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(1:55 p.m.)

EXPERT PANEL ON LOTTERIES: CAN GOVERNMENT REGULATE ITSELF?

CHAIRPERSON JAMES: We are ready to continue our examination with a panel entitled: Can Government Regulate Itself? I think this is a particularly important discussion because it addresses the important content of our earlier panels on lotteries and the potential implication for public policy. Each of our panelists will speak for a designated period of time, followed by a discussion period.

And I would ask each panel member to please come forward as you are introduced. First joining us on this panel we are pleased to have Dan Bosley, a member of the Massachusetts House of Representatives since 1987.

Welcome.

Representative Bosley serves as House Chairman of the Joint Committee on Government Regulation. He recently completed a report for the legislature on gaming in the Commonwealth, which
resulted in the continued prohibition of casino gambling in Massachusetts.

Robert Goodman. Mr. Goodman is Executive Director of the United States Gambling Research Institute and Professor of Environmental Design and Planning at Hampshire College. Professor Goodman authored The Luck Business, a study of contemporary gambling policy in America. The publication grew out of his work as director of the United States Gambling Study, a privately funded research project.

Welcome Mr. Goodman.

Michael Jones. Mr. Jones is President of Michael Jones and Company and former director of the Illinois State Lottery. His company has been involved in a number of North American lottery jurisdictions, working for vendors, assisting in bid responses and interacting directly with top lottery officials. Mr. Jones writes regularly for International Gaming and Wagering Business magazine and The Gaming Law Review.

Thank you all gentlemen for being here this afternoon. And I'd like to remind you at this point that each panelist should consider himself under oath under the supplemental rules of the Commission. And I
would tell you that we are delighted you have joined us and look forward to your testimony.

CHAIRPERSON JAMES:

We'll start with you, Mr. Bosley.
REPRESENTATIVE BOSLEY: Thank you very much, Madame Chairman. I would like to thank you for convening in Boston. I'd like to wish you all a Happy St. Patrick's Day. It's a very big part of our heritage and I hope you have time to enjoy some of the activities while you're here for the next couple of days. I would also like to thank you for your work on this very complicated issue. Your charge is not an easy one but I think it's a very important one as we decide our public policy as we go forward into the future.

I'm very pleased that this Commission was formed and appointed and is looking at this. I think it's important for us to promote a national policy or at least talk about a national policy on gaming. In Massachusetts, much of the deliberations on this issue have come as a reaction to what surrounding states are doing or considering to do. We find ourselves reacting to casinos in Connecticut, video poker in Rhode Island, Power Ball games in New Hampshire and the beat goes on.

We also find that we are reacting to federal legislation on Indian gaming, which is what predicated a lot of the work that we did over the last few years. And any time that legislation is reactive
rather than deliberative it is not very good public policy. So, if we had a public policy that was national in scope where we could cooperate with our neighbors it certainly would be much better and much more deliberative.

For the record, I'm Dan Bosley, I'm the House Chair of the Joint Committee on Government Regulations. My committee has responsibility for deliberating on all matters concerning gambling in Massachusetts. It includes but is not limited to horse racing, dog racing, class III gaming, charitable gaming, we have Las Vegas style nights as charity gaming, we have bingo, and of course the Lottery, which is the biggest form of gaming in Massachusetts.

In my written remarks which I will paraphrase because I know you all have that, I'm not going to read every word of it, just try to get to the high points. But I have also submitted several items in written materials, a post audit report that was done last year in December, Gambling with the Public Trust, and it's a review of the issue of free play coupons, which has been very controversial in Massachusetts. I'm not sure all of the conclusions of the study were correct but I think that it's important that you see A:
some of the issues we're dealing with; and B: some of
the oversight committees that we have.

I've also included an executive summary of
what was a rather extensive report on The Impact of
Casinos on Lottery Revenues. That was commissioned by
the State Lottery Commission at the request of the
legislature, to look at the impact of several gaming
proposals that were advanced and considered over the
last few years.

The third submittal is proposed legislation
that has been recommended by my committee and is now
sitting in House Ways and Means. And that makes
comprehensive changes in our lottery. It starts to
restrict Keno to age controlled establishments and
limits the number of Keno outlets, both in number and
space in any given location. This was necessary
because Keno has been growing exponentially in
Massachusetts.

I'd like to touch on Keno briefly later on
but it's worth noting that we need to control this
activity from a public policy perspective, rather than
just a need for revenues. There are convenience stores
presently in Massachusetts where almost all of the
floor space is used as a Keno casino if you will. In
places such as Tony D's in Waltham, a convenience store that may have a can of soup or a box of Kleenex on the shelf to keep up the facade of being a convenience store, the original attempt of establishing Keno has been corrupted.

