director shall conduct proceedings to suspend or cancel an agent contract under AS 44.62 (Administrative Procedure Act).

Sec. 05.18.140. Compensation of agents. (a) The director shall establish the levels of compensation for agents consistent with AS 05.18.040(3). The director may establish bonus or incentive awards as permitted by AS 05.18.040(3).

(b) When establishing the compensation for agents, the director shall consider

(1) the time and the cost of overhead necessary to make the lottery tickets available at convenient times and for sufficient hours to accommodate the public;

(2) the time necessary for an agent to keep adequate records of the sales of lottery tickets and to prepare the deposits and reports required under AS 05.18.150;

(3) other criteria the director considers relevant.

Sec. 05.18.150. Deposit of receipts and reports. (a) Each agent shall deposit to the credit of the state in a bank designated by the director all money received by the agent from the sale of lottery tickets. The director shall provide for

1 periodic automatic withdrawals from the bank of the funds due the lottery.

2 (b) Each agent shall file with the director on a form provided by the
3 commission weekly reports of the receipts and transactions in the sale of lottery
4 tickets.

5 (c) The director shall impose a service charge on an agent if the payor bank
6 dishonors an electronic transfer of funds to the state lottery and gaming fund from the
7 account of the agent for money received from the sale of lottery tickets.

8 (d) The director may charge an agent interest on money that is not paid to the
9 state within 10 days after the due date and may impose an additional service charge in
10 an amount to cover administrative costs if the debt is referred for collection.

11 (e) The amount, including any interest or service charge, owed to the
12 commission by an agent is a lien on the property of the agent at the time that the
13 commission files a claim of lien in the recorder's office of the recording district of the
14 principal place of business of the agent.

15 **Sec. 05.18.160. Bond.** (a) Each applicant for an agent contract shall, at the
16 time of application under AS 05.18.110, file with the commission and maintain during
17 the term of an agent contract a bond running to the state with a corporate surety
18 qualified to do business in the state. The amount of the bond shall be determined by
19 the commission.

20 (b) The bond required by this section remains in effect until cancelled by
21 action of the surety, the principal, or the commission.

22 (c) The state or another person may not bring an action on the bond more than
23 three years after its cancellation.

24 **Article 3. Lottery Prizes.**

25 **Sec. 05.18.200. Assignment of lottery prizes.** A person may not assign a
26 right to a lottery prize. However, a lottery prize may be paid to a person other than the
27 prize winner under a court order or to the estate of a deceased prize winner. The state
28 is discharged of all further liability when a lottery prize has been paid under this
29 section.

30 **Sec. 05.18.210. Payment of lottery prizes to persons under 18 years.** (a)
31 If a person entitled to a lottery prize is under 18 years of age, the director may deliver

1 the prize by depositing the amount of the prize in a bank to the credit of an adult
2 member of the minor's family, or a guardian of the minor, as custodian for the minor.
3 The person named as custodian shall have the same duties and powers as a person
4 designated as a custodian under AS 13.46.

5 (b) The state is discharged of all further liability after payment of a lottery
6 prize to a minor under this section.

7 (c) In this section,

8 (1) "bank" has the meaning given in AS 45.14.105;

9 (2) "guardian" has the meaning given in AS 13.06.050;

10 (3) "member of the minor's family" has the meaning given in
11 AS 13.46.990.

12 **Sec. 05.18.220. Unclaimed prize money.** The director shall retain unclaimed
13 lottery prize money for the person entitled to it for one year after the prize is awarded.
14 If the winner does not claim the lottery prize money within the year, the commission
15 shall return the money and accrued interest to the state lottery and gaming fund.

16 **Article 4. Electronic Gaming.**

17 **Sec. 05.18.300. Electronic gaming vendors.** The commission may contract
18 with vendors to conduct electronic gaming. A contract may not permit a vendor to
19 have more than 10 machines at any one location.

20 **Sec. 05.18.310. Central computer system.** (a) The commission shall operate
21 electronic gaming through a central computer system. The central computer must be
22 capable of auditing the operation, financial data, and program information of each
23 electronic gaming machine.

24 (b) The commission shall contract for the provision and operation of the
25 central computer system with the private sector or another jurisdiction. The contractor
26 for the central computer system shall be compensated as a percentage of net machine
27 income generated by all electronic gaming machines in the state not to exceed one
28 percent of net machine income. All equipment or devices required for operation of the
29 central computer system shall be included in the contract.

30 (c) The central computer system shall be used exclusively for the operation of
31 electronic gaming under this chapter and shall incorporate electronic fund transfer

1 procedures for the collection of revenue, be capable of disabling any electronic
2 gaming machine from play, and be capable of communication with all electronic
3 gaming machines approved by the commission. The contractor for the central
4 computer system shall provide licensed manufacturers with the protocol
5 documentation and the audit information and controls necessary to enable the
6 manufacturers' electronic gaming machines to communicate with the central computer
7 system. The central computer system may not limit participation to only one
8 manufacturer of electronic gaming machines. The contractor for the central computer
9 system may not provide electronic gaming machines for use in connection with the
10 central computer system.

11 **Sec. 05.18.320. Electronic gaming machines.** (a) Only electronic gaming
12 machines approved and leased by the commission may be used for electronic gaming. A
13 vendor may not purchase an electronic gaming machine. A vendor may only lease an
14 electronic gaming machine from the commission. The department may not approve an
15 electronic gaming machine unless the machine

16 (1) offers only games authorized by the department;

17 (2) does not have any means of manipulation that affect the random
18 probabilities of winning a game;

19 (3) is designed to accept cash, in the form of coins or bills, to prevent
20 the obtaining of plays or credits without paying by stringing, slamming, drilling, or
21 other means of manipulation, and to suspend itself from operation until it is physically
22 reset if physically tampered with;

23 (4) has nonresettable meters housed in a readily accessible locked
24 machine area that keeps a permanent record of all money inserted into the machine, all
25 refunds of winnings made by the machine's printer, credits played for electronic
26 gaming games, and credits won by electronic gaming players;

27 (5) does not directly pay off winning players by means of tokens or
28 cash, in the form of coins or bills, but is capable of printing a ticket voucher stating the
29 value of the prize for the player at the completion of each electronic gaming game, the
30 time of day in a 24-hour format showing hours and minutes, the date, the machine
31 serial number, the sequential number of the ticket vouchers, and an encrypted
32 validation number from which the validity of the prize may be determined;

1 (6) has accounting software that keeps an electronic record that
2 includes total money inserted into the machine, the value of winning tickets claimed
3 by players, the total electronic gaming credits awarded by an electronic gaming game,
4 and the payback percentages credited players of each electronic gaming game;

5 (7) is capable of being linked to the central computer system described
6 AS 05.18.310;

7 (8) does not allow more than \$2 to be played on a game or award free
8 games or credits in excess of the value of \$75 for each credit value of \$0.25 played;
9 and

10 (9) has a total payoff of at least 85 percent of the value of one \$0.25
11 credit.

12 (b) The odds of winning each electronic gaming game shall be posted on or
13 near each electronic gaming machine. The manner in which the odds are calculated
14 and how they are posted shall be set by the department by regulation.

15 (c) An electronic gaming machine

16 (1) may not be played by a person under 21 years of age and may not
17 be located in any place accessible to persons under 21 years of age;

18 (2) may be played only during the regular business hours for the
19 location and, if the permittee or electronic gaming vendor is licensed under AS 04.11,
20 during the legal hours of operation allowed by the license and applicable municipal
21 ordinance.

22 (d) All electronic gaming machines shall be monitored by the electronic
23 gaming vendor during business hours. Monitoring shall be accomplished by the
24 physical presence of an employee of the permittee or the electronic gaming vendor or
25 by an employee using video cameras or mirrors and by periodic personal inspections
26 of the machines and the area in which the machines are located.

27 (e) An electronic gaming vendor may not advertise in any manner the
28 possession or availability of electronic gaming machines on their premises.

29 (f) If the sale of alcoholic beverages has been prohibited within a municipality
30 under AS 04.11.491, the commission may contract with a person within the
31 municipality that provides the person with the authority to conduct electronic gaming

1 by use of electronic gaming machines in a manner similar to other electronic gaming
2 vendors. These persons are only authorized to conduct electronic gaming if the
3 electronic gaming is conducted only within a location into which the access is
4 restricted to persons 21 years of age or older.

5 **Sec. 05.18.330. Electronic gaming machine manufacturers.** (a) A person
6 may not manufacture electronic gaming machines or associated equipment in the state
7 and may not distribute an electronic gaming machine or associated equipment that the
8 person has manufactured outside of the state in the state unless the person has received
9 an electronic gaming manufacturer's license issued by the commission.

10 (b) The commission may issue an electronic gaming machine manufacturer's
11 license to a person who pays an annual fee of \$5,000.

12 (c) An electronic gaming machine or associated equipment may not be
13 manufactured, sold, or distributed in the state unless it has been approved by the
14 commission. The commission shall examine prototypes of electronic gaming
15 machines and associated equipment that a licensed manufacturer wishes to
16 manufacture, sell, or distribute in the state. The manufacturer shall pay in advance the
17 costs of the examination and approval of an electronic gaming machine or associated
18 equipment. The commission may contract with another state or person for the
19 examination required under this subsection.

