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Betting on Video Lottery Terminals to Raise Revenue

The issue of whether Texas should authorize video lottery terminals (VLTs) at pari-mutuel racetracks or other locations is being discussed in advance of an anticipated special legislative session in 2004 dedicated to revising the state's school finance system. Supporters of state VLT authorization argue that the electronic gaming machines could generate significant new revenue for public education without raising taxes and would spur economic activity without expanding the footprint of gambling in Texas. Opponents of VLT authorization counter that the machines would not raise significant revenue, would hurt the economy, and would expand gambling with negative consequences for the state. Additional debate centers on where VLTs should be located and who should regulate them.

In 2003, Comptroller Carole Keeton Strayhorn raised the issue of authorizing VLTs at Texas racetracks in her office's e-Texas report, *Limited Government, Unlimited Opportunity*. The Comptroller's Office and the Texas Lottery Commission (TLC) estimated that VLTs could bring between \$1.5 billion and \$1.8 billion in additional revenue in fiscal 2006-07. During the 78th Legislature's regular session, legislators introduced two bills that would have authorized the operation of VLTs in Texas, both of which died in committee. In December 2003, the House Licensing and Administrative Procedures Committee held a hearing on the issue, and proposals to raise revenue through the operation of VLTs have figured prominently in plans to overhaul the state's school finance system. The governor says that all funding options, including VLT gaming, are on the table.

Those advocating the authorization of VLTs would have to surmount certain constitutional and statutory hurdles. In September 2003, Attorney General Greg Abbott issued an opinion that a constitutional amendment would be necessary to legalize the machines because they are not among the specific exceptions to sec. 47(e) of the Texas Constitution, which otherwise prohibits lotteries. In addition, provisions in the Government Code and Penal Code outlaw certain types of gambling and gambling machines.

Authorizing the operation of VLTs in Texas also would raise questions about whether it would allow for expanded gambling operations by Texas' three Native American tribes (see *What VLTs might mean for Native-American gambling* page 9). Currently, the Kickapoo Tribe is the only tribe in Texas that operates a gaming facility. The Alabama-Coushatta and Tigua tribes closed their gaming facilities in 2002 when federal courts ruled in favor of the state after it sued to force the tribes to close their casinos.

Video lottery basics

VLTs are electronic games of chance played on video terminals. Visually and internally they are similar — and sometimes identical — to slot machines. Most VLTs are video-based, overseen by state lottery agencies, and can be monitored, controlled, and audited by a central computer system, which can be similar to the system that links TLC to individual lotto terminals throughout the state. By contrast, slot machines can be video- or reel-based, may be overseen by other regulatory agencies, and may be independent of a central control system. VLTs accept money or credits in return for a play of the game, and players usually are rewarded with a slip of paper that can be cashed out, redeemed for prizes, or used to play more games. VLT wagers usually range between 5 cents and \$10 per play, depending on the type of machine.

The games played on VLTs may or may not be similar to a state's lottery games. For example, playing a VLT could be similar to playing a scratch-off lottery game in which players try to purchase a predetermined winning ticket that has been distributed randomly. The VLT equivalent of this system, used in New York, is called a "central determination win" in which the video lottery's central computer system, rather than the machine itself, randomly chooses which plays are winners. Other types of VLTs more closely resemble traditional slot machines, with winners chosen by random number generators in the individual machines. Some VLT games are purely games of chance, while others are video versions of card games such as poker and blackjack.

About 90 percent of each dollar wagered on VLTs is returned to bettors as prizes. The rest — called net income — is divided among the state, VLT venues, machine

owners, and providers of the central computer system. States generally get about half of the net income, which averages about \$200 to \$250 per terminal per day, according to the comptroller.

Current law. Art. 3, sec. 47(a) of the Texas Constitution requires the Legislature to prohibit lotteries and gift enterprises. This section was amended and subsection (e) added in 1991 to permit the state lottery. In 1994, Attorney General Dan Morales ruled in opinion DM-302 that without a constitutional amendment, the Legislature could not permit slot machines to be operated, nor could the state operate them itself through contractors because the games were constitutionally prohibited lotteries. In Opinion GA-0103 (September 23, 2003), Attorney General Abbott concluded that when voters approved the addition of subsection (e) to art. 47 of the Constitution, they approved a "state lottery" based on the common understanding of the term at that time; therefore, the Constitution does not allow the Legislature to authorize the state to operate video lottery terminals.

