

Senate T&E Committee
June 00, 1991
Page
SB 562 - PH & WKS

SENATE LEGISLATIVE COMMITTEE
ON TRADE AND ECONOMIC DEVELOPMENT

April 30, 1991Hearing Room 50
4:30 P.M.State Capitol
Salem, OR

Tapes 98 - 100
Lottery Allocation

MEMBERS PRESENT: SEN. WAYNE FAWBUSH, CO-CHAIR
 SEN. SCOTT DUFF
 SEN. JEANNETTE HAMBY
 SEN. JIM HILL
 SEN. PEG JOLIN
 SEN. EUGENE TIMMS

GUEST MEMBERS:REP. RAY BAUM, CO-CHAIR
REP. MARGARET CARTER, VICE-CHAIR
REP. JERRY BARNES
REP. DAVE MC TEAGUE
REP. BOB PICKARD

MEMBERS EXCUSED:REP. CEDRIC HAYDEN
REP. VERA KATZ

STAFF PRESENT: JOSEPH CORTRIGHT, EXECUTIVE OFFICER
 TAMIRA MILLER, POLICY ANALYST
 JERI CHASE, OFFICE MANAGER
 HOLLY BROWN, COMMITTEE ASSISTANT

WITNESSES:JIM DAVEY, DIRECTOR, LOTTERY COMMISSION
MARLA RAY, DEPARTMENT OF JUSTICE, ATTORNEY GENERAL
MIKE MACNAB, PRESIDENT, AGRIBUSINESS COUNCIL OF
OREGON
ROSS HAWKINS, CHAIRPERSON, LANDMARK OF QUALITY
HAROLD BOUCHER, STAFF, LANDMARK OF QUALITY

NOTE: These minutes contain materials which paraphrases and/or summarizes
statements made during this
meeting. Only text enclosed in quotation marks reports a speaker's exact
words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 98, SIDE A

000 CO-CHAIR BAUM convenes the meeting at 4:45 pm.

Video Lottery

010 JIM DAVEY: We are proposing all new equipment and that the lottery have complete control over the game as in South Dakota. South Dakota will generate about \$250 million this year with video lottery. We need to address the issue of video poker easing into the lottery and we have already. The existing games would have about \$8 million less with the introduction of video lottery.

068 REP. CARTER: There would be a reduction where?

076 DAVEY: When we introduce these games they are going to be in direct competition with the pull tabs and scratch tickets in bars. I would say only \$15 million of our sales are done in taverns so those sales will go down about \$8 million for the biennium. From these other games we will generate about \$61 million so there will be a net of \$53 million. So the total transfers in 91-93 becomes \$150 million.

087 REP. CARTER: How much is the forecast if we didn't have video lottery?

090 DAVEY: \$96 million.

096 REP. PICKARD: How did you come up with an 8% decrease?

100 DAVEY: We looked at the games that we thought would be most impacted by video lottery. The significant change will be in bars and taverns and those games represent about 8% of our business so we are saying that we could loose all of that business to these games.

113 REP. BARNES: Did you consider the fact that when people now play these games they can be paid off and how that affects your loss now?

118 DAVEY: We try to consider that. We think that now \$100 million a year is put into these machines after the prizes are paid. We are already faced with some competition from these games. It is hard to say how hard it is impacting our existing games.

128 SEN. TIMMS: There will only be games provided by the state of Oregon?

130 DAVEY: Yes.

142 SEN. TIMMS: We would just need law enforcement to make sure the gray games are not in use?

146 DAVEY: Yes.

167 CO-CHAIR BAUM: What is the contemplated prize pay out?

170 DAVEY: 88% is recommended by South Dakota. That maximizes the play on the games and the revenue.

176 REP. BARNES: Would your staff be capable of enforcing the ban on gray games or would you rely

on local law enforcement and state police?