20 (d) An electronic gaming machine manufacturer may distribute electronic
21 gaming machines and associated equipment only to the commission, or to a vendor
22 when directed by the commission, under a contract entered into with the commission.
23 The commission may provide that an electronic gaming machine manufacturer may
24 receive up to five percent of net machine income generated by machines provided by
25 the manufacturer under the contract to the commission for use by electronic gaming
26 vendors.

27 (e) An electronic gaming machine manufacturer shall report to the
28 commission by the last business day of the month on each machine or associated
29 equipment distributed within the state during the preceding month, including the serial
30 number of each machine or associated equipment distributed.

31 **Sec. 05.18.340. Contracts with electronic gaming vendors.** (a) The director

1 may contract with persons on behalf of the commission to be electronic gaming
2 vendors. Except as provided in AS 05.18.320(f), each electronic gaming vendor must
3 be a business whose primary activity is not regulated by this chapter that

4 (1) holds a business license under AS 43.70; and

5 (2) is an establishment holding a beverage dispensary license under
6 AS 04.11.090 that has not been designated by the Alcoholic Beverage Control Board
7 under AS 04.16.049(a)(2) or (3), has not been exempted by the Department of Labor
8 and Workforce Development under AS 04.16.049(c) and AS 23.10.355, and, if the
9 establishment is a hotel, motel, resort, or similar business that caters to the traveling
10 public as a substantial part of its business, does not conduct the electronic gaming
11 activities in a dining room, banquet room, guest room, or other public areas other than
12 a room in which there is regularly maintained a fixed counter or service bar at which
13 alcoholic beverages are sold or served to members of the public for consumption.

14 (b) An electronic gaming vendor may

15 (1) possess electronic gaming machines leased from the commission
16 and conduct electronic gaming as permitted by this chapter;

17 (2) hire employees to perform the services under (1) of this subsection.

18 (c) An electronic gaming vendor shall supervise each employee of the vendor
19 in the employee's performance of the services under (b)(1) of this section.

20 (d) Before contracting with an applicant, the director shall require a
21 prospective vendor to disclose to the commission the applicant's name and address and
22 the following:

23 (1) if the prospective vendor is a corporation, names and addresses of
24 the officers, directors, and each stockholder in the corporation; except that, in the case
25 of stockholders of publicly held equity securities of a publicly traded corporation, only
26 the names and addresses of those known to the corporation to own five percent or
27 more of the securities need be disclosed;

28 (2) if the prospective vendor is a trust, names and addresses of the
29 trustees and all persons entitled to receive income or benefit from the trust;

30 (3) if the prospective vendor is an association, the names and addresses
31 of the members, officers, and directors;

1 (4) if the prospective vendor is a subsidiary, the names and addresses
2 of the officers, directors and each stockholder of the parent corporation of the
3 subsidiary; except that, in the case of stockholders of a publicly traded corporation,
4 only the names and addresses of those known to the corporation to own five percent or
5 more of such securities need be disclosed;

6 (5) if the prospective vendor is a partnership or joint venture, the
7 names and addresses of all the general partners, limited partners, or joint venturers;

8 (6) if the parent company, general partner, limited partner, or joint
9 venturer of any prospective vendor is itself a corporation, trust, association, subsidiary,
10 partnership, or joint venture, the names and addresses required under (1) - (5) if this
11 subsection shall be disclosed for the other entity as if it were itself a prospective
12 vendor to the end that full disclosure of ultimate ownership be achieved;

13 (7) if any member of the immediate family of any prospective vendor
14 is involved in the ~~lottery~~ vendor's business in any capacity, then the names and
15 addresses of the immediate family member shall be disclosed as if the immediate
16 family member were a prospective vendor;

17 (8) the details of any felony conviction of a criminal offense, state or
18 federal, of the vendor or any person whose name and address are required by the
19 disclosure requirements of this subsection; and

20 (9) the details of any disciplinary action of a judicial nature taken by
21 any state against the vendor or any person whose name and address are required by
22 this subsection regarding any matter related to the selling, leasing, offering for sale or
23 lease, buying, or servicing of gaming materials or equipment.

24 **Sec. 05.18.350. Qualifications for vendor contracts.** (a) A person who
25 wishes to contract with the commission to be an electronic gaming vendor shall apply
26 on a form provided by the commission. The director shall charge the applicant a fee to
27 cover the costs of processing the application and checking the background of the
28 applicant.

29 (b) Before contracting with an applicant to be an vendor, the director shall
30 consider

31 (1) the financial responsibility and security of the applicant and the

1 applicant's business or activity;

2 (2) the accessibility of the applicant's place of business or activity to
3 the public;

4 (3) the ability of the applicant to promote electronic gaming;

5 (4) the sufficiency of existing vendor contracts to serve the public
6 convenience;

7 (5) the volume of expected electronic gaming; and

8 (6) other factors the director determines are relevant.

9 (c) The director may not contract with an applicant to be an agent if the
10 applicant

11 (1) would be engaged in business exclusively as a vendor;

12 (2) is an individual under 18 years of age;

13 (3) has a contract with the commission regarding the operation and
14 administration of the lottery; or

15 (4) has been convicted of a felony or a gambling or gaming
16 misdemeanor, including conviction based on a guilty plea or plea of nolo contendere.

17 **Sec. 05.18.360. Duration of vendor contracts.** The director may contract
18 with an electronic gaming vendor for a term of not more than two years, but may
19 renew the contract.

20 **Sec. 05.18.370. Revocation or suspension of vendor contracts.** (a) The
21 director shall suspend or cancel the contract of an electronic gaming vendor who
22 violates AS 05.18.320.

23 (b) The director may suspend or cancel the contract of an electronic gaming
24 vendor who violates a regulation adopted under this chapter or a provision of this
25 chapter other than AS 05.18.320.

26 (c) The director shall conduct proceedings to suspend or cancel an electronic
27 gaming vendor contract under AS 44.62 (Administrative Procedure Act).

28 **Sec. 05.18.380. Compensation of vendors.** The director shall establish the
29 levels of compensation for electronic gaming vendors. The director may not contract
30 with a vendor to receive more than 31 percent of net machine income.

31 **Sec. 05.18.390. Deposit of receipts and reports.** (a) Each electronic gaming

1 vendor shall deposit to the credit of the state in a bank designated by the director all
2 money received by the vendor from electronic gaming machines. The director shall
3 provide for periodic automatic withdrawals from the bank of the funds due the state.

4 (b) Each agent shall file weekly reports with the director on a form provided
5 by the commission of the receipts of electronic gaming.

6 (c) The director shall impose a service charge on a vendor if the payor bank
7 dishonors an electronic transfer of funds to the state lottery and gaming fund from the
8 account of the vendor for money received from electronic gaming.

9 (d) The director may charge ~~an agent~~ ^{Vendor} interest on money that is not paid to the
10 state within 10 days after the due date and may impose an additional service charge in
11 an amount to cover administrative costs if the debt is referred for collection.

12 (e) The amount, including any interest or service charge, owed to the
13 commission by ~~an agent~~ ^{Vendor} is a lien on the property of the ~~agent~~ ^{Vendor} at the time that the
14 commission files a claim of lien in the recorder's office of the recording district of the
15 principal place of business of the ~~agent~~ ^{Vendor}.

16 **Sec. 05.18.400. Bond.** (a) Each applicant for an electronic gaming vendor
17 contract shall, at the time of application under AS 05.18.340, file with the commission
18 and maintain during the term of an electronic gaming vendor contract a bond running
19 to the state with a corporate surety qualified to do business in the state. The amount of
20 the bond shall be determined by the commission.

21 (b) The bond required by this section remains in effect until cancelled by
22 action of the surety, the principal, or the commission.

23 (c) The state or another person may not bring an action on the bond more than
24 three years after its cancellation.

25 **Article 5. Miscellaneous Provisions.**

26 **Sec. 05.18.450. State lottery and gaming fund and appropriations.** There
27 is created in the general fund the state lottery and gaming fund. The state lottery and
28 gaming fund consists of all revenue received from the sale of lottery tickets and from
29 electronic gaming and all other money credited or transferred to the fund from another
30 fund or source.

31 **Sec. 05.18.460. Audit.** The commission shall have an audit of the books and

1 accounts of the commission performed at least once in each year by certified public
2 accountants. The commission may have special audits performed at any time on its
3 own motion or at the request of the director. The commission shall file a copy of each
4 audit with the commissioner of revenue and the legislature.

