

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4916-01  
Bill No.: SB 1222  
Subject: Boards, Commissions, Committees, Councils; Fees; Gambling; Higher Education  
 Dept.; Licenses - Misc; Lotteries  
Type: Original  
Date: March 19, 2002

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
Lottery Proceeds Fund	(\$13,102,500)	(\$16,432,500)	(\$3,330,000)
Lottery Enterprise Fund	\$1,049,814	\$1,003,503	\$2,104,901
Higher Education Trust Fund	\$0	\$0	\$0
<b>Total Estimated Net Effect on All State Funds</b>	<b>(\$12,052,686)</b>	<b>(\$15,428,997)</b>	<b>(\$1,225,099)</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Total Estimated Net Effect on All Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
<b>Local Government</b>	<b>Unknown</b>	<b>Unknown</b>	<b>Unknown</b>

Numbers within parentheses: ( ) indicate costs or losses.

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Department of Revenue**, and the **Department of Public Safety, Division of Liquor Control**, assume no fiscal impact to their organization from this proposal.

Officials from the **Missouri Lottery Commission (LOT)** state this proposal would legalize video gaming machines in Missouri. LOT anticipates long-range sales losses for, at a minimum, the scratchers game, the pulltab game, and keno. They believe, based on their research in other states, that the pulltab game would not be able to compete in liquor-by-the-drink establishments with video gaming.

LOT states that the scratchers game, if it follows the experience of South Dakota, would lose approximately 50% of its base sales annually to video gaming by the third year. LOT estimates one-half of the sales loss experienced in South Dakota due to the fact that the games in Missouri may not be in direct competition as is the case in South Dakota convenience stores. Accordingly, LOT estimates that the scratchers game would lose approximately 25% of its base sales annually to video gaming by the third year. LOT assumes the pulltab game would also lose approximately 25% of base sales annually for three years with an unknown reduction thereafter. LOT assumes that keno would lose approximately 15% of current annual sales, and that future anticipated keno sales increases would not be realized.

LOT assumes this equates to a potential loss of \$219 million in gross sales of scratchers, a potential loss of \$36 million in gross sales of pulltabs, and a potential loss of \$54 million in Keno sales in the first three years, with unknown reductions in years thereafter. Losses to the state from the decrease in sales of scratchers, pulltab, and keno games is estimated to be \$13.1 million in FY 2003, \$29.5 million in FY 2004, and \$32.8 million in FY 2005.

**Oversight** assumes that transfers to replace the lost revenues, required by this proposal, would be made in the following state fiscal year.

ASSUMPTION (continued)

LOT estimate that twenty-five (25) FTE would be required to administer this proposal. These would consist of one (1) Video Product Manager, one (1) Administrative Assistant, one (1) Inspector Manager, eight (8) VLT Field Inspectors, four (4) Computer Operator I's, three (3) Computer Operator II's, one (1) Communication Specialist, one (1) VLT Certifier Specialist, one (1) Systems Administrator, one (1) Programmer Analyst II, one (1) Game Accountant, one (1) Licensing Specialist II, and one (1) Security Specialist II. These positions were based upon staffing levels in the state of South Dakota and within the Missouri Lottery. Additional expenses include office equipment/supplies, travel expense, consulting and research, and 6 new vehicles. Costs for a central computer system have been estimated at \$1,900,000 in FY 2003, and \$79,000 each year thereafter.

LOT estimated the revenue from licensing fees to be \$4,775,000 in FY 2003, \$3,575,000 in FY 2004 and \$4,325,000 in FY 2005. LOT also estimated revenues from the video lottery system as \$15,600,000 in FY 2003, \$41,600,000 in FY 2004 and \$52,000,000 in FY 2005.

In response to a similar proposal in a prior session, officials from the **Missouri Highway Patrol** state that their agency would require a total of 27 FTE (25 patrolmen and 2 clerical staff) to perform background checks on prospective licensees.

**Oversight** assumes that most of these employees would be needed to handle the initial load of license requests. Costs should be less after the first three fiscal years. It is assumed for purposes of this fiscal note that the background checks performed by the MSHP would be part of the administrative costs of the Missouri Lottery.