We also need to take a look at the number of establishments that we have in Massachusetts for Keno. Presently there are 1,600 outlets for wagering on Keno, one-third of which are not age controlled. The Lottery Commission was approving licenses every day up to the point when we filed this legislation, where we, working with the Lottery, both decided we would put a moratorium on that. But in fact at the time the legislation was filed, the Lottery was ready to approve a license for a taxi stand at Logan Airport. So it was growing, we were putting Keno outlets everywhere. So we need to rethink what we expect from our lottery and this bill is, I think, a good first step, so I've included that in my submittals.

And lastly, I've included the gaming memorandum that I wrote as a report to the Speaker of the House in Massachusetts, Tom Finneran. In May of 1996, the Speaker appointed me to my present committee because there were two outstanding issues in the
committee. One was the plethora of gaming proposals that Massachusetts had at the time and the other was electricity restructuring, two hot topics, very complicated topics. And we've spent some time over the last two years dealing with both of those. And I'm happy to report that not only did we issue a comprehensive report on gambling, we also cut electricity rates ten percent in Massachusetts, so we've done pretty good, I think.

It was subsequent, this report that I wrote, it was subsequently the basis on which the House rejected proposed legalized casinos in Massachusetts and I think it will prove interesting in that part of the conclusions I reached were based on my concerns on casinos gambling's impact of our state lottery and the projected impact of revenues that currently inure to the cities and towns of the Commonwealth.

As to the ability of state legislators to regulate lotteries, I think there is a schizophrenia today in legislatures and I'm sure that we're not alone, I think it probably exists in most state legislatures. Here in Massachusetts much of the money sent back to cities and towns in the form of local aid is derived from our lottery.
Yet we are uncomfortable with what is a state sponsored addiction for some people, our lottery, and we take great pains to proclaim our comfort, even as we're issuing press releases back home that herald the increased local aid that comes from that source. We don't like to acknowledge our role in bringing lottery to the public, we prefer to call it gaming, which is much less harmful sounding than gambling. Yet we continue to pass legislation that expands our gaming options.

We laud the winner for example, of a recent $21 million jackpot who was a grandmotherly type who has realized every man's dream of hitting the lottery, yet we deny or ignore the fact that this woman was playing $150 a week on this game, some of it illegally because she was using credit from the store, which is clearly against lottery regulations. This is excessive behavior from any income bracket and we need to look at that when we deliberate and look at the positive benefits of our lottery.

We deny more advertising funds for our lottery so as not to encourage gaming yet we demand more and more money for our cities and towns. This is schizophrenic. I would submit that government has a
difficult time regulating the gaming industry that
we've created and the difficulty is exacerbated by the
inherent conflict in setting public policy and getting
caught up in a growing dependence on this activity for
revenues.

If you consider the course of the Lottery
in Massachusetts, it was started in 1975 with the
understanding that the revenues would be used to pay
for education. I remember, we used to get a little
green ticket, when the Lottery first started you got a
little green ticket and that was your Lottery stub. In
looking back at that debate on that issue by the way,
many of the arguments are still used today, let people
do what they want; people are gambling anyway, let's
get a piece of the action; we need the money, it'll go
for a good cause; if we don't do this, people will go
elsewhere, we'll lose the money or other states will
beat us to this form of revenue.

There was considerable debate but
ultimately we decided to pass this modest proposal for
this little green ticket as a funding mechanism to
enhance education. Since that time, the legislature
has continuously acceded to the demand of increased
future revenues. Each time the issue has come up we
have passed an expansion of the Lottery, many time with little debate as to the public policy, especially since local property taxes were limited by referendum in 1980.

We have looked to the Lottery time and again, even though every study indicates that the burden of funding this revenue source falls disproportionately on lower income residents of the Commonwealth and on our poorest communities. We also have studies that indicate that each expansion of our lottery, we now play, by the way, $500 per capita, I think that's twice what anyone else plays. It's very successful from the Lottery's perspective, in some cases, in some communities, it's over $1,000 per capita played in the Lottery.

And we have studies that indicate that each expansion has either captured or created more problem gamblers or has increased the state's dependence on low income players for revenues. Every time we expand and people play, in the poorest communities, we're relying on the poorest members of our society to give us revenues to send back to cities and towns.

What have we done since the introduction of the little green ticket back in 1975, we've expanded
our daily number drawing to a seventh day, we've added
three bi-weekly jackpots, Mass Millions, Mass Cash and
Megabucks. We promote at any one time up to 35
individual instant scratch tickets and have expanded
with the creation of the Big Game, which is a multi-
state Power Ball type game, that was a reaction to New
Hampshire and New York having Power Ball. After less
than one year in operation, incidentally, we have now
expanded to a second drawing a week in the Big Game.

Lastly, we have added, as I mentioned
before, 1,600 Keno outlets where a game and a betting
opportunity happens every five minutes. Have we shown
any ability to regulate ourselves, or any restraint?