In addition to these constitutional restrictions, the Government and Penal codes prohibit certain types of gambling. Government Code sec. 466.024(b) requires TLC to adopt rules prohibiting any game that uses a video lottery machine. Video lottery machine is defined as any electronic video game machine that, upon insertion of cash, plays or simulates a video game — including poker, keno, and blackjack — in which the winning player receives cash, coins, tokens, or free games or credits that can be redeemed for cash, coins, or tokens. Penal Code, ch. 47 prohibits most forms of gambling, including possession or use of gambling-device versions of a lottery.

VLTs at racetracks in other states

Eight states allow video lottery terminals, video gaming, or slot machines at racetracks, according to the National Council of State Legislatures (NCSL). Figure 1 (opposite page) lists 19 states and their mix of slot machines, video gaming, and video lottery terminals. Four states — Delaware, New Mexico, New York, and Rhode Island — allow VLTs only at racetracks, according to the NCSL. New York began its operations in January 2004, and as of the beginning of February had VLTs deployed at two racetracks.

Figure 1: Slots, video gaming, and video lottery terminals in the U.S.A.*

State	Casinos	Racetracks	Other venues**
Colorado	A		
Delaware		C	
Illinois	B		
Indiana	B		
Iowa	B	C	
Louisiana	A, B	C	D
Maryland			D
Michigan	A		
Mississippi	B		
Missouri	B		
Montana			D
Nevada	A		D
New Jersey	A		
New Mexico		C	
New York		C	
Oregon		C	D
Rhode Island		C	
South Dakota	A		D
West Virginia		C	D

- A** Land-based casino slots and video gaming
- B** Riverboat casino slots and video gaming
- C** Racetrack slots, video gaming, and/or video lottery terminals
- D** Non-casino, non-track slots, video gaming, and/or video lottery terminals

* does not include oceangoing cruise ships or Indian reservations

** includes bars, taverns, and truckstops

Source: National Conference of State Legislatures

In her April 2003 e-Texas report, the comptroller detailed state revenue from VLTs in three states: Delaware, Rhode Island, and West Virginia. In fiscal 2002, West Virginia earned \$263 million from its 7,021 VLTs, Delaware earned about \$195 million from 5,430 machines, and Rhode Island earned \$149 million from 2,492 VLTs.

Models for VLT ownership and operations. In general, there are three models for ownership and operation of state-authorized VLTs: the owner-operator model; the hybrid owner-operator model; and the state-operator model.

Under the owner-operator model, the holder of the state-issued VLT license — a racetrack, for instance — would make the necessary capital investments, such as building or renovating the area to house the VLTs. The owner-operator also would be responsible for leasing or purchasing the VLTs and for operating the machines. The state regulatory agency would obtain the central computer system that links all the VLTs and monitor each machine. West Virginia employs this model.

Under the hybrid owner-operator model, the owner of the VLT license again would be responsible for capital investments and daily operations at the site, but the state would provide the machines, normally through leasing, and manage the VLTs. The state again would procure a central computer system and monitor individual terminals. Delaware, New York, and Rhode Island follow this model.

Under the state-operator model, the VLT license holder would act as a landlord, providing just the facility to house the VLTs. The state would be responsible for all other aspects of VLT operations, including providing machines, managing their operations, procuring the central computer system, and monitoring individual terminals. Private contractors or state employees could perform these duties.

Proposals to authorize VLTs in Texas

In April 2003, the comptroller estimated that VLT operations would gain the state \$712 million in general revenue for fiscal 2004-05 and \$1.8 billion for fiscal 2006-07. These figures accounted for the state portion of revenue from VLTs, a gain from taxes on increased economic activity resulting from Texans spending their gaming dollars at home, and reductions in state revenue from decreased spending on other forms of entertainment. The comptroller also recommended tying approval of VLTs to constitutional amendments that would dedicate the revenue

to providing two years of public community or technical college to Texas high school graduates, increased education spending on items such as health insurance and pay raises for teachers, and reducing the limit on annual residential property tax appraisal increases from 10 percent to 5 percent.

Two bills introduced during the regular session of the 78th Legislature would have allowed the operation of VLTs at Texas pari-mutuel racetracks. HB 2439 by Flores would have authorized TLC to conduct video lottery games at state-licensed pari-mutuel tracks that obtained a video lottery retailer's license. The bill would have applied to tracks in existence on January 1, 2003, and would have required that VLTs be available for play whether or not a race was in progress. HB 2439 was left pending in the House Licensing and Administrative Procedures Committee.

Under HB 2439, a sliding scale would have determined the state's portion of the video lottery revenue, with the state's share increasing gradually over time from 58 percent to 60 percent of the net income from each VLT. The tracks' take would have decreased gradually from 31 percent in the first year of operation to a final rate of 29 percent in the fifth year and for each subsequent year. The video lottery technology providers that supplied the terminals and the central computer system would have shared the remaining 11 percent.

