



## Gambling in Oregon

Legalized gambling in the state of Oregon has a long history, beginning with legalization of *pari-mutuel* (race track) gambling in 1931. Over the next 45 years, it came to include social gambling, whereby citizens could play "friendly" games in public by local option, and statutes allowing charities to raise funds for good causes through an occasional casino night. Until recently, Oregonians have had no reason to regard such scaled-down, controlled gambling as anything more than an infrequent and harmless diversion.

In 1984, when voters authorized a state-run Lottery, gambling in Oregon acquired a new dimension. And now a further complication has arisen, in the form of a large and growing tribal-sponsored gambling industry. Taken together, the expansion of state-run and tribal-sponsored gambling raises a number of serious concerns about Oregon's social and economic future, and about how the good of the public is protected and preserved within this context.

### Governor Kitzhaber's Response

In 1995, motivated by concern about the long-term social and economic implications of the expansion of state-run and tribal-sponsored gambling opportunities, Governor Kitzhaber appointed a task force charged with examining the history, nature, and effects of gambling in Oregon. Among the preliminary findings of this task force, chaired by then Oregon Attorney General Ted Kulongoski, was concern about addictive behavior which, in turn, was having a visible but unquantified social impact in communities throughout the state. But the data necessary to make an accurate determination about the true effect of this rapid expansion was not available. As a result, the Task Force made the following recommendations:

- 1.
2. Oregon should avoid expansion of Lottery gambling until the long-term social impact of gambling can be more accurately measured.
3. The state should establish a research council charged with producing the necessary data for Oregon decision makers. (1)
4. Oregon law should be revised to reflect the changes in gambling which have occurred in the last 25 years and to attack illegal gambling.

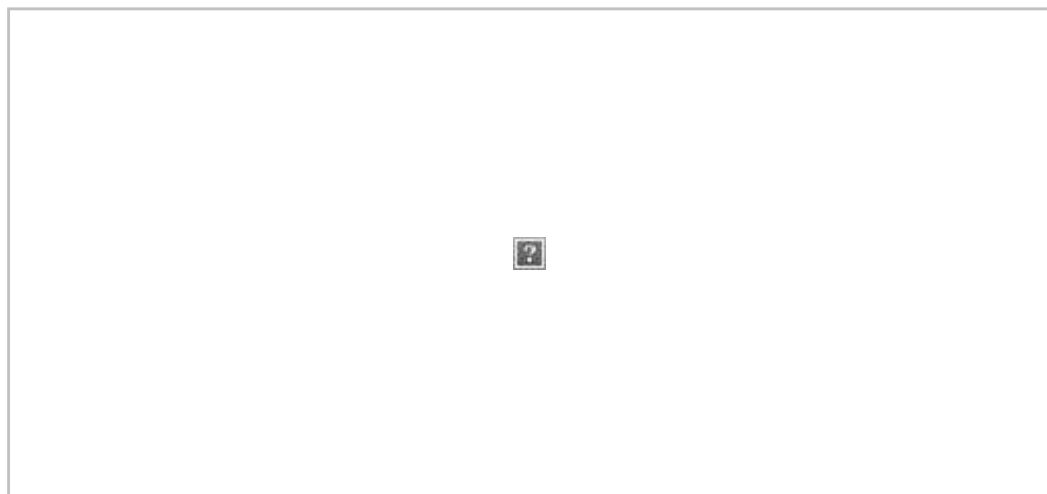
These are sound recommendations which require serious attention before the state commits to actions which continue to contribute to social and economic instability. Citizens, the Lottery Commission, the Legislature, and the Governor must all have an opportunity to provide meaningful solutions to the very real problems that we associate with gambling.

The following policy discussion outlines the history of state-run and tribal-sponsored gambling in Oregon and, for each, the Governor identifies his adopted policy framework for managing these issues. The Governor's actions to manage gambling will be pursued consistent with these policies

## The State-Run Lottery

Thirteen years ago, when the Lottery was born, Oregon was struggling to combat the recession of the early 1980s. The original idea behind the Lottery was to develop an additional revenue source in lieu of taxes with the limited (though conveniently vague) purpose of providing funds "to create jobs and further economic development." Since then, both Lottery offerings and Lottery proceeds have steadily grown. And the state's dependence on Lottery revenues has grown as well.