5 **Sec. 05.18.470. Prohibited acts.** (a) A person may not

6 (1) knowingly act as an agent or sell a lottery ticket unless the person
7 has a contract with the commission to be an agent, or is an employee of an agent and
8 sells lottery tickets under the supervision of the agent;

9 (2) knowingly sell a lottery ticket at a price greater than that fixed by
10 the commission;

11 (3) knowingly sell or offer to sell a lottery ticket to a person under 18
12 years of age;

13 (4) knowingly present a counterfeit or altered lottery ticket for
14 payment or transfer a counterfeit or altered lottery ticket to another person to present
15 for payment;

16 (5) with intent to defraud, falsely make, alter, forge, utter, pass, or
17 counterfeit a lottery ticket;

18 (6) knowingly act as an electronic gaming vendor unless the person
19 has a contract with the commission to be an electronic gaming vendor, or is an
20 employee of a vendor and conducts electronic gaming under the supervision of the
21 vendor;

22 (7) knowingly allow or offer to allow a person under 21 years of age to
23 play an electronic gaming machine;

24 (8) knowingly present a counterfeit or altered electronic gaming
25 receipt for payment or transfer to another person for payment;

26 (9) knowingly deceive or attempt to deceive an electronic gaming
27 machine to

28 (A) allow the play of that machine without first inserting the
29 required amount of money; or

30 (B) cause the machine to display a winning hand or
31 combination or otherwise provide a payoff when the winning hand,

1 combination, or payoff was not going to occur;

2 (10) impersonate an employee or contractor of the commission.

3 (b) A lottery retail sales agent, an electronic gaming vendor, the governor, or
4 an officer, employee, or contractor of the commission or the Office of the Governor
5 may not purchase a lottery ticket or receive a lottery prize or play an electronic gaming
6 machine.

7 (c) An agent or vendor may not knowingly withhold funds owed to the
8 commission.

9 (d) This section does not prohibit a person from giving a lottery ticket to
10 another person of any age.

11 (e) In this section, "knowingly" has the meaning given in AS 11.81.900.

12 **Sec. 05.18.480. Assignment of contracts.** A person that enters into a contract
13 under this chapter may not assign the contract without the approval of the commission.

14 **Sec. 05.18.490. Penalty.** A person that violates AS 05.18.150 - 05.18.200,
15 05.18.390, 05.18.400, 05.18.470, or 05.18.480 is guilty of a class C felony.

16 **Sec. 05.18.500. Statement of odds.** Each lottery ticket must indicate the odds
17 of winning a lottery prize in the particular lottery game represented by the lottery
18 ticket.

19 **Sec. 05.18.510. Applicability of other laws.** Other laws regarding the sale of
20 lottery tickets, the administration of a lottery, or the conduct of electronic gaming do
21 not apply to the sale of lottery tickets and the conduct of electronic gaming under this
22 chapter.

23 **Article 5. General Provisions.**

24 **Sec. 05.18.900. Definitions.** In this chapter, unless the context requires
25 otherwise,

26 (1) "agent" means a person who has contracted with the commission to
27 be a lottery retail sales agent under this chapter;

28 (2) "agent contract" means a contract under AS 05.18.100 between the
29 commission and a person for the person to be an agent;

30 (3) "commission" means the Alaska State Lottery and Gaming
31 Commission;

1 (4) "department" means the Department of Revenue;

2 (5) "director" means the executive director of the commission;

3 (6) "electronic gaming" means a game of chance that uses an
4 electronic gaming machine;

5 (7) "electronic gaming machine" means an electronic video game
6 machine that, upon insertion of cash, in the form of coins or bills, is able to play or
7 simulate the play of a video game, including video poker, keno, or blackjack,
8 authorized by the department, using a video display and microprocessors so that, by
9 chance, the player may receive free games or credits that can be redeemed for cash;

10 (8) "lottery" or "state lottery" means the lottery established and
11 operated under this chapter;

12 (9) "lottery ticket" means a ticket, receipt, card, or other item, received
13 by a person from an agent or an employee of an agent as evidence of participation in
14 the lottery;

15 (10) "net machine income" means money put into an electronic gaming
16 machine minus credits paid out in cash;

17 (11) "operation and administration" includes accounting, sales,
18 promotion, and security;

19 (12) "person" has the meaning given in AS 01.10.060 and also
20 includes an estate, receiver, trustee, assignee, referee, or other person acting in a
21 fiduciary or representative capacity, whether appointed by a court or otherwise, and a
22 department, commission, agency, or instrumentality of the state, including a
23 municipality and an agency or instrumentality of a municipality;

24 (13) "vendor" or "electronic gaming vendor" means a person who has
25 contracted with the commission to conduct electronic gaming under this chapter;

26 (14) "vendor contract" means a contract under AS 05.18.340 between
27 the commission and a person for the person to be a vendor.

28 * Sec. 2. AS 11.66.280(2) is amended to read:

29 (2) "gambling" means that a person stakes or risks something of value
30 upon the outcome of a contest of chance or a future contingent event not under the
31 person's control or influence, upon an agreement or understanding that that person or

1 someone else will receive something of value in the event of a certain outcome;
2 "gambling" does not include

3 (A) bona fide business transactions valid under the law of
4 contracts for the purchase or sale at a future date of securities or commodities
5 and agreements to compensate for loss caused by the happening of chance,
6 including contracts of indemnity or guaranty and life, health, or accident
7 insurance;

8 (B) playing an amusement device that

9 (i) confers only an immediate right of replay not
10 exchangeable for something of value other than the privilege of
11 immediate replay; and

12 (ii) does not contain a method or device by which the
13 privilege of immediate replay may be cancelled or revoked; or

14 (C) an activity authorized by the Department of Revenue under

15 AS 05.15 or AS 05.18;

16 * Sec. 3. AS 11.66.280(3) is amended to read:

17 (3) "gambling device" means any device, machine, paraphernalia, or
18 equipment that is used or usable in the playing phases of unlawful gambling, whether
19 it consists of gambling between persons or gambling by a person involving the playing
20 of a machine; "gambling device" does not include

21 (A) lottery tickets, policy slips, or other items used in the
22 playing phases of lottery or policy schemes; [OR]

23 (B) an amusement device as described in (2)(B) of this section;

24 or

25 (C) an electronic gaming machine permitted by the
26 commissioner of revenue under AS 05.18;

27 * Sec. 4. AS 18.65.080 is amended by adding a new subsection to read:

28 (b) The Department of Public Safety shall investigate and ascertain whether a
29 person appointed by the governor to serve as a member of the Alaska State Lottery and
30 Gaming Commission has been convicted of a crime set out in AS 05.18.010(e) and shall
31 perform other services for the commission as may be required.

1 * Sec. 5. AS 18.65.290(6) is amended to read:

2 (6) "police officer" means

3 (A) a full-time employee of the state or a municipal police
4 department with the authority to arrest and issue citations; detain a person
5 taken into custody until that person can be arraigned before a judge or
6 magistrate; conduct investigations of violations of and enforce criminal laws,
7 regulations, and traffic laws; search with or without a warrant persons,
8 dwellings, and other forms of property for evidence of a crime; and take other
9 action consistent with exercise of these enumerated powers when necessary to
10 maintain the public peace;

11 (B) an officer or employee of the Department of Transportation
12 and Public Facilities who is stationed at an international airport and has been
13 designated to have the general police powers authorized under
14 AS 02.15.230(a);

15 (C) a University of Alaska public safety officer with general
16 police powers authorized under AS 14.40.043;

17 (D) the deputy director for security for the Alaska State

18 Lottery and Gaming Commission;

19 * Sec. 6. AS 29.10.200(51) is amended to read:

20 (51) AS 29.45.650(c), (d), (e), [AND] (f), and (i) (sales and use tax);

21 * Sec. 7. AS 29.45.650 is amended by adding a new subsection to read:

22 (i) A borough may not levy or collect a sales tax on sales, rents, and services,
23 or a use tax on the storage, use, or consumption of personal property on electronic
24 gaming machines and electronic gaming. This subsection applies to home rule and
25 general law municipalities.

26 * Sec. 8. AS 29.45.700(d) is amended to read:

27 (d) A city that levies and collects sales and use taxes under (a) of this section
28 may not levy and collect a sales tax on a purchase made with (1) food coupons, food
29 stamps, or other types of allotments issued under 7 U.S.C. 2011 - 2036 (Food Stamp
30 Program); or (2) food instruments, food vouchers, or other type of certificate issued
31 under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and

Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975(b) is not considered to be an allotment issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program). A city that levies and collects sales and use taxes under (a) of this section may not levy and collect a sales or use tax on sales, rents, services, storage, use, or consumption of electronic gaming machines or electronic gaming. This subsection applies to home rule and general law municipalities.

* Sec. 9. AS 39.25.110(11) is amended to read:

(11) the officers and employees of the following boards, commissions, and authorities:

(A) [REPEALED

(B)] Alaska Permanent Fund Corporation;

(B) [(C)] Alaska Industrial Development and Export Authority;

(C) [(D)] Alaska Commercial Fisheries Entry Commission;

(D) [(E)] Alaska Commission on Postsecondary Education;

(E) [(F)] Alaska Aerospace Development Corporation;

(F) [(G)] Alaska Natural Gas Development Authority;

(G) Alaska State Lottery and Gaming Commission;

* Sec. 10. AS 39.50.200(b) is amended by adding a new paragraph to read:

(58) Alaska State Lottery and Gaming Commission (AS 05.18).

* Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to read:

REGULATIONS. Notwithstanding the effective date of this Act, the Department of Revenue shall begin the process under AS 44.62 (Administrative Procedure Act) of adopting regulations to implement those sections of this Act so that the regulations can take effect January 1, 2004, or as soon thereafter as is possible.