TLC estimates that 2,000 VLTs at each of nine locations could have begun operations nine months following the enactment of HB 2439 and approval of a constitutional amendment. Estimated annual net revenue to the state from VLTs, accounting for a decline in state lottery revenues, would have been \$737.2 million in the first full fiscal year of operation, increasing to about \$799.3 million by the fourth year of operation. The commission also projected an unquantified reduction in state revenue from charitable bingo games.

Another bill, SB 1244 by Armbrister, would have required the Texas Racing Commission (TRC) to issue licenses to operate video lottery games to any entity that held a racetrack license issued by January 1, 2003. TLC would have operated a central computer system linking the video lottery terminals, and TRC would have had the authority to license and regulate all aspects of video lottery and would have coordinated with TLC to ensure that regulations were not duplicated. SB 1244 was left pending in the Senate State Affairs Committee.

Pari-mutuel racing in Texas

Most proposals for authorizing VLTs in Texas would place the machines at Texas' licensed horse and greyhound pari-mutuel racetracks. Pari-mutuel wagering is a system through which winners divide the total amount bet in proportion to how much each one wagered. The operator of a pari-mutuel game profits by keeping a percentage of the money collected before paying the winnings. This differs from casino card games, such as blackjack, where the house has an actual stake in the game. Horse racing and state lotteries are common forms of pari-mutuel wagering.

Pari-mutuel racetrack betting was approved in a voter referendum in 1987, and the first track opened in 1990. Bettors can wager on two types of races at Texas tracks — live races that take place on site and simulcast races, which are live telecasts of races occurring elsewhere.

The state receives between 1 percent and 3 percent of each dollar bet, depending on how much has been wagered at the track and whether the money was wagered on a live race or a simulcast race. The rest is divided among winning bettors, racetracks, purses for race winners, animal research, and programs to reward and promote Texas race animals. State revenue from wagering on horse and greyhound racing is expected to be \$5.4 million in fiscal 2004 and \$5.6 million in fiscal 2005.

Seven horse tracks and three greyhound tracks are licensed to conduct pari-mutuel wagering, but only five of the horse tracks currently are operating. Most proposals for Texas to authorize VLTs would allow more

machines — perhaps in the thousands — at larger tracks and would allow customers to play them whether or not races were being run.

There are four types of horse tracks in Texas. Class 1 tracks are large tracks with as many race days as the Texas Racing Commission (TRC) grants. They are authorized only in counties with populations of 1.3 million or more (Harris, Dallas, Bexar and Tarrant) or in adjacent counties. No more than three Class 1 licenses can be issued. The state's Class 1 tracks are Retama Park near San Antonio, Lone Star Park at Grand Prairie in Dallas County, and Sam Houston Race Park in Houston.

Class 2 tracks are entitled to 60 days of live racing per year. Manor Downs, near Austin, is the only class 2 track in operation. Two class 2 tracks are licensed but not operating — the Austin Jockey Club, which has a license to operate in Travis County, and Saddle Brook Park, which has a license to operate in Amarillo. License applications to operate two class 2 tracks, both near Laredo in Webb County, are on file with the commission.

Class 3 and Class 4 racetracks can be operated by county fairs and county stock shows and exhibitions. Class 3 tracks can hold up to 16 race days per year, and Class 4 tracks are limited to five race days per year. Currently, the Gillespie County Fair and Festivals in Fredericksburg holds the state's only Class 3 license. No Class 4 licenses have been issued.

Three greyhound tracks are licensed and operating in the state — Valley Race Park in Harlingen, Corpus Christi Greyhound Race Track, and Gulf Greyhound Park in La Marque, between Houston and Galveston.

In December 2003, the comptroller reported to the House Licensing and Administrative Procedures Committee that more than \$1 billion a year is lost by Texans gambling on electronic gaming devices in other states and that authorizing VLTs would help keep this money in the state. Video lottery operations that include 18,000 to 20,000 machines would bring in more than \$1 billion a year once fully implemented and would create 10,000 to 15,000 new jobs, the comptroller said.

The debate

Debate on proposals to authorize VLTs in Texas centers on questions about the amount of state revenue that could be generated from VLTs, whether VLTs would stimulate economic growth and tourism, and whether the machines would expand gambling in the state. Supporters of authorizing video lottery terminals in Texas say the state portion of the betting dollar would increase revenue —

What VLTs might mean for Native American gambling

Texas has three federally recognized Native American tribes: the Alabama-Coushatta, who have a reservation in Polk County; the Tiguas (known formally as Ysleta del Sur Pueblo), who have a reservation in El Paso; and the Kickapoo Traditional Tribe of Texas, who have a reservation near Eagle Pass.

