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S-3202.4/12 4<sup>th</sup> Draft  
The electronic gaming revenue act of 2012  
November 28, 2011

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## Summary Analysis

### Brief Description

“Concerning the authorization and regulation of electronic scratch ticket machines for house-banked card rooms and providing funding for education, health and human services, and public safety.”

Amends and adds a new chapter to Title 67 RCW to authorize electronic scratch ticket games for house-banked card rooms in the same form and manner currently allowed for tribal casinos under state-tribal compacts, as authorized by the Indian Gaming Regulatory Act (IGRA) of 1988.

Provides funding for education, health and human services, and public safety.

Provides that house banked card rooms that currently operate at least five card games on the effective date of the act may use the types of electronic scratch ticket games, devices, and player terminals defined in the bill. Card rooms licensed after the effective date must have been in operation for at least five years before they are authorized to operate the machines.

Limits the number of electronic scratch ticket machines operated by house banked card rooms to a maximum of 200 per location, and 7,875 machines in total statewide. There are currently 70 card room licensees, of which 62 are currently operating.

Wagers; i.e. the price of a ticket, may not exceed \$5.00, and the payout for an entire game may not be less than 75%

The Lottery Commission retains 35% of the net win from electronic scratch ticket games, to be deposited in an account under the custody of the state treasurer. The remaining net win is returned to house-banked card rooms as agent compensation.

The retained revenue is distributed as follows: 2% to the Gambling Commission; 0.5% for problem gambling prevention and treatment; 5% distributed proportionally to local jurisdictions in which house-banked card rooms are located. 50% of the remainder goes to K-12 education; 30% to health and human services, and 20% to public safety.

The Lottery Commission is responsible for adopting further rules and regulations governing all aspects of operating the machines.

### Background

From the outset of tribal gaming compact negotiations, the state and the tribes disagreed on whether slot machines were legal or not in Washington State. In 1997, the court ruled that Las Vegas type slot machines are not legal, but other electronic devices may be permitted.

In 1999, the state-tribal gaming compact was amended to authorize machine gaming for the tribes that is modeled after the Washington State Lottery's scratch ticket games. The machines look similar to and offer some of the features of slot machines, but they are fundamentally different. Las Vegas type slots contain a random number generator that determines winning combinations on each machine. Players play against an individual machine.

The "slot-type" machines in Washington state are linked to a central computer, and winners are pulled from a set of "tickets" with a predetermined number of winning tickets. A player competes with all other players who are playing on linked machines.

Electronic scratch ticket machines are not considered to be an "expansion" of gambling, because, in principle, the game is no different than repeatedly purchasing scratch tickets at a convenience store counter, or buying pull tabs in a tavern, which are forms of gambling that exists in the state now. Governor Gregoire's office applied the same reasoning with respect to a Keno game proposal by stating that "*...it doesn't consider the Keno proposal an expansion of gambling because the state already has the game.*"

Under compacts, the tribes are authorized a maximum of 27,300 machines, of which they currently operate about 23,000. Similar compacts in 11 states provide for some type of revenue sharing with the tribes, but Washington state declined to pursue such an arrangement when it granted exclusive rights to the tribes to operate the machines.

The tribes' monopoly on machine gaming gives them an overwhelming competitive edge against the rest of the state's gaming industry, because of the universal popularity of slot-type machines among customers of gaming venues. Even if this legislation passes, tribal casinos would still enjoy a 15 to 1 edge in the number of machines they are authorized to operate per location (3,000 vs. 200 for card rooms). Additionally, they are able to offer a greater array of games, such as KENO, Craps, Roulette, and electronic Bingo, along with large scale entertainment and greatly reduced food and beverage prices.

In 2004, taverns, restaurants, bingo operators, and house banked card rooms sponsored I-892, which would have authorized licensed, non-tribal gambling establishments to operate these machines. A portion of the tax revenues generated would have been earmarked to reduce state property taxes. Voters turned down the initiative after a campaign in which tribal interests spent \$6.6 million to defeat the measure, vs. the proponents' \$1.07 million.

The bill, as introduced is more narrowly drawn, limiting extension of the machine games only to qualifying house-banked card rooms, limiting the number of machines to a maximum 200 per location and a total of 7,875 statewide, and allocating tax revenues to state programs and local governments. Estimated revenues on an average of 125 machines per location amount to about \$380 million for 2013/2014, the first assumed period for stable operations. Projected estimates for 2012 are \$ 157.6 million, according to an economic study commissioned by the RGA.

The proposal provides for the smallest possible "footprint" of non-tribal machine locations - up to 70 existing card room licensees vs. a potential of some 2,900 locations that I-892 would have allowed, or the 3,000 locations that Oregon allows.