* Sec. 12. Except as provided in sec. 13 of this Act, this Act takes effect January 1, 2004.

* Sec. 13. Section 11 of this Act takes effect immediately under AS 01.10.070(c).

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

April 9, 2003

SUBJECT: Sectional Summary - HB 240 (Work Order No. 23-LS0914\D)

TO: Representative Cheryll Heinze
Attn: Helen

FROM: Gerald P. Luckhaupt 
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. This section is where all the action is. It adds a new chapter to AS 05 dealing with a state lottery. The following sections are created:

- AS 05.18.010 - creates the Alaska State Lottery Commission in the Department of Revenue;
- AS 05.18.020 - sets meeting requirements for the commission;
- AS 05.18.030 - establishes the duties and powers of the commission; paragraph (8) authorizes the commission to conduct two lotteries per year with each winner receiving 50 percent of the ticket sales for that lottery less up to five percent for expenses;
- AS 05.18.040 - authorizes the commission to adopt regulations;
- AS 05.18.050 - allows the commission to employ an executive director and the director to employ deputies and other employees; the director and all employees are in the exempt service;
- AS 05.18.060 - sets the duties of the director;
- AS 05.18.070 - authorizes the director or the commission to issue subpoenas in matters over which the commissioner has control;
- AS 05.18.100 - authorizes the director to contract with persons to be lottery sales ticket agents;
- AS 05.18.110 - sets qualifications for a person to be a lottery sales ticket agent;
- AS 05.18.120 - provides that contracts with agents may not be for more than two years but may be renewed;
- AS 05.18.130 - relates to suspension or cancellation of agent contracts;
- AS 05.18.140 - allows the director to establish the compensation for agents;
- AS 05.18.150 - provides requirements for the deposit of receipts and reports by agents;
- AS 05.18.160 - requires agents to maintain a bond in an amount set by the commission;
- AS 05.18.200 - relates to assignments of lottery prizes;

Representative Cheryll Heinze

April 9, 2003

Page 2

AS 05.18.210 - relates to the payment of a prize to a person under the age of 18;

AS 05.18.220 - relates to unclaimed prizes;

AS 05.18.300 - creates a state lottery fund in the general fund;

AS 05.18.310 - requires an audit of the books of the commission at least each year;

AS 05.18.320 - establishes prohibitions on certain conduct relating to the lottery;

AS 05.18.330 - provides that contracts may not be assigned without the approval of the commission;

AS 05.18.340 - provides that a person that violates the prohibitions, assigns a contract without permission, fails to deposit lottery receipts or make required reports, fails to obtain the bond required by the commission, or illegally assigns a lottery prize is guilty of a class C felony;

AS 05.18.350 - requires each lottery ticket to have a statement of odds printed on the ticket;

AS 05.18.360 - provides that other laws do not apply to this chapter;

AS 05.18.900 - provides definitions.

Section 2. Amends the definition of "gambling" to exclude the state lottery.

Section 3. Requires the Department of Public Safety to investigate appointees to the commission.

Section 4. Provides that the officers and employees of the commission are in the exempt service.

Section 5. Provides that the commission is subject to the requirements of AS 39.50, public official financial disclosure.

GPL:med
03-377.med

Sectional Analysis for CS for HB 240
(Work Draft 23-LS0914H)

- Sec. 1:** Technical – Activities authorized under the permit don't include EGMs, therefore EGM permittees don't pay additional 1% fee to Department of Revenue.
- Sec. 2:** Technical – Places EGM vendors under Department of Revenue oversight and regulation.
- Sec. 3:** Technical – Authorizes Department of Revenue to examine books and records of EGM vendors.
- Sec. 4:** Technical – Requires signature on applications and reports to Department of Revenue by licensed EGM distributor agents, EGM manufacturers or agent, registered EGM vendors or agent, and registered pull-tab vendor or agent.
- Sec. 5:** Technical – Allows Department of Revenue to issue a permit to a municipality or qualified organization to conduct electronic gaming activities through EGMs.
- Sec. 6:** Technical – Adds EGM vendor to list of convicted felons in Alaska and from other states (if same offense), and also adds violators of a law or ordinance in Alaska or another state, of a crime involving theft, dishonesty or gambling, and affords ability to prohibit from being issued an EGM permit or working in an establishment.
- Sec. 7:** Prohibits an EGM permittee from contracting with an operator.
- Sec. 8:** Technical – Allows a municipality to prohibit an EGM vendor from conducting activities in respective municipality.
- Sec. 9:** Technical – Clarifies EGM activities within revocation purview by the Depart of Revenue over operators.
- Sec. 10:** Technical – Adds EGM proceeds to revenue prohibited from being paid to a state registered lobbyist.
- Sec. 11:** Technical – Places EGM in same category as pull-tabs for ceiling of 90% adjusted gross income to be used for expenses.
- Sec. 12:** Technical – Relates to suspension or revocation of an EGM permit, license or vendor registration concurrent with standards for pull-tab suspensions and revocations.

- Sec. 13:** Technical – Adds EGM use, as a coin operated device, acceptable under gaming law.
- Sec. 14:** Technical – Adds electronic gaming activities to the list of permitted activities in Alaska.
- Sec. 15:** Technical – Excludes electronic gaming from the annual limit of the amount awarded in prizes by charities.
- Sec. 16:** Technical – Clarifies what a distributor is limited to regarding purchases, sales and deliver of pull-tabs to pull-tab vendors so there is no prohibition against an EGM vendor doing same.
- Sec. 17:** Technical – Specifies that registered pull-tab vendors are prohibited from purchasing pull-tabs from themselves.
- Sec. 18:** Technical – Clarifies that pull-tab vendors may not turn over a prize of more than \$50 without collecting a signed receipt.
- Sec. 19:** Technical – Specifies the requirements for pull-tab sales by pull-tab vendors apply only to pull-tab vendors, not EGM vendors.
- Sec. 20:** Authorizes electronic gaming to be conducted and provides the requirements for obtaining an electronic gaming endorsement. Specifies the standards of electronic gaming operation and provides guidelines for approval of EGMs. Provides requirements for the manufacturers and distributors of EGMs. Outlines distribution of income from EGMs and allows for the Dept. of Revenue to contract services related to the administration of electronic gaming.
- Sec. 21:** Allows municipalities and villages to vote on and prohibit, if indicated by the vote, EGMs within their boundaries.
- Sec. 22:** Provides the question to be put before the voters of the municipality or village considering electronic gaming activities.
- Sec. 23:** Technical – Adds EGM vendors to the penalties that apply to pull-tab vendors.
- Sec. 24:** Provides a penalty for violating the standards of EGM operation.
- Sec. 25:** Establishes definitions of terms related to electronic gaming.
- Sec. 26:** No change to original bill. This is Section 1 from original version.
- Sec. 27:** No change to original bill. This is Section 2 from the original version.

- Sec. 28:** Excludes permitted EGM from definition of "gambling device."
- Sec. 29:** No change to original bill. This is Section 3 from original version.
- Sec. 30:** Conforming amendment to Section 31.
- Sec. 31:** Prevents a borough or municipality from levying or collecting a sales, rent, service or use tax on the storage, use or consumption on personal property on EGMs and electronic gaming.
- Sec. 32:** Prevents a city from levying or collecting a sales, rent, service or use tax on the storage, use or consumption on personal property on EGMs and electronic gaming.
- Sec. 33:** No change to original bill. This is Section 4 from original version.
- Sec. 34:** No change to original bill. This is Section 5 from original version.
- Sec. 35:** Repeals definition of vendor because EGM vendor definition is added to language.
- Sec. 36:** Allows Department of Revenue to start adopting regulations for electronic gaming before EGMs laws take effect.
- Sec. 37:** EGM sections take effect January 1, 2004.
- Sec. 38:** State Lottery sections take effect immediately.

THE
FOLLOWING
DOCUMENT(S)
ARE
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COPIES

New

23-LS0921\H

Kurtz

4/14/03

CS FOR HOUSE BILL NO. 236()**IN THE LEGISLATURE OF THE STATE OF ALASKA****TWENTY-THIRD LEGISLATURE - FIRST SESSION****BY****Offered:****Referred:****Sponsor(s): REPRESENTATIVE WILSON****A BILL****FOR AN ACT ENTITLED**

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

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

3 *** Section 1. AS 43 is amended by adding a new chapter to read:**

4 **Chapter 45. Education Tax.**

5 **Sec. 43.45.011. Tax imposed.** There is imposed a tax of \$100 a year on each
6 individual 19 years of age or older who, during the entire tax year, receives
7 compensation greater than \$1,000 in the state.

8 (b) For purposes of this section, "compensation" includes wages, salaries,
9 commissions, tips, any other form of remuneration paid for personal services, and
10 gross receipts from a trade or business.

11 (c) The tax imposed under this section does not apply to compensation exempt
12 from the tax under federal law.

13 **Sec. 43.45.021. Collection and payment of tax.** (a) An employer shall
14 deduct and withhold \$50 of the tax or 10 percent of the employee's gross
15 compensation, whichever is less, on the first regular payroll in which the employee's

total compensation paid by the employer during the tax year exceeds \$1,000, and from subsequent payrolls until the tax due under this chapter is fully withheld.