180 DAVEY: We have state police on staff that provide security. I think it would have to be a combination of both. From what we can see in South Dakota and Montana, where they have a legal system, they don't really have a problem with illegal games.

187 REP. BARNES: What percentage would you give the bar or tavern?

192 DAVEY: The money that is left in the cash box after you pay all the prizes would be split. In South Dakota the state takes 25% of that and 75% is split between the tavern owner and the people who put the games in.

201 CO-CHAIR BAUM: Does local government get any of these funds in South Dakota?

204 DAVEY: I am not sure. I think all the money goes to the state and into the general fund. In Montana, local government gets all the money.

212 CO-CHAIR FAWBUSH: How did you figure \$61 million?

214 DAVEY: We went through a process of looking at potential locations and we would recommend that this only be run in locations that have an age controlled area. We concluded that there are about 2,600 potential locations and most of those would want machines. We would also recommend that we not have more than 5 machines in one location so we figured an average of about 4 per location. We based how much money would come out of each of these machines on South Dakota. We came up with net receipts after full implementation of \$219 million after the prizes are paid. That is after the 88% is paid out.

250 CO-CHAIR FAWBUSH: How much money per machine would be available for the bar owner and the machine operator to split?

257 DAVEY: We are estimating about \$400 a machine, 4.2 million a week, after the government cut that would leave about \$3 million to go to the machine operator and bar owners. The machines cost \$5,000 each and it would take about 2 years to amortize that out. We haven't decided what the split between the bar owners and machine operators will be.

300 CO-CHAIR FAWBUSH: I just want people to realize that we may not do it the same as South Dakota. After you have given away 75% of the receipts you still have \$54 million annually. How much is the lottery going to take of that \$54 million for administration?

320 DAVEY: We would like to get our percentage out of the other guys percentage, but we are thinking it would be around 2% - 2 1/2%. We think it is about \$5 million annually.

350 CO-CHAIR FAWBUSH: How would you envision setting the states share? Do we have the authority to set that share or is that the lottery commissions authority?

355 DAVEY: My vision would be that the commission would continue to gather all the financial data we could on what it takes to operate these games. There will probably be a \$50 to \$80 million investment in equipment by the people operating the games. We would like to look at their costs and decide what would be a reasonable return on investment for them.

400 CO-CHAIR FAWBUSH: You would envision having the flexibility to set a variable rate for the take and that your administration would be 2 1/2% off the total receipts. The companies would put the machines in, service them and collect the money.

429 SEN. HILL: What happened with sports betting that caused the lottery to decline?

430 DAVEY: It was really the characteristics of the other games that caused the lottery to flatten out. We think it is the lack of big jackpots in our games that gave us the big drop. We don't think that Sports Action had any significant impact.

435 SEN. HILL: I thought that megabucks was going up steadily until Sports Action came on line?

441 DAVEY: The jackpot was really high at that point so more people played. The problem has been with the big games and it has not just been an Oregon problem.

TAPE 99, SIDE A

086 CO-CHAIR BAUM: I would like to propose something to the committee. Under existing law the allocation of the video lottery proceeds, should they become a reality, allows up to \$35 million in video lottery proceed for higher education faculty salaries and transit projects.

090 MOTION: CO-CHAIR BAUM moves, in concept, to change the formula that allows up to \$35 million from lottery proceeds for higher education faculty salaries and transit projects.

VOTE: Being no objection the above amendment is adopted in concept.

096 CO-CHAIR BAUM: We need to discuss whether video poker will become a separate fund, for say capital construction, or part of the regular lottery. According to what we have discussed there is some positive aspects to creating a capital construction fund with this money. First, we could pay off prisons at \$24 million and then the light rail commitment of \$60 million with a one time pay off. Those obligations could be gone from the lottery within three years.

112 CO-CHAIR FAWBUSH: This could be done with the understanding that if something happens with the game and it doesn't earn the funds that are needed then there is still an iron clad commitment to continue funding from the regular lottery for those projects.