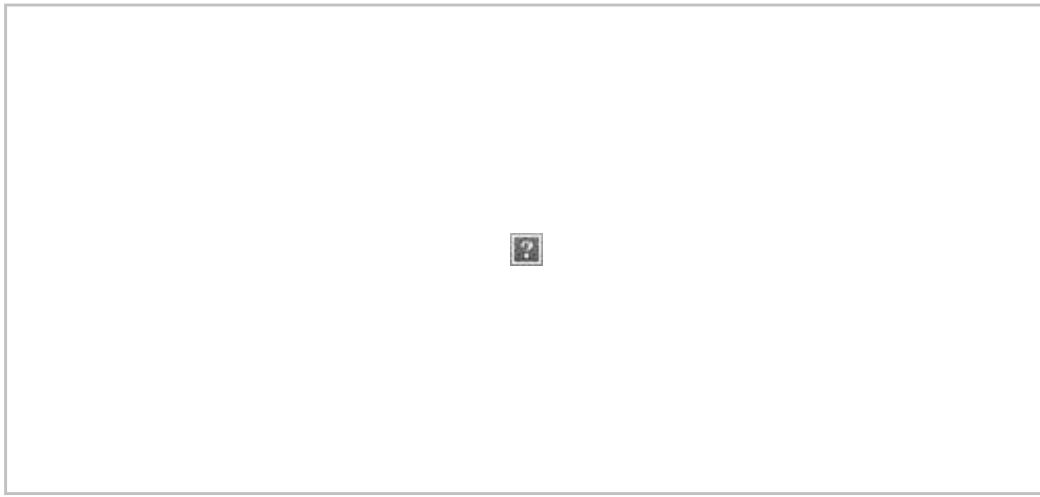
Lottery offerings, which began with scratch tickets in 1985, have expanded to include weekly and daily drawings, keno, sports betting, and national lotteries offering millions of dollars in prizes each week. As a result, Lottery revenues have grown from \$60 million in its first year to nearly \$700 million in the biennium ending June 30, 1997.



Source: Governor's Task Force on Gaming, 1996

Legislative introduction of video poker in 1991 created the potential for much larger revenues than was originally envisioned. In fact, proceeds from video poker have literally doubled total Lottery revenues for the past four fiscal years.

The increase in lottery dollars flowing to the State General Fund was made possible, in part, by the partnership between the State Lottery and many private retail establishments. These new General Fund dollars have brought benefits to the people of Oregon from educating our children to providing much needed rural infrastructure.



Source: Oregon State Lottery, June 6, 1997

Nonetheless, as the dollars grew, state government and some private businesses began to rely more and more heavily on this revenue source. For example, the placement of video poker machines in OLCC-licensed establishments led to a greater dependence in the restaurant and bar business on the revenues that these machines could produce. Recently, we have even seen a new kind of business spring up: retail stores which receive a majority of their revenues from Lottery machines. At the state level, the unanticipated windfall of Lottery dollars was soon being allocated not just to job creation and economic development, but to natural resources, transportation, public safety, and even to local government. In 1995, voters approved a constitutional amendment adding the "financing of public education" to the list of allowable uses for Lottery proceeds.

Today, Oregon depends on gambling resources for nearly 10 percent of its budget, and state legislators have even begun making proposals based on Lottery dollars that have not yet materialized.

Given these facts, the time has come to re-examine the Oregon Lottery, to clarify the policy it reflects, and to determine whether it remains consistent with its original mandate: to maximize revenues commensurate with the public good.

## Policy Directions: State-Run Lottery

The mandate for the Oregon Lottery Commission under the law is clear: to produce "the maximum amount of net revenues to benefit the public purpose described [in the Constitution], *commensurate with the public good*." The Commission has done an exceptional job of "maximizing revenue" but, unfortunately, there has been no policy framework to ensure that their actions have been "commensurate with the public good."

This is not meant to fault the Commission. It is the responsibility of state policy-makers, not the Commission, to provide the context for balancing "revenue" with the "public good." This white paper reflects Governor Kitzhaber's position on how this balance should be struck.

There are three categories of gambling "addiction" or dependency in Oregon: (1) gambling addiction among individuals; (2) dependence on Lottery proceeds by certain retailer establishments, and (3) dependence on Lottery proceeds by the State of Oregon itself. Governor Kitzhaber believes that **it is not commensurate with the public good to increase addiction or dependency in any of these three categories**. Rather, we should

take steps to reduce current levels of addiction and dependency.

Therefore, the following policy recommendations are set forth:

1. Reduce gambling addiction among Oregonians by increasing funding for identification, outreach, and treatment, and other measures
2. Reduce the dependence of certain retail establishments on Lottery proceeds by developing a narrower definition of "dominant use."
3. Reduce the dependence of the State of Oregon on Lottery proceeds by: (a) requiring a statutory ending balance for Lottery revenues, and (b) begin moving Lottery revenues out of operating budgets and dedicating them to "one-time" projects such as capital construction, basic infrastructure, equipment acquisition, etc.
4. Halt the expansion of the Oregon Lottery by prohibiting video line games and imposing a freeze on the number of Lottery machines until recommendations 1-3 (above) have been addressed.