(b) An employer shall file a return on a form prescribed by the department and remit the tax withheld to the department on or before the 15th day of the month following the earlier of the last day of

(1) each calendar quarter during which tax was required to be withheld; or

(2) any month in which, on the last day of that month, the employer has withheld but not paid \$500 or more of tax.

(c) A deduction of the tax may not be made in the salary or other compensation of an individual who provides proof to the employer that

(1) the tax imposed under AS 43.45.011 for that tax year has already been withheld by another employer; or

(2) the individual was not 19 years of age or older for the entire tax year.

(d) An individual who has not had the full tax withheld by an employer must file a return on a form prescribed by the department and remit the tax due under this section by June 30 of the tax year.

Sec. 43.45.031. Liability of employer. An employer who pays compensation is liable for the tax required to be withheld from an employee under this section unless the employer can demonstrate that the employer relied on proof provided by the employee that

(1) the tax imposed under AS 43.45.011 had already been withheld by another employer; or

(2) the individual was not 19 years of age or older for the entire tax year.

Sec. 43.45.041. Refund claims. (a) An individual who has paid more than \$100 in tax under this chapter in a tax year, directly or through employer withholding, or both, may claim a refund from the department. The claim must be made on a form prescribed by the department before December 31 of the calendar year immediately following the tax year in which the overpayment was made.

1 (b) Interest on the overpayment may not be allowed under AS 43.05.280 if the
2 department pays the refund within 90 days after the date the individual files the refund
3 claim or the date on which the last payment of the tax by or on behalf of the individual
4 was received by the department, whichever is later.

5 **Sec. 43.45.051. Disposition of tax proceeds.** (a) The tax collected by the
6 department under AS 43.45.021 shall be deposited into the general fund and accounted
7 for separately.

8 (b) The legislature may appropriate the estimated amounts to be collected and
9 separately accounted for under (a) of this section for education.

10 (c) The deposit required and appropriation authorized by this section are not
11 intended to create a dedication in violation of art. IX, sec. 7, Constitution of the State
12 of Alaska.

13 **Sec. 43.45.099. Definition.** In this chapter, "tax year" means the period
14 beginning on July 1 and ending on June 30 of the following calendar year.

15 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
16 read:

17 **TRANSITIONAL PROVISION.** Notwithstanding AS 43.45.021(b)(2), enacted by
18 sec. 1 of this Act, amounts withheld during the first three months that the tax is in effect shall
19 be remitted and a return shall be filed on or before the 15th day of the fourth month that the
20 tax is in effect.

21 * **Sec. 3.** This Act takes effect July 1, 2003.

Oregon Lottery Information

EGM's (called VLT, Video Lottery Terminals, in Oregon) are owned and operated by Oregon Lottery. Here are some data points:

- Maximum of 5 VLT's per location
- 1,969 retailers have VLT's representing 9,453 total terminals
- Average weekly net sales (after payouts) is \$1,016/week
- In 2002 Oregon pulled in approx. \$480,000,000 from VLT's
 - 9% (\$43,200,000) went for Operating Expenses
 - 33% (\$158,400,000) went to the Retailers in Commissions
 - 58% (\$278,400,000) went to the State of Oregon
- \$480,000,000 represented 80% of Oregon Lottery's total transfer to the state the other 20% was from lottery, keno, etc.
- Attached are a list of staff and pay ranges for video lottery

OREGON LOTTERY STAFFING ASSOCIATED WITH VIDEO LOTTERY

FIELD TECHNICIANS

01 @ Salary Range \$2130-\$2770/mo.	\$2,450 /mo.
11 @ Salary Range \$2280-\$2970/mo.	\$28,875 /mo.
60 @ Salary Range \$2440-\$3180/mo.	\$168,600 /mo.

VIDEO SUPPORT TECHNICIANS/SUPERVISORS

03 @ Salary Range \$2130-\$2770/mo.	\$7,350 /mo.
15 @ Salary Range \$2280-\$2970/mo.	\$39,375 /mo.
05 @ Salary Range \$2440-\$3180/mo.	\$14,050 /mo.
01 @ Salary Range \$2800-\$3640/mo.	\$3,220 /mo.
01 @ Salary Range \$3690-\$4800/mo.	\$4,245 /mo.

RETAILER SERVICES OPERATORS/SUPERVISOR

05 @ Salary Range \$1990-\$2590/mo.	\$11,450 /mo.
22 @ Salary Range \$2130-\$2770/mo.	\$53,900 /mo.
01 @ Salary Range \$3220-\$4190/mo.	\$3,705 /mo.

VIDEO CENTRAL COMPUTER SYSTEM/TELECOMMUNICATIONS NETWORK

12 @ Salary Range \$1780-\$2400/mo.	\$25,080 /mo.
02 @ Salary Range \$2210-\$3000/mo.	\$5,210 /mo.
03 @ Salary Range \$2735-\$3690/mo.	\$9,638 /mo.
03 @ Salary Range \$3035-\$4100/mo.	\$10,702 /mo.
02 @ Salary Range \$3350-\$4550/mo.	\$7,900 /mo.

VIDEO PRODUCT MANAGER/ASSISTANT

1 @ Salary Range \$2620-\$3410/mo.	\$3,015 /mo.
1 @ Salary Range \$3690-\$4800/mo.	\$4,245 /mo.

COMPLIANCE AUDITORS

2 @ Salary Range \$2620-\$3410/mo.	\$6,030 /mo.
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ACCOUNTING

2 @ Salary Range \$2130-\$2770/mo.	\$4,900 /mo.
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153 Video Lottery Staff

TOTAL /mo. \$413,940

SUBTOTAL /yr. \$4,967,280

PLUS BENEFITS \$1,788,221

TOTAL /yr. \$6,755,500



Where the Money Goes

Cumulative Lottery Proceeds by Program—Lotteries Making a Difference

(All numbers as of 6/30/02 unless otherwise specified)

Arizona Lottery (1982*)

- Education \$355.91 million
- Health and Welfare \$140.38 million
- Protection and Safety \$65.98 million
- Economic Development Fund \$37.78 million
- General Government \$39.21 million
- Inspection and Regulation \$6.88 million
- Natural Resources \$5.51 million
- Local Transportation Assistance Fund \$466.00 million
- County Assistance Fund \$122.03 million
- Heritage Fund \$219.91 million
- Mass Transit \$19.74 million
- Clean Air Fund \$0.5 million
- Court Appointed Special Advocate Fund (Unclaimed prizes) \$18.07 million
- State General Fund \$1.5 million

Atlantic Lottery Corporation (1976*)

- Lotteries Commission of New Brunswick \$1,023.5 million
- Provinces of Newfoundland and Labrador \$952.2 million
- Nova Scotia Gaming Corporation \$1,474.9 million
- Prince Edward Island Lotteries Commission \$174.1 million

British Columbia Lottery Corporation (1974*)

- Government of British Columbia \$5.2 billion (through March 31, 2002)

California State Lottery (1985*)

- Education \$14.0 billion

Colorado Lottery (1983*)

- Capital Construction Fund \$439.8 million
- Division of Parks and Outdoor Recreation \$117.7 million
- Conservation Trust Fund \$471.0 million
- Great Outdoors Colorado Trust Fund \$263.0 million
- General Fund \$1.3 million
- School Fund \$8.5 million

Connecticut Lottery Corporation (1972*)

- General Fund \$4.8 billion (to benefit education, roads, health and hospitals and public safety)

Delaware State Lottery (1975*)

- General Fund \$1,403.7 million

D.C. Lottery & Charitable Games Control Board (1982*)

- General Fund \$1.1 billion

Florida Lottery (1987*)

- Education Enhancement Trust Fund: \$12.05 billion (as of 6/30/02)

Georgia Lottery Corporation (1993*)

- HOPE Scholarships \$2.1 billion
- Pre-Kindergarten Program \$1.8 billion
- Capital Outlay and Technology for Primary and Secondary Schools \$1.8 billion

Idaho Lottery (1989*)

- Public Schools (K-12) \$105.5 million
- Public Buildings \$105.5 million

Illinois Lottery (1974*)

- Illinois Common School Fund (K-12) \$11.06 billion

Indiana (Hoosier) Lottery (1989*)

- Education \$387.5 million
- Build Indiana Capital Projects Fund \$419.2 million
- Teachers' Retirement Fund \$372.6 million
- Police & Fire Pension Relief Fund \$186.3 million
- License Plate Taxes \$593.5 million
- Property Tax Fund \$55.2 million
- General Fund \$83.2 million

Iowa Lottery (1985*)

- Iowa Plan (economic development) \$170.31 million
- CLEAN Fund (environment and agriculture) \$35.89 million
- Gambler's Treatment Program \$8.14 million
- Special Appropriations \$20.82 million
- Sales Tax \$127.02 million
- General Fund \$417.65 million

Kansas Lottery (1987*)

- Economic Development Initiatives Fund \$477.3 million
- Correctional Institutions Building Fund \$56.4 million
- County Reappraisal Project (FY 88-90) \$17.2 million
- Juvenile Detention Facilities Fund \$15.3 million
- Problem Gambling Grant Fund \$160,000

Kentucky Lottery Corporation (1989*)

