

**HB 2086 – Veteran-Themed Lottery Games Bill**  
**House Committee on Veterans Services and Emergency Preparedness**  
**Testimony**

**February 21, 2013**

Chair Matthews, Vice-Chairs Fagan and Parrish and Committee members, for the record, my name is Larry Niswender. I am the Director of the Oregon Lottery. I am here today to briefly comment on the proposed law changes contained in HB 2086. Since I have already provided testimony on this bill, I will be very brief and plan to address any additional questions the Committee may have for the Lottery.

This bill:

- Directs the Lottery to establish Lottery games on or before January 2, 2015 for the benefit of veterans' education, training, and creating jobs;
- Creates a new fund, the Veterans Lottery Fund;
- Requires that Lottery revenue be allocated to that Fund; and
- Specifies what activities the funds can be used for at the Department of Veterans Affairs.

The Lottery is not taking a position on the bill. It is a worthwhile proposal, however, I would like to take a few minutes to highlight a few policy, legal, and practical concerns that the bill raises for the Lottery.

The bill has obvious revenue impact and fiscal impact features, which will need to be addressed in Ways and Means.

Success of Games: Some state lotteries have had success with veteran-themed games, many have not. A nearby state where it has not been successful is Washington, where the legislature specified the start and end dates for a raffle sale. It is my understanding that the tickets did not sell out. Of other nearby states, Arizona, California, and Idaho have not offered a veteran-themed game. Montana has offered two veteran-themed games. The first ticket did well but the second did not and in hindsight if Montana had it to do over again, it would not have printed the second ticket. Of the 43 US lotteries, from our quick research, we are aware of only two states (West Virginia and Illinois) where there appears to be a legal

requirement or expectation that the lottery offer veteran-themed Scratch-it games on an on-going basis.

Lottery's research shows that in West Virginia, \$10.27 million from 18 separate veteran-themed games has been transferred since 2001 (12 years) and in Illinois more than \$10.0 million has been transferred since 2006 (6 years).

- West Virginia has one of the highest populations of veterans in the country, with strong veteran support. It offers 2-3 veteran-themed Scratch-it games per year. Over time, the novelty of these tickets has faded and it has been a challenge to maintain interest in these games. If West Virginia had it to do over again, it would have pushed for setting aside a fixed amount to be moved from the Veteran's Fund to provide a steady amount to this cause each year. Offering these games has opened the floodgate for various other special interest groups to come forward asking for dedicated funds for their cause. It has become an ongoing issue that the West Virginia Lottery and its Legislature address each year.
- Illinois has legislatively been required to offer different games for funding veteran causes along with games earmarked for funding services related to cancer, HIV, and MS. Across these categories, veteran's games have been the most visible and anticipated each year. However, sales for these veteran's games experienced a decline when games reflecting other causes were released.

Unpredictable Net Proceeds: Certain traditional lottery games (Scratch-it tickets and raffle games) the Lottery offers that would be most likely to fit the HB 2086 description do not always generate significant net proceeds. Furthermore, the amount of net proceeds depends, in large part, on sales levels (popularity with players) and the timing of top prize awards (random chance). As such, game-by-game dedication of net proceeds (as set forth in this bill) would not necessarily provide a predictable revenue stream for veteran education, training, and job creation benefits. In order to have predictability of revenue, it may work better to utilize the established method of allocating Lottery proceeds (through the biennial Lottery Allocation Budget Bill to various recipients based on Governor and Legislative Leadership plans/agreements).

Significant Policy Change: The dedication of specific Lottery game revenues for specific good causes, such as veteran education, training, and job creation is a significant policy decision change for the State of Oregon for several key reasons.

- First, once you decide that one cause is worth supporting in this manner, what criteria would the policy makers apply going forward to further dedicate game revenue? Other causes that may be deemed similarly worthy could be falling in line soon.
- Second, the more that Lottery game revenues become dedicated for specific causes, the less that remains available for existing Governor/Legislature priority uses (K-12 education, natural resources, economic development, debt service for lottery back bonds, etc...). At this time, decisions around how Lottery proceeds will be used (beyond those constitutionally dedicated) are made by the Governor and Legislature, taking into consideration the unique fiscal/revenue constraints on Lottery revenues.