## **Tribal-Sponsored gambling**

The relation of tribal-sponsored gambling to legalized gambling policy in Oregon is more complex. To begin with, it has been well established under federal law that Indian tribes are "sovereign nations," entitled to their own form of self-governance which is largely separate from and independent of state authority. Although Congress has extended criminal law jurisdiction of the states onto Indian lands, the tribes retain a high degree of independence in other areas, among which is the matter of gambling on tribal territory.

The role of the states in regard to gambling on tribal lands within their boundaries was clarified by a 1987 Supreme Court ruling and by the Indian Gaming Regulatory Act of 1988 (IGRA). The former held that tribes could offer any type of gambling not expressly prohibited by state law. The latter allowed Indian tribes to conduct casino-style house-banked games<sup>(2)</sup> on tribal land as approved by the Department of Interior, provided that the tribes and the state first negotiate a compact specifying how -- not whether -- such games will be conducted.

Beginning in 1992, the Roberts Administration entered into a series of compacts with eight of the nine federally-recognized tribes. The compacts allowed Video Lottery Terminals (VLTs) -- the Lottery had been authorized to field VLTs since 1989 -- but limited them to 15 percent of total floor space. Other so-called Class III, or house-banked games, were not authorized in the first compacts. <sup>(3)</sup>

A look at these compacts indicates that at the time they were executed neither the state nor the tribes had a very clear conception of how the industry would grow or the impact it might have on the state as a whole. Moreover, the compacts give little attention to developing security standards across the industry and allow the Oregon State Police only a minimal security role.

Since taking office in 1995, Governor Kitzhaber has negotiated only one original compact with a tribe. However, negotiations with the tribes early in the Kitzhaber Administration resulted in a series of blackjack amendments<sup>(4)</sup> to the earlier compacts that accomplished the following:

1. Clarification of the legitimate security role of the Oregon State Police in connection with tribal-sponsored gambling.
2. Payment by the tribes of all OSP Gaming Unit costs associated with tribal-sponsored gambling operations.

In 1993, the first Indian casino in Oregon opened its doors. When Governor Kitzhaber took office in January 1995, there were two Indian casinos operating in Oregon. By September of that year there were six. In May 1997, a seventh casino commenced operations and an eighth tribe has begun to seek financing for a gambling venture, although operations are not expected to begin for at least two years.

## Policy Directions: Tribal-Sponsored Gambling

Governor Kitzhaber **supports the principle of tribal economic self-sufficiency and respects the sovereignty of the tribal governments**. At the same time, he recognizes that the state has a vital interest in remaining actively involved in a growing casino industry within its boundaries.

The Governor has established the following guidelines to shape policy development in the field of tribal-sponsored gambling.

1. Agree with each Oregon tribe on one gambling site per tribe. The current compacts are site-specific. In other words, the tribes are limited to offering gambling only at specified sites. The Governor favors explicit agreement on this point in subsequent compacts.
2. Ensure the security of tribal-run games so that they are conducted safely and honestly.
3. Promote charitable grants from Indian casinos in order to build stronger ties between tribes and surrounding communities. Consider using some of these grants to combat gambling addiction.

## Gambling Conclusion

This white paper points out that we face a challenge in how we will choose to approach the growth of tribal-sponsored gambling and state-sponsored gambling in Oregon.

Governor Kitzhaber believes that while this challenge has been evident over the past several years, the public debate about gambling has not concerned itself with answering the essential question of what defines "the public good." Governor Kitzhaber proposes in this paper a definition of the public good based on decreasing personal, commercial, and governmental addiction and dependence on gambling. He is hopeful that his policies will help foster a wider debate about what is meant by the directive to operate gambling "commensurate with the public good."



[Gambling in Oregon: A Position Paper \(Word 6 only\)](#)

[Return to Governor's Office](#)

(1) This recommendation resulted in the Volberg Study, jointly funded by the State Lottery, the Grande Ronde tribe and the treatment community. Its report on the demographics of gambling, addiction levels, and relative social costs of increased gambling was released in August 1997. ([back](#))

(2) The house-banked format is the one familiar to visitors to Las Vegas and Reno. It includes craps, roulette, blackjack and other table games where the players game against the house. ([back](#))

(3) In general, the distinction between Class III games and other types of Indian gambling is the house-banked feature. Tribes may offer Class II games (bingo, pull-tabs, etc.) without a compact. ([back](#))

(4) Under the original compacts, both the state and the tribes believed that blackjack could be offered in a Class II (i.e., non-house-banked) format. It was later determined that blackjack could only be offered in a Class III format. ([back](#))