Federal and state laws and negotiated tribal compacts govern gambling conducted by Indian tribes. In general, the federal Indian Gaming Regulatory Act (IGRA) of 1988 governs gambling on Native American lands, but in Texas state laws also come into play.

Federal law establishes three categories of Indian gambling, each subject to different degrees of tribal, federal, and state jurisdiction. IGRA defines Class I gaming, subject exclusively to tribal jurisdiction, as social games either for nominal prizes or as part of tribal ceremonies or celebrations. Class II gaming includes bingo and related games, such as pull tabs, and some other “non-banking” games in which players play only against each other, not against the house. This class is subject to tribal and some federal regulation but not to state regulation. All other gambling, including casino gambling, is classified as Class III and falls under state-tribal jurisdiction. Class III gaming is lawful on Indian lands only if conducted in accordance with a state-tribal compact, if it occurs in a state that otherwise allows such gambling and if other provisions of federal law are met.

Before IGRA was enacted, the Alabama-Coushatta and Tigua tribes were covered by a 1987 federal law that restored these tribes to a federal trust relationship. The law, often called the Restoration Act, generally governs gaming by the two tribes and contains the following language, which pertains to each: “All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on the lands of the tribe.” Federal courts have ruled that when determining whether a gaming activity is permitted by a Restoration Act tribe, it is the Restoration Act, not IGRA, that applies.

The Tiguas operated a casino for about eight years and the Alabama-Coushattas for about nine months before both were closed in 2002 by federal court rulings

in lawsuits brought by the state against the tribes. The casinos included slot machines, card games, dice games, bingo, keno, and off-track betting. In general, court rulings have held that, under state law and the Restoration Act, the tribes could not operate gaming activities that were prohibited to private citizens and organizations but could participate in legal gaming activities if they complied with state law.

Gaming operations by the Kickapoos are governed by IGRA, not by the Restoration Act, and the tribe maintains that its games are subject to regulation by the tribe and the federal government only. The Kickapoos opened the Lucky Eagle Casino on tribal land in August 1996 with high-stakes bingo, pull-tab bingo, and non-banking card games.

In December 2003, the tribe asked the federal government for authority to operate Class III games on its lands, using a process established by IGRA for tribes to use when a state refuses to negotiate a compact. The tribe contends that it is entitled to offer Class III games based on Texas laws that authorize certain types of gaming. The federal government has notified Texas’ governor and attorney general of the tribe’s request, as required by federal regulations, and the state has 60 days to provide comments. The 60 days will expire March 19.

Although the Kickapoos are pursuing federal authority for Class III gaming, the tribe says it is willing to negotiate with the state toward an agreement for VLTs and Class III gaming that meets IGRA requirements. The tribe says that even if it were able to operate VLTs on Kickapoo lands, its casino would need accommodations to compete successfully with racetrack VLT operations in San Antonio, a city two hours from Eagle Pass that traditionally supplies many customers to the tribe’s gaming facility. Such accommodations could include limits on the number of VLTs at San Antonio-area tracks and authorization for the tribe to conduct games such as traditional blackjack.

The Alabama-Coushattas and Tiguas say that they, at a minimum, should be permitted to operate VLTs under any state plan that authorizes the gaming machines. While some argue that state authorization of VLTs under

any ownership model would mean that the tribes must be allowed to operate the machines, others suggest that if the state owned and operated the machines — and no other entity was allowed to do so — authority to operate VLTs might not automatically extend to the tribes. Still others say that it is only fair that the tribes be able to operate VLTs if they are allowed elsewhere in the state and that the Legislature should not attempt to circumvent the tribes' authority to operate them.

Another issue is whether VLT authorization in Texas would allow tribes to offer other types of casino games. Some argue that under IGRA and some court rulings, state approval of VLTs would open the door for tribes to operate any type of Class III gaming, while other analysts citing different rulings, say this may not be the case.

There also is debate over whether IGRA or other federal laws concerning Native American gaming would govern the process of Texas' tribes instituting VLTs. In general, IGRA could require the state and the tribes to enter into a compact that would include how the state would regulate the games and what percentage of the take from the machines would go to the state. If IGRA

did not govern the process, other laws would require the state and the tribes to reach an agreement over these same issues. Both IGRA and other federal laws have regulations that would be used to set a limit on how much the state could receive.