ASSUMPTION (continued)

In response to a similar proposal in a prior session, officials from the **Office of Administration (OA)** assume this proposal would not result in any impact on Total State Revenue or any fiscal impact on their agency. However, the proposal may result in considerable general revenue fund costs. The proposal contains a provision that would help insulate the lottery proceeds fund (and programs that rely on the fund) from revenue losses resulting from the institution of video gambling as described in this proposal. However, the proposal contains no similar provision to protect the gaming proceeds for education fund (riverboat gambling) from such revenue losses. Since the types of games this bill would permit are currently available only on riverboats, it would appear that the proposal could reasonably be expected to result in a significant erosion in gaming proceeds for education fund receipts. Except for seven million dollars used for the school district bond program, all gaming proceeds for education fund revenues are used to fund the school foundation formula. Any reduction in that amount would have to be replaced with general revenue funds if the school foundation formula was to remain fully funded. Likewise, the proposal could result in significant reductions in the amount of gaming commission fund revenue. Gaming commission fund net proceeds are the revenue source for the Veteran's Commission Capital Improvement Trust Fund, Missouri National Guard Trust Fund, Missouri College Guarantee Fund and the Early Childhood Development, Education and Care Fund. Thus, any significant downturn in gaming commission fund revenues would place the programs supported by these funds in jeopardy unless sufficient general revenue funds were available to make up the difference.

OA also stated that Article III, Section 39(b), subsection 3 of the Missouri Constitution requires that lottery net proceeds be transferred to the lottery proceeds fund, and that monies in the fund be appropriated for public institutions of elementary, secondary and higher education. Based on that requirement, OA questions whether it would be constitutional to transfer revenue received by the Lottery Commission for video gaming to the higher education trust fund as required by this proposal.

Officials from the **Office of Secretary of State (SOS)** assume this proposal would create the video gaming machine network to generate revenue for higher education. The Missouri Lottery Commission may promulgate rules to implement this legislation. Based on experience with other divisions, the rules, regulations and forms issued by the Missouri Lottery Commission could require as many as 26 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register in the Code because cost statements, fiscal notes and the like are not repeated in Code. These costs are estimated. The estimated cost of a page in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

$[(26 \times \$27) + (39 \times \$23) = \$1,599]$

ASSUMPTION (continued)

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

In response to a similar proposal in a prior session, officials from the **Office of the State Courts Administrator**, the **State Treasurer's Office**, the **Department of Corrections** and the **Missouri Gaming Commission** assume this proposal will not fiscally impact their respective agencies.

In response to a similar proposal in a prior session, officials from the **Office of State Public Defender** assume they could provide representation for those few cases arising where indigent persons were charged. However passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover cumulative cost of representing the indigent accused in the additional cases.

Officials from the **Coordinating Board for Higher Education (CBHE)** assume this proposal would establish the "Video Gaming Machine Network" and "Higher Education Trust Fund" for the deposit of revenues and interest generated by the network. The trust fund is to be administered by the CBHE for higher education purposes including maintenance and repair for public community colleges and four-year institutions, capital project bonding, increased funding to the Charles Gallagher Student Financial Assistance Program, increases to any other scholarship programs, and administration of the fund.

The CBHE is unable to determine the fiscal impact of this proposal since the revenues expected from the "Video Gaming Machine Network" are unknown. The CBHE assumes, however, that the "Video Gaming Machine Network" will increase the amount of state funding to higher education by providing new revenue through the "Higher Education Trust Fund." Due to current and proposed budget reductions, CBHE further assumes additional administrative costs will be incurred to implement the provisions of this bill.

FISCAL IMPACT - State Government

FY 2003  
(10 Mo.)