- Education \$214 million
- Vietnam Veterans \$32 million
- General Fund \$1.3 billion
- Post-Secondary and College Scholarships \$203 million
- Affordable Housing Trust Fund \$17 million

- Literacy Programs & Early Childhood Reading \$9 million

Loteria Electronica de Puerto Rico (1991*)

- Contingency Fund to Subsidize Rent for Elders Economically Disadvantaged \$20 million
- Municipality Fund \$307.5 million
- Public Health Reform \$27.8 million
- General Fund \$670.5 million

Loto-Quebec (1970*)

- Consolidated Fund \$14.3 billion
- Government of Canada \$279.31 million
- Special Commissions to Non-Profit Organizations \$50.4 million
- Independent Community Action Support Fund \$101.8 million
- Agricultural Ministry \$21.3 million
- Ministry of Industry, Commerce, Science and Technology \$28.1 million
- Culture & Communication Ministry \$3.0 million
- Municipal Affairs \$2.3 million
- Social Services Ministry \$56.0 million

Louisiana Lottery Corporation (1991*)

- General Fund \$1.272 billion

Maine State Lottery (1974*)

- General Fund \$602.4 million
- Outdoor Heritage Fund \$9.52 million

Maryland State Lottery (1973*)

- General Fund \$7.486 billion
- Subdivisions (for one year only FY '84-85) \$20.9 million
- Stadium Authority \$357.53 million

Massachusetts State Lottery (1972*)

- Cities and Towns \$9.294 billion
- Arts Council \$166.3 million
- General Fund \$2.578 billion
- Compulsive Gamblers \$7.8 million

Mexico (1770*)

- Education and Health Programs \$9.4 million (\$U.S.)

Michigan Bureau of State Lottery (1972*)

- Education (K-12) \$10.4 billion

Minnesota State Lottery (1989*)

- General Fund \$633.5 million
- Environmental and Natural Resources Trust Fund \$290.0 million
- Game and Fish Fund \$22.2 million
- Natural Resources Fund \$22.2 million
- Other State Programs \$38.5 million
- Problem Gambling Programs \$17.7 million

Missouri Lottery (1986*)

- Public Education \$1.2 billion
- General Revenue Fund (1986-1993) \$542.54 million

Montana Lottery (1987*)

- Education \$49.4 million
- Juvenile Detention \$2.5 million
- General Fund \$47.2 million
- Study of Socioeconomic Impact on Gambling \$.1 million

Nebraska Lottery (1993*)

- Compulsive Gambling \$2.6 million
- Education \$80.2 million
- Environment \$61.7 million
- Solid Waste Landfill Closure Fund \$18.5 million

New Hampshire Sweepstakes Commission (1964*)

- Education \$789.8 million

New Jersey Lottery (1970*)

- Education and Institutions \$12.35 billion

New Mexico Lottery (1996*)

- Public School Capital Outlay \$66.55 million
- Lottery Tuition Fund \$81.39 million

New York Lottery (1967*)

- Education \$21.24 billion

Ohio Lottery Commission (1974*)

- Education \$11.7 billion

Ontario Lottery Corporation (1975*)

- Province of Ontario \$17.1 billion

Oregon Lottery (1985*)

- Economic Development \$1.2 billion
- Public Education \$1.47 billion
- Natural Resource Programs \$136.5 million

Pennsylvania State Lottery (1972*)

- Older Pennsylvanians \$13 billion

Rhode Island Lottery Commission (1974*)

- General Fund \$1.46 billion

South Dakota Lottery (1989*)

- General Fund \$354.7 million
- Capital Construction Fund \$9.2 million
- Property Tax Reduction Fund \$613.8 million

Texas Lottery Commission (1992*) (as of 8/31/02)

- General Fund \$4.96 billion
- Foundation School Fund \$4.72 billion

Vermont Lottery (1978*)

- General Fund \$212.8 million
- Education Fund \$73.5 million

Virginia Lottery (1988*)

- General Fund (FY 1989-1998) \$2.8 billion
- General Fund to be used only as direct aid to Public Education (K-12) (FY 1999-present) \$1.34 billion
- Literary Fund (for school construction additions and renovations) \$107 million
- Debt Set-Off Collection \$9.8 million

Washington State Lottery (1982*)

- General Fund \$1.9 billion
- Education Funds \$83.0 million • Seattle Mariners Stadium \$21.8 million
- King County Stadium and Exhibition Center \$25.4 million
- Public Schools Special Programs: 22,800 new elementary school books
- Local Food Banks: 193 tons of food

Western Canada Lottery Corporation (1974*)

- Member Provinces and Associate Territories \$3.4 billion

West Virginia Lottery (1986*)

- Education \$67.1 million
- Senior Citizens \$195.6 million
- Tourism \$170.8 million
- Bonds covering profit areas \$222.6 million
- General Fund \$138.9 million
- Other \$79.5 million

Wisconsin Lottery (1988*)

- Public Benefit such as Property Tax Relief \$1.98 billion

* = Year founded



Did You Know?

*Background
on HB240*

| [Glossary of Lottery Terms](#) | [Terms Relating to Problem Gambling](#) |

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Lottery Sales

How many lotteries are there?

In North America every Canadian province, 38 U.S. states, the District of Columbia, Mexico, Puerto Rico, and the U.S. Virgin Islands all offer government-operated lotteries. Voters in two other states (North Dakota and Tennessee) approved lotteries in the November, 2002 election. Elsewhere in the world publicly-operated lotteries exist in at least 100 countries on every inhabited continent. In some cases they are operated by national governments, in other cases by state or provincial governments, and in still others by cities.

What types of games do they offer?

Most offer instant or scratch-off tickets. Many offer lotto and/or numbers games. Some also offer keno or video lottery terminals. Outside of the United States many offer various types of sports betting. Raffles or passive games are less common. A few government lotteries, including those in Ontario and Quebec, also operate casinos. See the definitions section for examples of these and other lottery games.

How much do lotteries sell?

During fiscal year 2002 (which for most jurisdictions ended June 30) U.S. lottery sales totaled \$42.9 billion (\$US). Canadian sales reached \$7.7 billion (\$Can). Per capita sales were (\$Can)252 in Canada and (\$U.S.)123 in the U.S. Worldwide

lottery sales were more than \$126 billion in 1998.

What jurisdictions sold the most?

New York led the U.S. (and North America) with fiscal 2002 sales of \$4.7 billion, followed by Massachusetts with sales of \$4.2 billion. The Canadian leaders were Quebec (\$2.9 billion) and Ontario (\$2.1 billion). On a per capita basis the Canadian leader was the Atlantic Lottery Corporation, including New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island (\$419), while the U.S. leader was Rhode Island (\$1,115).

Worldwide sales honors go to Japan's *Dai-ichi Kangyo Bank Lottery*, with sales of \$7.9 billion (\$US) in 2001. They were followed by the U.K. National Lottery, *Loterias y Apuestas del Estado* of Spain, *Lottomatica* of Italy, and France's *La Francaise des Jeux*.

Table of North American lottery sales**Lottery Revenues****What do lottery revenues benefit?**

Lottery proceeds benefit different programs in different jurisdictions. In many cases lottery profits are combined with tax and other revenues in a government's general fund. In other cases lottery proceeds are dedicated to a wide range of causes, including education, economic development, the environment, programs for senior citizens, health care, sports facilities, capital construction projects, cultural activities, tax relief, and others. Lottery beneficiaries.

Who decides where the money goes?

In a few cases the recipients of lottery proceeds are specified in a jurisdiction's constitution, but in most cases this decision is up to that state or province's elected officials.

But isn't it true that lotteries haven't benefited education like they were supposed to do?

First, not every jurisdiction dedicates lottery proceeds to education; in fact, less than half do. In many places where there is a dedication to education, state education spending has risen but other parts of the budget have risen faster. Education is therefore a smaller proportion of the budget than it was before the start of the lottery. Skyrocketing medical care costs and the demand for new prisons have placed a tremendous strain on all government budgets. Between 1986 and 1993 the average U.S. state saw a 13 percent annual increase in the cost of correctional facilities. Schools have benefited from lottery funds, but this contribution is often masked by the other demands placed on state budgets.

It is also true that some non-lottery states spend a higher percentage of their budget on education than do lottery states, but in most cases the lottery states spend more per pupil. Individuals making this argument fail to recognize that the funding needs of all states are not equal. High-growth and more populous states, in particular, usually have greater needs in areas such as criminal justice and health

care than do smaller, more rural states, and it should come as no surprise that their education percentage is smaller. The more populous states are also the states most likely to have lotteries.

How much money do lotteries raise?

Since the New Hampshire lottery was founded in 1964, lotteries have raised almost \$200 billion for government programs in North America. In fiscal year 02 Canadian lotteries transferred \$2.8 billion (\$CAN) to their beneficiaries, while U.S. lotteries turned over \$13.7 billion (\$US) to theirs.

Aren't lotteries an inefficient way to raise revenue?

Certainly lotteries are more expensive to administer than taxes, assuming we consider only the cost to government and not the costs to businesses and individuals in complying with tax laws. However, unlike taxes, lottery purchases are both voluntary and overwhelmingly preferred by the public.