In the 78th Legislature's regular session a bill, HB 809 by Keel, et al., that would have provided Texas' tribes a defense against prosecution for gaming activities allowed under the federal Indian gaming laws died in the House when the bill was set on the May 13 calendar but not acted on. In 2001, the House approved a similar bill, HB 514 by Hinojosa, et al., which died in the Senate Business and Commerce Committee.

In February 2004, the Comptroller's Office estimated an annual gain to the state of \$43 million in revenue if the state's Native American tribes operated full casinos following the authorization of VLTs at racetracks. It also projected an additional \$10 million to the state from increased sales tax and other tax collections upon full implementation of Native American casinos and that an estimated 2,500 jobs at the tribes' gaming facilities would spin off another 3,800 jobs statewide.

Figure 2: Native American gaming in other states

State	Game types	State	Game types	State	Game types
Arizona	A	Louisiana	A	New York	A
California	A	Michigan	A	North Carolina	A
Colorado	A	Minnesota	A	North Dakota	A
Connecticut	A	Mississippi	A	Oklahoma	C
Florida	A	Montana	A	Oregon	A
Idaho	C	Nebraska	B	South Dakota	A
Iowa	A	Nevada	A	Washington	B
Kansas	A	New Mexico	A	Wisconsin	A

A Casino games, including electronic gaming machines, legal and operating

B Table games only (no electronic gaming machines)

C Compacts signed for non-casino gaming, such as pari-mutuel wagering and lotteries; however, casino games and electronic gaming machines may be operating

Source: National Conference of State Legislatures

which could be dedicated to public education — while spurring economic activity, without expanding the footprint of gambling in Texas. Opponents of authorizing VLTs say the machines would not generate significant revenue for the state, would damage the economy, and would expand gambling to the detriment of Texas.

Additional debate among those who support state authorization of VLTs includes questions about where the machines would be located, who would regulate the machines, and who would own and operate them. Still other issues would have to be decided by the Legislature or another entity, including:

- the number of machines at each location;
- the percentage of net income the state would receive;
- details of how the machines would operate, such as the average daily win per machine and the average prize payout to winners; and
- whether the state’s share of income from the machines should be dedicated to public education.

Revenue

Supporters of authorizing VLTs say: Because the state would get a portion of all money wagered, authorizing video lottery terminals could raise significant revenue without raising taxes. Conservative estimates of potential state revenue range from \$700 million to \$1

Lottery revenue and public education

The state began sales of lottery tickets in 1992. The state receives about one-third of each dollar used to purchase a lottery ticket and the rest is divided among prizes, administration, and retailers who sell the tickets. When the lottery began, the state’s share went into the general revenue fund, but in 1997 the Legislature enacted HB 4 by Craddick and Junell, which dedicated the state’s share to the foundation school fund beginning September 1, 1997. In fiscal 2003, according to TLC, lottery contributions were about \$888.2 million, or about 9.5 percent, of the \$9.4 billion appropriated to the foundation school fund. Since 1997, the lottery has contributed about \$5.9 billion to the foundation school fund, according to the commission.

billion annually one year after full implementation, projections that would increase if Texas’ Native American tribes were able to operate casinos following the authorization of VLTs. (See *What VLTs might mean for Native American gambling*, page 6.) This is a significant amount of money that could be used to provide more state funds for public education and other state programs and to provide property tax relief, or some combination of these measures. These estimates already account for possible revenue losses from other gaming activities and the sales tax, and studies have shown that social costs do not exceed the economic benefits of gaming.

Efforts to paint VLT revenue as a “regressive tax” are unfair. Since playing VLTs is purely voluntary, the money collected for the state should not be considered a tax. While VLT revenue might bear a surface resemblance to sales and excise taxes that tend to be regressive, VLT revenue actually would function like a voluntary user fee or excise tax, such as those on alcohol and cigarettes. In addition, the collection of VLT revenue is horizontally equitable because the state charges each VLT customer the same rate to play the game. Far from being a “new tax” that would disadvantage those least able to pay, VLT revenue simply would be an extension of the cut the state already receives from lottery and racetrack wagering.

Opponents of authorizing VLTs say: The pro-gambling lobby overestimates the potential tax revenue gain from VLTs and underestimates the costs, which often prove to be higher than the revenue generated. Every dollar gained for the state is offset by costs due to regulation, lost state revenue, and social costs. Dollars spent on VLTs might otherwise be used to buy goods subject to sales tax at local businesses or on other taxable gambling activities.

Gambling will not solve Texas’ fiscal problems, as the lottery and pari-mutuel racing have shown. When states dedicate gambling revenues to a particular program, such as public education, the funds rarely serve as a source of expanded revenue, but tend merely to replace money that would have gone to that program anyway. While state gambling revenue can fluctuate greatly, at best it would raise only a fraction of the revenue needed to meet the state’s public education needs (see *Lottery revenue and public education*, left).