If the policy choice is made by the Legislature to direct the Lottery to dedicate particular Lottery games for the benefit of veterans' education, training, and creating jobs, then the Lottery will want to make sure that the legal and practical problems are fully addressed through this committee and Ways and Means Committee critical review.

### **Fiscal Impact-Related Testimony**

Since this bill has a subsequent referral to Ways and Means, I will wait to provide information on the fiscal aspects of the bill until public testimony is requested in Ways and Means.

In that testimony, I will plan to cover the following points:

This bill would require the Lottery to establish a new game or games that have a veteran-related theme or would otherwise indicate the proceeds from playing the game will be used to the benefit of veterans' education and economic development.

- Any Increased Lottery Operational Expense Will Reduce Transfers to the State: To the extent that this new effort would cause Lottery operational expenses to increase, it will correspondingly reduce the amount transferred to the Economic Development Fund.

- Effectively Will Redirect Existing Lottery Net Proceeds Away From Current Recipients: Without increased Lottery effort, the Lottery would simply be redirecting its current activities away from existing Lottery games and from its existing ability to produce net Lottery proceeds for already established constitutionally, statutorily, and legislatively approved expenditure categories.
- Lottery is already at capacity for the number of scratch and raffle tickets produced annually - Through Fiscal Year 2012, the Lottery developed and implemented approximately 60 scratch-it games per year and offered two raffle drawings. For perspective, in fiscal year 2011, based on 60 scratch-it games, a total of \$19.5 million was transferred to the state **(\$325,000 average per ticket)** and for the two raffles, a total of \$2.4 million was transferred **\$1.2 million per drawing**). It is these types of games the Lottery is most likely to use for a veteran themed game, if this bill is passed. Based on historical sales trends, experiences of other lotteries, Lottery's staffing levels, and Lottery's sales and marketing plans, it is not likely or recommended that Lottery will increase the number of scratch-it games or raffles it offers. At the Oregon Lottery, because of the costs to produce each game and the increasing need for net proceeds to be transferred to the economic development fund, there is considerable pressure to reduce the number of scratch-it products launched each year, while looking for ways to increase profitability of these games overall. This is something Lottery will be able to do now that it offers second chance opportunities to win top prizes, which enables the Lottery to extend the life each scratch-it ticket. When the Oregon Lottery offered more than two raffles per year, we observed player fatigue, including longer sell through rates. We are aware that in other states where there were too many raffles, the sales dropped so much they discontinued their raffle games entirely.
- Modifies the Existing Method of Lottery Fund Distribution Methodology: Under the current constitutional and statutory framework, Lottery makes quarterly transfers of net proceeds to the Economic Development Fund. Those funds are allocated based on the constitutional and statutory mandates, and as legislatively directed by the Lottery Allocation Budget Bill, with uncommitted amounts being placed in an ending balance status. Under this bill, the amount of net proceeds derived from a veteran-themed game would need to be individually calculated by the Lottery, as this amount will be required to be transferred to the new

Veteran Fund (and the amount would not be correspondingly reduced as it would be under the current method in consideration of constitutional, statutory, or budget bill commitments).

As worded, it appears that the bill would require the Lottery Commission to separately record and account for the costs and net proceeds of veteran-themed games or other games where the proceeds are to be used for veterans' benefit.

- Possible Language Change Needed: The only time the Lottery has been required to do this in the past was for a Sports Action game (which game has been suspended). It was unique and the only such game in the category. Tracking of costs and revenue was manageable. The types of games that will be adaptable to a veteran theme or revenue dedication to veteran programs are not as unique as Sports Action and will not be easy to separately track at this time. As such, we would like to see this language modified with the assistance of Ways and Means staff or, at a minimum the record made clear that the language does not require the Lottery to implement a detailed game-by-game cost accounting system, and that Lottery could determine costs and net proceeds in the same manner as it currently does for existing Lottery games.

The bill would allow the Department of Veterans Affairs to expend the funds for the programs it has that educate, train, and create jobs for veterans.

- Lottery Fund Allocation and Position Authority Needed: In order for the Department of Veterans Affairs to spend these Lottery Funds, the agency would need to have Lottery Funds allocated to it. It is also possible that existing positions would need to be fund shifted to Lottery Funds and/or new Lottery Funded positions would need to be established within this agency to perform the programs to be administered. Both of these actions require Ways and Means authority and budget bill language.

This concludes my prepared testimony on this bill. If you have any questions, I would be happy to address them.