118 CO-CHAIR BAUM: I want to take up the issue of whether we want this to be separate or part of the regular lottery.

119 SEN. JOLIN: We still have the issue of regional strategies and if we take this approach we should not include the urban areas in regional strategies.

168 SEN. HAMBY: The tri-county area is not interested in sharing the regional strategy dollars. We just don't like the statutes saying that we are excluded. It furthers the urban/rural split.

190 SEN. JOLIN: We aren't going to do it in statute but somewhere down the line in a budget note or something it needs to be mentioned. If we are going to make a commitment like that from lottery proceeds then it should be made very clear that light rail is the regional strategy for the tri-county area. My concern is in regard to those areas within those three counties that are outside of the urban growth boundary. They ought to have a shot at regional strategy funding.

211 CO-CHAIR FAWBUSH: Video Lottery Questions (EXHIBIT A). You are going to see a fair amount of money go to our areas for the timber issues. I think we need to focus on the total picture and the equity in that.

262 SEN. JOLIN: I don't like video lottery. There has to be some kind of reassurances on the record on the way the video lottery funds relate to regional strategies.

287 CO-CHAIR FAWBUSH: I think we should go through these questions on video lottery and then we will have a better idea as to what it will look like.

319 SEN. HAMBY: How many counties chose not to take the option of video lottery? I know Washington county did.

321 DAVEY: Only one county took action against the video lottery game. They had 2 basic concerns 1) law enforcement and 2) what the county would get in return.

332 SEN. TIMMS: We might want to look more at what has happened with these games in the past.

340 CO-CHAIR FAWBUSH: If we implement this can we control it? Will it improve the law enforcement situation that is out there now?

353 MARLA RAY: Yes.

366 CO-CHAIR BAUM: We are not authorizing this the lottery can do this if they want to already

388 REP. MC TEAGUE: The regional strategies is only one pot of money that constitutes the whole lottery program. I think that saying you are going to exclude the tri-county area because of light rail leaves some issues out of this. We are dedicating a lot of money to rural areas for timber relief.

TAPE 98, SIDE B

036 SEN. HAMBY: What would it cost to clean up the "gray" games?

037 RAY: We have tried to come up with an accurate estimate but there was no realistic way to determine that. We request that if you do decide to go into video lottery that you take into consideration strict regulation and strong enforcement and provide the funds to do both of those adequately. But we don't know the cost.

063 REP. CARTER: Minnesota said that in order to support the cost of taking care of gambling addicted people the Human Resources budget went way up. I would like to see you do something in the budget to deal with that issue.

077 DAVEY: We have tried to do studies on the needs this would create.

100 DAVEY: The bill concerning the banning of the gray games bill is scheduled for May 3.

108 SEN. HILL: We are assuming video lottery will pass in both bodies.

134 CO-CHAIR FAWBUSH: If the poker game works and we make money on it then we can plan for that.

140 MOTION: CO-CHAIR BAUM moves in concept to set up a capital construction fund with the funds from video poker.

155 SEN. DUFF: Can we sunset it?

156 CO-CHAIR BAUM: Yes, we could do that.

158 REP. BARNES: The capital construction fund would be available for many things, not just state government?

165 CO-CHAIR BAUM: It would be available for everything from schools to rural transit.

177 CO-CHAIR FAWBUSH: There are 2 reasons for setting up an identifiable separate account. One, to keep it separate from the regular lottery because we don't know what it will do and the other is to try to develop a fund that really is usable by each legislature. Hopefully, we would be setting a standard

that this would be a permanent fund for capital construction and I don't know what the value of a sunset is.

197 SEN. HILL: I think it should be reviewed.

200 VOTE: Being no objection the above concept is adopted.

205 CO-CHAIR BAUM: Discusses funding for future bond financed projects. My preference is that we don't bond anything out of the capital construction fund.