Gambling taxes get failing marks when subjected to standard tax analysis, especially in regard to issues of equity. Revenue generated from gambling functions as a regressive tax, taking a larger percentage of total income

from the poor than from the rich. This is especially true of slot machines, which often are favored by gamblers who are poor or retired.

Economic growth and tourism

Supporters of authorizing VLTs say: In addition to directly adding dollars to the state coffers, VLTs would help stimulate the Texas economy and increase tourism. While shifts in the economy and jobs may occur as some entertainment or discretionary money is spent on VLTs, there still would be a net gain to the Texas economy. The comptroller estimates that Texans lose about \$1 billion annually gambling on electronic gaming machines in other states, some of it in neighboring Louisiana and New Mexico. If Texas had VLTs, these funds could stay in the state, and Texas could draw tourists interested in gaming who also would spend money at hotels, restaurants, and retail shops. This new money would have an even larger economic impact after calculating the multiplier effect on other businesses and industries and would help fund the creation of the 10,000 to 15,000 new jobs projected by the comptroller.

Estimates of net economic growth following Texas' authorization of VLTs already account for some losses in other gaming industries, such as charitable bingo and the lottery. Like all businesses, these industries have weathered changing economic times before and likely would do so again if VLTs were approved.

VLTs also would help the Texas economy by stimulating the racing and agricultural industries that support pari-mutuel racing. Part of the betting dollar wagered at VLTs could be applied toward increasing race winners' purses, which would attract better race animals and, in turn, more bettors. In Louisiana, pari-mutuel race purses at Delta Downs increased from \$45,000 per day to \$240,000 per day after the addition of video gaming machines, according to the comptroller. There is nothing new or wrong with the Legislature amending the law to help Texas industries operate on equal footing with those in other states.

Opponents of authorizing VLTs say: State and local economies could suffer if VLTs were authorized in Texas. For example, jobs could be lost and local economies could suffer if Texans spent their money at VLTs instead of at local restaurants, theaters, and retail stores. Some Texans spend money gambling out of state while traveling for

other reasons, and the authorization of VLTs would not necessarily keep these dollars in Texas. In addition, it is unlikely that the addition of VLTs alone would draw to Texas tourists who have other gambling options closer to home.

Other gaming industries, such as charity bingo, would suffer if VLTs were authorized in Texas. While some economic estimates of potential revenue from the machines take into account losses to the bingo industry, the losses could be much higher than estimated. Even small losses to the bingo industry could have a devastating impact on individual charities that benefit from bingo and the industries that support it. If VLTs are approved in Texas, the Legislature also should consider aiding the bingo industry by approving new types of games such as multi-hall or satellite bingo.

The state should not use VLTs as a way to support the agricultural industry or to prop up foundering horse and dog tracks that have never produced the rosy revenue estimates touted by their supporters. The racing industry in Texas repeatedly has asked the Legislature for changes — such as authorizing betting on simulcast races — characterized as vital to the survival of the industry, only to insist later that even more concessions are necessary. The Legislature should allow the industry to sink or swim on its own, without expanding gambling in a way that gives the industry special subsidies.

Expansion of gambling

Supporters of authorizing VLTs say: Authorizing VLTs at racetracks would not expand the geographic footprint of gambling in Texas because voter-approved gaming already occurs at racetracks and the lottery already offers numerous games. Authorizing VLTs at racetracks would give Texans more entertainment opportunities, adding only about 10 VLT locations to the 16,000 existing Texas Lottery outlets.

It is a myth that Texans oppose gambling. In a February 2003 Texas Poll, 52 percent of those surveyed favored expanding gambling activities, such the legalization of casinos, to generate revenue to offset the state budget deficit that existed. Voters already have approved numerous other gaming opportunities, including the lottery, bingo, and pari-mutuel wagering. Casino-style gaming already exists at a few Texas locations, including the Kickapoo Tribe's Lucky Eagle

Casino in Eagle Pass and aboard a cruise ship that sails from Port Aransas into international waters, allowing passengers to play slots and video poker machines and at more than 20 game tables.

Gambling is an increasingly popular form of entertainment, and it would be appropriate to let voters decide whether to amend the Constitution to allow VLTs in the state. As in any business, growth in the gaming industry is driven by consumer demand. VLTs would not take significant revenue from the lottery, racing, or charity bingo because those games attract a different clientele.