## **Section by Section Analysis**

Sec. 1. NEW SECTION. Citation as the electronic gaming revenue act of 2012.

Sec. 2. NEW SECTION. Declares the purpose of the act is to authorize electronic scratch ticket devices for house banked card rooms in the same form and manner allowed under state-tribal compacts. Declares that electronic scratch tickets are a legal form of gambling in the state of Washington and grants specific authority to the State Lottery Commission to regulate machine gaming by house banked card rooms.

Finds that the bill will assist in job creation and retention and is necessary for the immediate preservation of public health and safety and support of state government. Agencies adopting rules under this bill are urged to act in an expedited manner to generate funds as soon as possible.

Sec. 3. NEW SECTION. Defines the terms to be used in the act. Ties the definitions for all aspects of electronic scratch ticket machine operations to Appendix X2 of the state-tribal gaming compact as it exists on the effective date of the act, or as amended thereafter.

Sec. 4. NEW SECTION. Authorizes electronic scratch ticket systems, games, and terminals, as approved under the state-tribal compacts, for house-banked card rooms. Electronic game systems not currently approved under the compact may be put into use after approval is obtained from the Lottery Commission.

Limits the number of electronic scratch ticket machines authorized for house-banked card rooms to no more than 200 machines per location, and a total of 7,875 machines for all licensed non-tribal locations statewide.

Describes electronic scratch ticket games. They consist of a finite number of electronic scratch tickets, which are created in game sets by a manufacturing computer from which tickets are randomly selected and placed into subsets.

Each game set has a predetermined number of winners and values and assures a payback of at least 75% of the amounts paid in the aggregate for all tickets in the set.

Ticket subsets are transmitted to a central computer, from where they are electronically dispensed on demand to player terminals. As subsets are used, they are replaced by additional subsets until the game set is depleted, ending that particular game.

All scratch tickets in a game set must have the same purchase price, not to exceed five dollars, but a single ticket may offer more than one opportunity to win a prize on the same wager. The Lottery Commission must adjust the dollar threshold annually, based on changes in the Consumer Price Index.

Provides for a central accounting and auditing system, operated by the Lottery Commission, to monitor the games and their related systems.

Requires licensees/operators to maintain video and/or electronic surveillance of player terminals.

Provides that additional rules concerning operating requirements shall be adopted by the Lottery Commission, consistent with the provisions of the state-tribal compact.

Sec. 5. NEW SECTION. Restricts play of all electronic scratch games to adults 21 years or older and provides that placement of the machines on premises must meet the liquor control board requirements for barrier and signage. Also references liquor control board rules for restrictions on employees who are under the age of 21.

Sec. 6. NEW SECTION. Restricts electronic scratch ticket licenses to house-banked card room licensees who are operating at least five card games on the effective date of the bill. House-banked card rooms licensed after the effective date of the bill must operate five card games for five years before they are eligible for an electronic scratch ticket license.

Provides that licensees may lease from and/or revenue share with entities, such as route operators and distributors, to obtain and operate scratch ticket machines.

Permits the sale of a house-banked social card game business operating electronic scratch ticket games. If a house banked card room ceases to operate, its electronic scratch ticket license will be invalid and cannot be transferred as part of a sale.

Sec. 7. NEW SECTION. Provides that individual licensees may interconnect player terminals on separate licensed locations, but no remote access to a terminal is allowed without written approval by the Lottery Commission.

Sec. 8. Amends existing law to add electronic scratch tickets to the type of lottery games that may be conducted under Lottery Commission rules.

Sec. 9. Amends existing law to give the Gambling Commission the primary responsibility to enforce the new laws governing conduct of and participation in electronic scratch ticket games. The director of the Lottery Commission has sole responsibility with respect to licensing and rule making under the new laws.

Sec. 10. Amends existing law to specify that the Lottery Commission shall enforce compliance with state law for the conduct of electronic scratch ticket games.

Sec 11. NEW SECTION. Provides for the Lottery Commission to retain 35% of the net win and to develop an agent compensation system, under which 65% of the net win is returned to house-banked card rooms.

Creates an account in the custody of the state treasurer for the state's share of the net win, which must be distributed as specified: Up to 2% for Gambling Commission administrative and enforcement costs; 0.5% for problem gambling; 5% proportionally for local jurisdictions in which house-banked card rooms are located. 50% of the remaining funds go to K-12 education; 30% to human and health services; 20% to public safety.

Sec. 12. NEW SECTION. Provides that the lottery commission and the gambling commission must adopt rules and policies to fully implement this bill as fast as possible..

Sec. 13. NEW SECTION. Provides that Sections 1-7 and 11 of the act consitute a new chapter iin Title 67 RCW.

Sec. 14. NEW SECTION. Emergency clause to make the bill effective immediately.

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