230 CO-CHAIR FAWBUSH: One of the things that seems to be important to me is that we get into the habit of not using up all the money and that is what bonding does. Maybe we should say that no more than 20% of the fund be used for bonding purposes.

280 REP. BARNES: I agree with Co-Chair Fawbush, I'd like that in statute.

305 REP. CARTER: I don't think we can say no bonding. We wouldn't be able to take care of the port issues without a level of bonding.

307 CO-CHAIR FAWBUSH: How much do you anticipate making in the first year?

310 DAVEY: \$61 million the first year and \$54 million per year after that.

316 CO-CHAIR FAWBUSH: We are talking about a lot of money. You could take care of the port issues with cash.

337 CO-CHAIR BAUM: The ports have their own bonding authority.

340 MOTION: CO-CHAIR BAUM moves to eliminate future bonding of the capital construction fund created from video poker.

VOTE: Being no objection the above amendment is adopted.

360 MOTION: CO-CHAIR BAUM moves to set the level of funding for the regular lottery at \$100 million per biennium.

361 CO-CHAIR BAUM: I suggest that we set a level of funding at \$100 million. The quarters should be divided up to reflect that and if there is a shortfall in any quarter we use video poker to make up the difference so that we don't hurt existing programs that are funded by the existing lottery.

382 CORTRIGHT: You would establish a target for the biennium for the regular lottery. Only additional video lottery proceeds would go into the capital construction fund. That would protect the regular lottery from any shortfalls.

411 VOTE: Being no objection the above amendment is adopted.

413 CO-CHAIR FAWBUSH: The rainy day fund was just so that we could build up

some extra funds. I don't know if we need to do it. If we just agree to buy down the prisons then there probably not a lot of need for that.

TAPE 99, SIDE B

020 MOTION: CO-CHAIR BAUM moves to pay off the prisons first with the video poker money and then pay cash for the light rail.

VOTE: Being no objection the above amendment is adopted.

023 CO-CHAIR FAWBUSH: We have taken care of \$23 million in income for the prisons, what's next?

024 CO-CHAIR BAUM: \$60 million for light rail and then the capital construction fund for the year after that.

029 SEN. HAMBY: Maybe we should add \$10 million to rural transit needs.

036 CO-CHAIR FAWBUSH: I would encourage the committee to not make any commitment to rural transit.

135 MOTION: CO-CHAIR BAUM moves to add a sunset to the capital construction fund for 199 3.

VOTE: Being no objection the above amendment is adopted.

147 CORTRIGHT: Concerning local option issues, the existing law contains a very general and somewhat vague direction to the lottery to operate the video lottery games on a limited geographic basis. Administratively that has been taken to mean that there should be approval in some form by the county governments in which those lottery games are operated. This raises two questions 1) to what extent do you want there to be local authority to regulate lottery games and 2) to what extent, if any, there is a legal option to have the video games and to what extent should that affect the allocation of lottery funds.

198 CO-CHAIR FAWBUSH: How are we going to meet the letter of the law with this new pot of money?

210 DAVEY: The law says that you have to pay at least 50% in prizes and at least 84% in prizes and economic development. This game would pay out 88% in prizes so you meet the law.

245 REP. BARNES: I think it is ridiculous to hold local governments feet to the fire when it comes to spending any money that they get from this lottery for economic development. The state government is quite a ways from economic development with some of its projects. I think local government is going to have to be given some flexibility and they are going to need money for

law enforcement.

250 CO-CHAIR BAUM: Are we going to allow local ordinances to ban the lottery in their area?

284 SEN. HAMBY: Was ORS 461.210 part of the original bill that the voters supported?

294 DAVEY: That wasn't part of the original vote. The law really talks about lottery games and we are saying that this is a lottery game. We liken the game to putting instant tickets on a video devise.

310 CO-CHAIR FAWBUSH: Where did the local option come from?

318 DAVEY: The law says that the lottery can operate this game in geographic regions. The Governor told the lottery commission to keep it permissive.