Authorizing VLTs actually could help combat the expansion of unregulated, illegal gambling that occurs throughout the state on “eight-liners.” These electronic gaming machines, similar to slots, exist in a gray area between amusement and gambling, particularly when winners illegally receive cash rather than “fuzzy animals” or other inexpensive prizes. With the clearly legal option of playing state-regulated VLTs that return a high percentage of wagers, bettors might forego eight-liners for VLTs.

Gaming on Native American reservations would extend gambling only minimally, if at all. Only Texas’ three tribes potentially would be eligible to operate VLTs on their reservation lands, and strong federal regulations would make it virtually impossible for an out-of-state tribe to establish a reservation with gaming operations in Texas. In the event that current tribes established VLT operations, Texas would negotiate with them to ensure that the state received a fair share of the gaming revenue generated on tribal land.

Opponents of authorizing VLTs say: Introducing tens of thousands of VLTs at Texas racetracks — or anywhere else in the state — would be a significant expansion of gambling and an unhealthy step in the direction of the sort of full-scale gambling allowed in states such as Louisiana and Nevada. Unlike video or arcade games designed for amusement, VLTs are built for serious gambling. While the term “video lottery terminal” sounds innocent enough, these devices really have little or nothing to do with the lottery and are in fact slot machines that can simulate poker, blackjack, and other Las Vegas-style games. Places where people gather to feed money into these machines in hopes of a payoff are, in effect, casinos. It is unsavory and immoral to finance essential state services such as public education through expanded gambling.

Texans do not overwhelmingly support gambling. Those surveyed in the February 2003 Texas Poll were divided evenly on the question of whether video slot machines that take bets and pay prizes should be legal in Texas. Only 45 percent of those surveyed said they should be legal, while 46 percent said they should be banned. While some respondents said they supported the legalization of casinos, 43 percent opposed it with 4 percent undecided, statistically very close to an even split of opinion in a poll with a margin of error of plus or minus 3 percent. In addition, in the 12 months preceding the survey, only about one-third of respondents had been to a casino out of state, only 8 percent had been to a Texas horse track, only 3 percent had been to a Texas dog track, and only 6 percent had played bingo.

The expansion of gambling since 1991 has made Texas more reliant on gambling for revenue, a trend that could make the state more interested in promoting gambling than regulating it. Before this happens, state legislators should exercise responsible judgment on legalization of VLTs and not pass the buck to voters. Voters elect legislators to evaluate proposals and reject those with dangerous consequences, such as the expansion of gambling in Texas.

Authorizing VLTs also would expand gambling by allowing Texas’ Native American tribes to open full-blown casinos. (See *What VLTs might mean for Native American gambling*, page 6.)

Social costs

Supporters of authorizing VLTs say: Any social costs related to gambling already exist because Texas currently allows numerous other forms of gaming. Authorizing VLTs in Texas would not significantly increase pathological or problem gambling, which appears to be fairly rare, potentially afflicting about 1 percent to 5 percent of the population by some estimates. It is unfair to penalize the large majority of Texans who are not compulsive gamblers for the problems experienced by a few. Texas sanctions and collects revenue from other potentially harmful activities and substances that are abused by a minority, such as alcohol and tobacco. State authorization of VLT gaming should be no different.

Playing VLTs would be a strictly voluntary form of entertainment and would victimize no one. It is a myth that gambling appeals primarily to the poor. The median household income of casino gamblers tends to be above the

national median, and casino players are more likely than the average American to hold white-collar jobs, according to surveys conducted for one casino company. Having VLTs in Texas would cause no more crime around racetracks or other venues than other crowd-intensive tourist and entertainment attractions, such as sporting events, malls, or amusement parks. Some studies have shown that social costs, including crime, can actually decrease after gaming is introduced. In addition, VLT gaming is less likely to produce disastrous consequences on the scale of high-stakes casino gambling often cited by VLT critics.

Opponents of authorizing VLTs say: Allowing VLTs at racetracks would change the emphasis at the facilities from the sport of racing to the shady pursuit of gambling with disastrous consequences for some Texans. Unlike most other forms of entertainment, gambling imposes high social costs. It promotes a “something-for-nothing” mentality that undermines the work ethic, and it can be highly addictive, with studies indicating that as many as 5 percent of adults may be problem or compulsive gamblers. VLT machines can be especially seductive and damaging. They offer bettors speed, convenience, and repetition, leading some to refer to these machines as the “crack cocaine” of gambling. In South Carolina, within 90 days of banning video poker after 14 years of operation, the number of Gamblers Anonymous groups dropped 50 percent, and membership in each group dropped, according to one study.