But doesn't the government risk becoming "addicted" to lottery profits?

On the average, lotteries account for one-half of one percent of their state or provincial budgets. Governments are far, far, more dependent on tax and fee revenues than they are lottery proceeds. Voluntary, non-tax revenue sources are obviously more popular than taxes, and always will be.

Purchasing Lottery Tickets**Where are lottery tickets sold?**

Lottery tickets are sold at more than 240,000 locations throughout North America. Most of these locations are conventional retail outlets such as convenience stores, gas stations, and supermarkets.

How is it decided who gets to sell tickets?

State and provincial laws set minimum standards to sell lottery tickets based on financial soundness and integrity. Generally, any retailer meeting these standards will be permitted to sell lottery tickets.

How much do these retail outlets make?

Retailers are paid a commission on every ticket they sell. These commissions vary from jurisdiction to jurisdiction, but typically range from 5 percent to 8 percent depending on the specific product being sold. Retailers are also commonly compensated for cashing winning tickets, awarded bonuses when they sell a ticket which wins a major prize, or rewarded for exceeding sales goals. Retailers typically pay a license fee and in some cases other costs relating to the sale of lottery tickets. These costs also vary from jurisdiction to jurisdiction.

Isn't it true that lotteries deliberately place more ticket outlets in low-income neighborhoods?

No. Lotteries place their ticket outlets where there are qualifying stores. In many cases zoning regulations in upper-income communities mean that these communities have few or no gas stations or supermarkets, and hence few or no lottery retailers. City neighborhoods, by contrast, often have many qualifying

retailers because of the population density in these areas and hence many lottery outlets. In addition, many "low-income" areas (such as downtown areas) are, in fact, commercial or industrial centers with a large influx of higher-income people during the workday.

But shouldn't the lotteries restrict the sale of tickets in low-income areas?

To deny a government contract to a retailer who meets basic financial and integrity standards would be very difficult. Such restrictions are clearly discriminatory against retailers located in these neighborhoods and would likely face a serious legal challenge.

I don't live in a state with a lottery. How can I buy a ticket?

You must travel to a state or province with a lottery and buy the ticket there. Lottery tickets cannot legally be sold by mail, telephone, or in any other type of interstate commerce.

Can lottery employees play the lottery?

Usually, no, though laws do vary from place to place. In most cases the employee's immediate family and employees of lottery suppliers are also not allowed to play. In practice, there is no way that employees could alter the outcome of a game in their favor, but lottery officials generally believe that public confidence would be damaged should an employee win a large prize.

Lottery Prizes

What was the biggest prize in history?

On December 25, 2002 Jack Whittaker of West Virginia won the largest jackpot ever. Mr. Whittaker elected to receive a lump sum payment of \$170.5 million in lieu of an annuity that would have paid out \$314.9 million over a 30 year period. The winning Powerball ticket was purchased in Hurricane, West Virginia.

What will happen if I win a big prize?

Winners of large prizes must bring the winning ticket to lottery headquarters -- the amount at which you must show up in person varies from jurisdiction to jurisdiction. The ticket will be examined by lottery security staff for authentication. The lottery usually gives some advice on seeking financial and legal advice along with some practical advice like getting an unlisted phone number. All but a very few states and provinces have laws that require the lottery to make public the name and city of every winner (to assure the public that there are real winners). The lottery will ask the winner to participate in a press conference. Most take that option. It really is a good idea to get it over with since the press is likely to pursue your story until they get some questions answered. Questions are usually along the lines of "will you quit your job?" or "what will you do with the money?" or "how did you tell your family you won?" After a few weeks the excitement usually dies down and you can go about your life.

Can winners remain anonymous?

Usually no. State and provincial lawmakers want the public to know that the lottery is honestly run and so require that at a minimum the name of the winner and their

city of residence be made public. This way the public can be reassured that the prize really was paid out to a real person.

Some large lottery prizes pay out over a period of several years. What if the holder of this type of prize dies before collecting it all?

In this case the prize is considered to be part of the estate and is passed along to the winner's heirs. Contrary to popular belief, the prize does not revert to the government. The only exceptions are "win for life" games where a prize is guaranteed for the rest of the winner's life. In this case the payments stop with the winner's death.

How long do I have to claim my prize?

The time to claim a prize varies from place to place, but typically is between six months and one year.

What happens to prizes that aren't claimed?

The disposition of unclaimed prizes varies from lottery to lottery and is governed by the laws of that state or province. In some cases all unclaimed prizes reenter the prize pool and increase the payout on future games. In other cases the money goes to the government to benefit the causes the lottery supports.

Lotteries and the Economy

Aren't lotteries (and other forms of gambling) just "zero-sum" games which contribute nothing to the economy?

Some economists have argued that since lotteries do not produce a tangible product they cannot contribute to the economy. However, there are many other businesses that do not produce a tangible product, including medical offices, banks, law firms, movie theaters, and auto repair shops, to name a few. If the criterion for contributing to the economy is the production of a good, then all service businesses and over half the workforce contributes nothing to the economy.

Lottery revenues contribute to the economy in a number of ways. Certainly that portion of lottery sales which return as prizes is simple redistribution, but revenues are also distributed to over 240,000 retail outlets as commissions, to the companies which supply lotteries such as ticket printers, data processing companies, advertising agencies, and delivery services, and most importantly, for the provision of goods and services through the programs lotteries were created to support.

But don't lottery purchases lack a useful purpose? If you don't win, you've gotten nothing for your money.

Lotteries are perceived by players as a form of entertainment, not as a financial investment. As such, they are no more or less "useful" to the buyer than a ticket to a sports event or a video rental. A player's entertainment and the programs funded by the lottery is the value received; prize awards are not the singular benefit.

Who Plays Lotteries?

Who buys lottery tickets? I understand it's mostly poor people.

A recent Gallup Poll on Gambling in America found that 57% of American adults reported buying a lottery ticket in the past 12 months. People with incomes of \$45,000 to \$75,000 were the most likely to play -- 65 percent had played in the past year -- while those with incomes under \$25,000 were the least likely to play at 53 percent. Further, people with incomes in excess of \$75,000 spend roughly three times as much on lotteries each month as do those with incomes under \$25,000.

In addition, surveys of gambling behavior have been conducted in a number of jurisdictions. In Colorado, for example, people with annual incomes of \$15,000 or less make up 7 percent of the population but only 5 percent of those playing the lottery in the past 30 days. In Georgia, an Atlanta Journal and Constitution Survey found that only 8.6 percent of lottery players had incomes of \$24,000 or less, while 27 percent had incomes between \$50,000 and \$74,000. In addition, 33 percent were high school graduates, 22 percent had some college, 25 percent had a college degree, and 10 percent had an advanced degree. A 1998 Texas study found that those with less than a high school education and those with the lowest incomes were least likely to play. And in Minnesota a 1998 study found that the 13 percent of the population with incomes under \$20,000 made up only 9 percent of the past year's ticket buyers while those with incomes higher than \$50,000 were disproportionately more likely to play.

But not all of these people play the same amount. Don't most lottery sales come from a relatively small number of people?

As with any product or service, some people are more enthusiastic consumers than others. Business schools teach marketing students the "pareto principle:" the idea that no matter what the product, 80 percent of the sales will come from 20 percent of the customers. Lotteries are no different. A Minnesota study, for example, found that 20 percent of the lottery players account for 71 percent of lottery income. In Arizona, 24 percent of lottery players accounted for 70 percent of lottery spending, and in Pennsylvania 29 percent of the players accounted for 79 percent of the spending on the lottery.

What about the heaviest lottery players? Aren't they poor, undereducated, and desperate?

Again, no. Numerous studies conducted in a wide range of jurisdictions show that frequent or "heavy" lottery players closely resemble the overall population of that state or province. They are no more likely to be poor or have little formal education than a citizen selected at random.

But didn't a New York study show that the lowest income areas had the highest per capita lottery sales?

This "study" was a simple correlation between ticket sales and per capita income by zip code. The newspaper reporter who prepared it failed to realize that the zip codes with the highest sales and lowest incomes were in fact commercial districts with large numbers of ticket-buying workers and very few full-time residents. In fact, the zip code with the highest sales and lowest income was the Wall Street financial district. Had the reporter thoroughly analyzed the data, the "study" would have recognized that the residents of Wall Street (if any) weren't buying nearly as many tickets as were stock market workers commuting from New Jersey, Connecticut,

and other wealthy suburbs. Other similar studies have been conducted, but all suffer from the failure to recognize that people buy tickets where they work, shop, vacation, or other places other than where they live. In Minnesota it was found that over half the players bought their tickets in a zip code other than where they lived.

Don't poor people spend a higher percentage of their incomes on lottery tickets than those of greater means?

Poor people spend a larger proportion of their income than wealthy people on any item having a fixed price and general appeal. Poor people pay proportionately more for food, medicine, clothing, utilities, insurance, and housing, as well as for payroll and sales taxes. People who are well-off, on the other hand, spend a higher percentage of their income on things that the poor cannot afford, such as overseas vacations or season tickets to cultural or sporting events. The rich also invest and gamble in stock and commodity markets -- also activities the poor cannot afford.