340 CO-CHAIR FAWBUSH: There is nothing in the law that speaks to the local option. If we go ahead and set this up and we do develop a county local share in this, is it still the commissions intention to allow it to be permissive?

355 DAVEY: HB 3151 as amended would allow an opt out county by county and that is up to this body.

358 CO-CHAIR FAWBUSH: So, if it is permissive and a county doesn't opt in then they wouldn't get any money from the take. I would assume that would be a standard.

368 SEN. HILL: If a county does not want to participate in video poker though they still will get money from the regular lottery. With this formula there will be priority that video poker money will backfill the regular lottery earnings so they will benefit.

379 CO-CHAIR FAWBUSH: How would you envision the enforcement of this operation to be made? How do you check you security on your present games and how are going to do the security with the video poker machines?

400 DAVEY: We would be checking our retailers to be sure they were only operating lottery games. If somebody doesn't have our game we might go through there to see why they don't. It is difficult to say how much impact there is going to be on local law enforcement to see whether they have our games or not.

420 SEN. TIMMS: We are doing away with the "gray" games which is automatically helping local areas because that is better control. This is a lot more legitimate game because it is going through the state.

430 SEN. JOLIN: If you didn't opt in to video poker then you would be eligible for the general lottery but not for the capital construction fund?

435 CO-CHAIR FAWBUSH: You wouldn't be eligible for any direct county reimbursement that we would take off the top of our share. If you have an optional game you pay them to opt in.

450 SEN. HILL: Are we just paying them to let us do video poker?

TAPE 100, SIDE A

005 SEN. HAMBY: I would like to think that we are not bribing them. We are getting them to clean up the "gray" games, work with MR. DAVEY and negotiate the sites in the county where the machines will be placed. They will know where the machines are so any other machine must be illegal. My preference would be to allow 10% for enforcement and 3% for treatment.

020 REP. BARNES: If you have local option by county you are going to create a battle royal between county commissioners and city mayors. Most of these bars are in city limits so the mayors will want part of the money because they are policing it too. I think it should be a statewide operation.

037 MOTION: SEN. HILL moves to preempt the local option in having video poker.

VOTE: Being no objection the local option is preempted.

046 CO-CHAIR BAUM: Do we want to allocate a percentage to city and counties for law enforcement. This will go in the general fund of those entities.

064 MOTION: CO-CHAIR BAUM moves to allocate a percentage of video lottery proceeds to cities and counties.

VOTE: Being no objection the above amendment is adopted.

Agri-business Presentation

071 MIKE MACNAB: Presents testimony in support of Agribusiness (EXHIBIT B).

101 REP. PICKARD: How much of your budget comes from us?

105 MACNAB: \$450,000 is our annual budget and we receive approximately \$50,000 per year from the state.

119 SEN. HAMBY: How well did they spend this money?

122 MILLER: I don't have a list of what they did but I can do that.

149 ROSS HAWKINS: The Oregon Food program was developed by the Agri-business council.

160 SEN. HAMBY: Who evaluates your performance?

164 MACNAB: Our members but we also work closely with the Department of Agriculture.

169 REP. MC TEAGUE: The House saw a presentation on this and it was pretty impressive.

196 CO-CHAIR FAWBUSH: \$205,000, is that your entire allocation from last biennium?

218 MACNAB: That is the allocation for the biennium. We have been around for 25 years and we would be happy to supply you with our budget from before the lottery. If lottery funding was taken from Agri-business we would lose the opportunity to assist those smaller individual companies that have a food product that they want to promote.

234 CO-CHAIR BAUM adjourns the meeting at 6:57 pm.

Submitted by,

Jeri Chase
Office Manager
EXHIBIT SUMMARY

EXHIBIT A - Video Lottery Allocation Questions, submitted by Co-Chair Wayne Fawbush, pgs. 1.

EXHIBIT B - Agri-business information, submitted by Mike Macnab, pgs. 21.