FY 2004

FY 2005

**LOTTERY PROCEEDS FUND**

SS:LR:OD (12/01)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Income</u> - to Lottery Proceeds Fund	\$0	\$13,102,500	\$29,535,000
Transfer from Higher Education Trust Fund			
<u>Loss</u> - to Lottery Proceeds Fund	<u>(\$13,102,500)</u>	<u>(\$29,535,000)</u>	<u>(\$32,865,000)</u>
Reduction in instant lottery revenues due to video gaming			
<b>NET EFFECT TO LOTTERY PROCEEDS FUND</b>	<b><u>(\$13,102,500)</u></b>	<b><u>(\$16,432,500)</u></b>	<b><u>(\$3,330,000)</u></b>
<b>LOTTERY ENTERPRISE FUND</b>			
<u>Income</u> - Licensing Fees	<u>\$4,775,000</u>	<u>\$3,575,000</u>	<u>\$4,325,000</u>
<u>Costs</u> - to the Lottery Commission			
Personal Service (25 FTE)	(\$465,322)	(\$620,429)	(\$651,451)
Benefits	(\$143,087)	(\$190,782)	(\$200,321)
Expense and Equipment	<u>(\$2,302,500)</u>	<u>(\$354,000)</u>	<u>(\$354,000)</u>
Total <u>Costs</u> to the Lottery Commission	<u>(\$2,910,909)</u>	<u>(\$1,165,211)</u>	<u>(\$1,205,772)</u>
<u>Costs</u> - to the Missouri Highway Patrol			
Personal Service (27 FTE)	(\$548,744)	(\$674,955)	(\$691,829)
Benefits	(\$210,608)	(\$259,048)	(\$265,524)
Expense and Equipment	<u>(\$54,925)</u>	<u>(\$472,283)</u>	<u>(\$56,974)</u>
Total <u>Costs</u> to the Missouri Highway Patrol	<u>(\$814,277)</u>	<u>(\$1,406,286)</u>	<u>(\$1,014,327)</u>
<b>NET EFFECT TO THE LOTTERY ENTERPRISE FUND</b>	<b><u>\$1,049,814</u></b>	<b><u>\$1,003,503</u></b>	<b><u>\$2,104,901</u></b>

**HIGHER EDUCATION TRUST FUND**

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Income</u> - Video lottery revenues	\$15,600,000	\$41,600,000	\$52,000,000
<u>Costs</u> - Transfer to Lottery Proceeds Fund	\$0	(\$13,102,500)	(\$29,535,000)
<u>Costs</u> - Appropriations for specific higher education purposes	<u>(\$15,600,000)</u>	<u>(\$28,497,500)</u>	<u>(\$22,465,000)</u>
<b>NET EFFECT ON HIGHER EDUCATION TRUST FUND</b> _____	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<u>Income</u> - Appropriations for specific higher education purposes	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
<b>ESTIMATED NET EFFECT ON LOCAL GOVERNMENT</b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>	<b><u>Unknown</u></b>

FISCAL IMPACT - Small Business

A fiscal impact to small businesses qualified to host video gaming machines would be expected as a result of this proposal.

## DESCRIPTION

This proposal would establish a Video Gaming Machine Network to generate revenue for higher education.

This act would authorize the Missouri Lottery Commission to create a statewide "Video Gaming Machine Network". Certain types of video gambling machines would be authorized in licensed locations. The machines would be electronically linked to a central computer which would audit the functioning of the devices and provide transfers of funds to the machines.

The games would be exempted from local sales or use tax, and exempted from local income or earnings tax up to six hundred dollars per year per

Revenues generated by the Video Gaming Machine Network created would be placed in the Higher Education Trust Fund created by this act, and subject to appropriation for specified higher education needs as defined in the act. A portion of the fund would be used to offset any decline in lottery sales.

A license would be required for manufacturers, distributors, and operators of such video games as well as for each machine and each premises containing the machines. The Director of the Lottery Commission would set the rules for licensing of machine locations, distributors, manufacturers, and parts suppliers. The Commission would contract with these licensed entities on an annual basis.

Tampering with games or machines would be a Class D felony. After the effective date of this act, it would be illegal to operate any video device that can simulate a game played on a licensed video gaming machine.

This legislation is not federally mandated, would not duplicate any other program, but may, however, require additional capital improvements or rental space to house the additional FTE requested by the Lottery Commission or the Highway Patrol or the Lottery Commission's mainframe computer.

## SOURCES OF INFORMATION

Coordinating Board for Higher Education  
Department of Revenue  
Department of Public Safety  
Department of Liquor Safety  
Secretary of State  
Missouri Lottery Commission



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NOT RESPONDING

Missouri Gaming Commission  
State Treasurer's Office

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Acting Director  
March 19, 2002