Lottery opponents have pointed out, though, that unlike spending on, say, a movie ticket, the lottery ticket is purchased from the government and is therefore a regressive tax. But the lottery is not a tax. Webster defines a tax as "a compulsory payment ... for the support of government." No one is coerced to play the lottery. The purchase of a lottery ticket is completely voluntary - and a lot more fun than filling out Form 1040.

Ultimately, though, the important question isn't the percentage of income spent. It's whether the less affluent are spending an unduly large portion of their income on lottery tickets. This has undoubtedly happened in some instances just as it undoubtedly happened with junk food, athletic shoes, and other consumer items. However, there is no evidence suggesting that it is anything approaching the norm. The overwhelming majority of poor people, along with the overwhelming majority of upper-income people, play with restraint and moderation.

But shouldn't the government try to keep those who can least afford it from spending their money on the lottery?

This question implies that economically disadvantaged people are somehow less capable of making a decision on how to spend a dollar than those of greater means or that they are not entitled to the same opportunities for entertainment and recreation than the rest of us. The poor are allowed to vote, get married, and sign contracts. Society in the U.S. and Canada does not usurp rights and privileges based on socioeconomic status. The poor have to budget and watch their expenditures much more carefully than the rich. Economic status is not a measure of intelligence.

Lottery Advertising

How much do lotteries advertise?

In 1996 North American lotteries spend \$400 million (\$US) on advertising and received \$34 billion in sales. Advertising expenditures accounted for 1.17 percent of total revenue. By contrast, restaurant owners spent 3.2 percent of their revenues on advertising, beverage manufacturers 7.5 percent, cosmetics companies 8.8 percent, and candy makers 12.7 percent. Advertising accounts for less of the cost

of a lottery ticket than virtually any other consumer product.

Why can lotteries advertise when casinos can't?

Casinos can, and do, advertise. A recent Supreme Court decision cleared the way for casinos to advertise throughout the country. But even before this decision, casino advertising was extensive. According to the recent Saul F. Leonard Company's Study of U.S. Gaming, the MGM Grand casino alone spent \$51,622,000 on advertising and promotion in 1994.

Lottery advertising isn't regulated by the Federal Trade Commission. Why not?

Lotteries are not subject to FTC regulation because they are operated by state governments, and the federal government cannot regulate state government programs. Unlike other products, however, lottery advertising is subject to review and restriction by governors and state and provincial legislators. Rodney A. Smolla, George Allen Professor of Law, University of Richmond, T.C. Williams School of Law has recently written about the constitutional limitations on federal regulation of advertising of state gambling operations.

So who does regulate lottery advertising?

Lottery advertising is regulated by the states and provinces in which lotteries operate. Many have adopted formal laws, standards, or guidelines about what is and is not appropriate for advertising in their jurisdiction, and most states have elaborate review procedures to prevent potentially offensive advertising from appearing. In addition, the North American Association of State and Provincial Lotteries has adopted advertising standards to which members have agreed to abide. These standards are extensive and incorporate aspects related to compulsive gambling, beneficiary funding, and more. Remember, too, that lottery advertising is seen by lottery critics as well as lottery players. If an ad is seen as even marginally objectionable, these critics do not hesitate to make their opinions known in the political arena.

Unlike other advertising, though, isn't lottery advertising dangerous because it can create compulsive gamblers?

This statement reflects a misunderstanding of the nature of compulsive gambling. Most researchers and treatment professionals agree that compulsive or pathological gambling arises as a result of some combination of biological and psychological factors predisposing an individual to addictive behavior. Dr. Durand Jacobs, Vice-president of the National Council on Problem Gambling, has written that "the addict's pursuit and over indulgence in alcohol, other drugs, food, gambling, sex, overwork, or whatever, is NOT the addict's "problem". On the contrary, a person's addictive pattern of behavior represents that person's best SOLUTION to the stresses generated by their long-standing underlying problems." This is further borne out by the recent National Survey on Gambling Behavior, which found no relationship between problem gambling rates and the presence or absence of a lottery. If problem gambling is no more common where there is a lottery, then problem gambling cannot be caused by lottery advertising.

Is lottery advertising targeted to the poor?

No. This would be both a bad business decision and a bad political decision. It's a

bad business decision to target marketing to a small portion of the population with the least disposable income and who are the least likely to buy the product. It's a bad political decision as such a practice is almost certain to earn a lottery the wrath of the governor, the legislature, and the media.

But what about the billboard in the low-income neighborhood that pictured a lottery ticket with the caption "your ticket out of here"?

The billboard in question was just one of hundreds placed by the Illinois lottery as part of an advertising campaign in 1986. It actually read "How to get from Washington Street to Easy Street". Similar billboards appeared throughout the state (with the street name changed), in wealthy and middle-class areas in addition to the one low-income example cited. In fact, the location in question was selected because it was on the main access road to Chicago Stadium (home of the Chicago Bulls and Blackhawks) hardly a low income target audience.

I've heard that lottery ads are timed to coincide with monthly welfare and Social Security checks.

Duke University professors Charles T. Clotfelter and Philip J. Cook in their book "Selling Hope" investigated this charge. They concluded that "... there appears to be no systematic attempt to time ads to correspond to specific days other than around Friday."

Why aren't the odds of winning all lottery prizes on all ads?

Why aren't all food ingredients listed on all ads? Because of the limited time and space available on advertisements and the likelihood that they would have to be either spoken too fast or appear in too small print to be easily comprehended. All lotteries make the odds of winning available in print at the point of sale, often on the ticket itself, much as food ingredients are available at the store on the product label.

Lotteries and Compulsive Gambling

Do lotteries contribute to compulsive gambling?

There are certainly pathological and problem gamblers who play the lottery to excess. They are, however, few and far between. According to the Iowa Department of Human Services after 10 years of the lottery's existence only 6 percent of the calls to the state's problem gambling hotline related to lottery play. In Minnesota, it was 4 percent in 1997. Also in Minnesota, of the 944 admitted to the state's gambling treatment centers from 1990 to 1996, only eight cited the lottery as their preferred game. A Colorado study found that problem gamblers were 4.7 times more likely to have visited a casino in the past week and 5.2 times more likely to have played bingo than non-problem gamblers. By contrast, they were only 1.9 times more likely to have played the lottery, the lowest figure of any form of gambling. An Iowa State University study found that having more than one marriage, frequently changing residences, being a member of a minority group, and serving in the armed forces had higher correlations with problem gambling than did playing the lottery.

Most conclusively, the recent National Survey on Gambling Behavior conducted for the National Gambling Impact Study Commission found that "it does not appear

that the availability of a lottery has an impact on (problem gambling) prevalence rates." In fact, they found that problem gamblers were only slightly more likely to be lottery players than were members of the general public. By contrast, they were more than five times as likely to have made an "unlicensed" (often illegal) wager and more than four times as likely to have visited a racetrack.

Why don't lottery games appeal to problem gamblers?

Problem gamblers are attracted to games for a variety of reasons. One is a sense of high excitement, usually involving considerable sensory stimulation. Lottery tickets do not provide this. A second factor is a sense of mastery or skill. Lotteries have no skill element. A third is the immediacy of the result and reward and the ability to play repeatedly and quickly. Numbers game drawings typically take place some time after the purchase is made, and players have to wait between a day and a week to play again, making chasing losses difficult. Even instant or scratch tickets have much less immediacy than other forms of gambling. The outlets at which they are sold are not conducive to repeated play, and a player with a winning ticket must return to the convenience store, stand in line, and wait for the clerk to validate the ticket before beginning the process anew. It's quite different from pulling the slot machine handle and watching the coins come out (or not come out).

Didn't I read that lotteries cost states \$10.9 billion a year because of the resulting compulsive gambling problems?

This estimate comes from "The Luck Business" by Dr. Robert Goodman. In making this estimate, Dr. Goodman makes an assumption of an average cost of \$13,200 per pathological gambler without disclosing the basis for this estimate. He further assumes that 4 percent of all lottery players are pathological gamblers, a figure higher than the measured prevalence for all forms of pathological gambling and one particularly doubtful in light of the small number of pathological gamblers citing lotteries as their problem. He also assumes that all of their compulsive play is on lotteries, and that eliminating lotteries would in turn eliminate their compulsive gambling. These assumptions are clearly erroneous.

But isn't one compulsive lottery player too many?

Yes. Treatment should be made available to anyone needing it. Research should be conducted on making treatment more effective. More emphasis should be placed on prevention and gambling education. And lotteries should (and do) play a role in funding these activities. But it does not follow that the existence of compulsive lottery players should result in the elimination of lotteries any more than the existence of compulsive shoppers should result in the elimination of shopping malls or the existence of eating disorders should lead to the closing of all fast food restaurants. The overwhelming majority of lottery players (in excess of 99 percent) enjoy their pastime and are not pathological gamblers. To punish the majority because a small minority refuses to play these games responsibly would be unfair to the majority. It would also eliminate the billions of dollars that lotteries contribute to public good works.

What are lotteries doing about problem gambling?

Elsewhere on this web site you'll find a table of lottery contributions to problem gambling programs. These contributions vary from state to state and province to province. It is important to note, though, that decisions on what to do with lottery