The state lottery, pari-mutuel racing, and charity bingo already offer Texans sufficient gambling “entertainment.” Unlike these other pastimes, VLT gambling can be destructive, leading to addiction, increased crime, debt, bankruptcy, family violence, and suicide. By some estimates, the cost to society resulting from addiction, bankruptcy, crime, and insurance fraud could exceed \$17,000 per pathological gambler per year. The social costs of VLTs could be especially high for the poor and retired who sometimes favor slot machines. Increased gambling could stimulate a rise in street crimes such as robbery and prostitution and breed white-collar crime. These outcomes are tragic not only for the people involved, but also for creditors whose debts go unpaid and for taxpayers who must bear additional costs for prisons and health-care facilities. Simply estimating state revenue from VLTs is not enough. Instead, the Legislature should conduct a cost/benefit analysis that adequately weighs the economic costs of the social toll of expanded gambling.

Ownership and location

Most proposals under discussion would allow VLTs exclusively at Texas racetracks. Supporters of these proposals argue that since tracks are located in or near almost all of the state’s major metropolitan areas, the VLTs would be accessible to the state’s population but not so widespread as to make regulation difficult. In addition, the machines would be limited to venues that have experience with on-site gambling and that comply with strict state regulation, including the requirement to conduct background investigations on employees. Supporters also argue that only racetracks would be able to invest the millions needed to provide first-class VLT facilities.

Others argue that VLTs should not be placed exclusively at Texas racetracks but should be allowed at additional sites such as bingo halls, bars, taverns, or other venues. This would give Texans across the state greater access to VLTs, which could result in even more revenue and help these businesses weather what could be a drop in their income if Texans shifted their entertainment and gaming dollars to VLTs.

Among those who support the machines being located exclusively at tracks, opinions differ as to who should own the machines. In general, racetrack owners argue that the tracks should own the machines so that money that would be spent leasing the machines under other ownership models could be split between the tracks and the state. This could help increase state revenue and reimburse the tracks for the hundreds of millions of dollars necessary to prepare top-notch physical facilities for VLTs. It also would give them incentives to build facilities that would attract tourists and compare favorably with gaming venues in other states. Others argue that the hybrid model, under which the state most likely would lease the machines from manufacturers and provide them to the tracks, would be best because it would encourage manufacturers continuously to provide the most profitable and up-to-date machines.

The president of the Amusement and Music Operators of Texas (AMOT) testified at the December 2003 House Licensing and Administrative Procedures hearing that its members should be allowed to become VLT owner/operators and supported the placement of machines at locations other than racetracks. He argued that the state could collect its percentage and winners their prizes, but the small businesses that owned the locations and the owner/operators of the machines should be able to realize some of

the benefits from VLTs, rather than having out-of-state vendors supply all the machines and reap all the benefits. This would keep dollars in Texas and allow these homegrown businesses to hire additional employees and pay additional taxes, AMOT says. In addition, the organization argues, small business owner/operators could be subject to strict scrutiny such as background checks and strict auditing and control just like large vendors.

Oversight and regulation

Texas Lottery Commission. Under most proposals, TLC would be responsible for overseeing the deployment and operations of video lottery terminals. TLC would be the best entity to oversee VLTs, some analysts argue, because the games are video versions of lottery games. TLC has experience overseeing some 16,000 lottery vendors through a central computer system and would be able to quickly and efficiently establish a similar system linking thousands of VLTs throughout the state, supporters of these proposals say. TLC also has experience and a successful track record in marketing and advertising lottery games, something not possessed by any other state agency, they argue. Racing purses have increased in other states that

use their lottery agencies to oversee VLTs at racetracks, supporters of TLC oversight point out, and TLC could work closely with TRC to ensure that any potential conflicts of interest were handled appropriately.

Texas Racing Commission. Others say that if VLTs are to be installed at pari-mutuel tracks, it would be more effective and efficient for TRC to handle on-site regulation. TRC already has investigators, auditors, and other personnel at the tracks, and the tracks are accustomed to dealing with TRC staff, supporters of this idea say. TRC regulation also could help prevent potential conflicts of interest between two agencies with different missions. An agency charged solely with maximizing state revenue from VLTs might not consider the interests of horse owners, trainers, breeders, bettors, and others in the racing industry, say supporters of TRC oversight. For example, an agency unfamiliar with the racetrack environment might place VLTs in a prime pedestrian traffic area that made it difficult to reach pari-mutuel betting windows. If VLTs and racing were overseen by TRC, some analysts argue, both industries likely would benefit from resulting decisions, and problems, such as how to promulgate rules with dual-agency regulation, could be avoided.

— by ***Kellie Dworaczyk***

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