I mentioned earlier our rush to expand
Lottery outlets. We started Lottery as a reaction to
filling a $25 million budget gap and today, roughly
five years later, since we started this in 1993 in the
budget, Keno is projected at over $460 million in
revenues. We have licensed Keno outlets next to
pawnbrokers, check cashing facilities and in
convenience stores in nearly every neighborhood in the
state.

As I stated earlier, the Lottery started as
a potential funding source for education for our cities
and towns. After 1980 it was viewed as a way to offset local property taxes lost under a referendum question. But as with every program, longevity has turned into entitlement. Cities and towns now demand more money each year from the Lottery. In fact, most of them will factor revenue growth into their budgets each year.

This is very dangerous for two reasons, first, there is no balance today in this discussion of expectations for the Lottery. Whether the Lottery is any longer good public policy, or more to the point, whether expansion of the Lottery is good public policy, has become subsidiary to the revenues produced. We've become dependent in part on state-sponsored gambling. This, by the way, is a far cry from whether we should let people gamble. State sponsorship gives an imprimatur to this activity, that's a subtle difference and very important and should be subject to constant reevaluation. But to this date we haven't reevaluated any of these games, we just keep adding more games.

Secondly, the pattern of Massachusetts Lottery and really, gaming in general is that games become tired and lose their allure, this leads to a decline in revenues for that particular product. This in fact is happening in most of our games right now.
If it wasn't for Keno we would actually see declines, the declines in the bi-weekly games are anywhere from 12 to 30 percent over the past year in the Mass Cash, Megabucks and Mass Millions. In fact, most of our games have become tired, that's why we constantly roll those games over. And that's why we've expanded our Lottery offerings from that little green ticket in 1975 to the potpourri of programs that are extant today.

Therein lies the second danger in our inability to regulate ourselves. We have had to constantly expand our product line to increase revenues. However, last year the legislature voted overwhelmingly to reject expanding our legalized gaming to casinos and slot machines at the race tracks. Without this expansion Lottery revenues will decrease over time, it is inevitable that that is going to happen.

In other words, there is no place to go without venturing into class III gaming, with the advent of either video poker or slot machines. Legalizing class III gaming would of course inevitably lead to casinos, either from outside sources or more likely from Indian gaming interests. But I believe
that the benefits to be gained from those casinos on a statewide level are questionable and somewhat illusory.

Would a Wampanoag casino in Fall River help the Wampanoags; yes it would. Would it help us in the state with our revenue problems; no I don't believe that it would. And our decision to reject that was based on statewide interests.

Studies indicate that casinos will take revenues away from the Lottery and by extension, from our cities and towns. That's because even though some studies indicate that we will recapture some money now being spent outside of the state by opening revenues within the state, most revenues will indeed come from Massachusetts.

Since our Lottery is by far the most successful in the nation, a disproportionate share of gaming dollars would shift from the Lottery to other venues. The state would receive a smaller share of those dollars from casinos, roughly 21 percent of the gross instead of 63 percent of Lottery revenues. Therefore, even if we were to redirect every dollar from casinos to local aid we would have to experience a 300 percent increase in spending or gambling just to remain in the same fiscal position.
Never mind the public policy over whether gambling is good social policy or whether it makes sense to encourage gambling by people that turn around and we subsidize through a variety of state programs. Just from the revenue figures, expansion into class III gaming probably means a loss of revenue to the Lottery.

To put it another way, if we don't continue to expand, we'll lose revenues, if we do continue to expand, we are probably going to lose revenues in the long run, for the Lottery.

We haven't discussed this as public policy in a very comprehensive way, it's left us pretty ill-prepared to handle this inevitability. That in and of itself is poor public policy. Driven by the inclination of public officials to increase budget line items while exhibiting a similar disinclination to discuss appropriate revenue sources, thus far lotteries have been easy money even if they are not easy public policy.

Can we regulate ourselves? Obviously, we should not have become dependent on lottery revenues to begin with. Since taking over as chair of this committee I have tried to address some of these issues, and I mentioned before the Lottery legislation that we
have before us. But our historical record is not good, we need to draw a box around our lottery, that was a phrase that was given to me by the attorney general in Oregon, Mr. Kulongoski who is now on the bench, he authored a report and I liked it so much I stole that phrase. Because I think that we do need to draw a box around it and we do need to reexamine what we want the lottery to do.

We need to include all of the stakeholders in this, both public officials, cities and towns, municipal officials, people who run the lottery in this discussion over our future. Revenues have been exceptional in Massachusetts over the past few years, we are projecting about an $800 million surplus this year and expectations are that over the next few years we will indeed see continued revenue growth.

So the time is very good right now, there is no time like the present for trying to deal with this issue. But as with everything else, the easy road of ignoring this problem is usually the path most chosen over the difficult trek of reexamining our priorities and establishing a more consistent funding mechanism for our cities and towns.
To ignore these warning signals now could be disastrous in the future as we react to a situation. I hope that we don't do that and that we can find a way out of this so we can continue to establish funds going back to cities and towns and yet somehow wean ourselves off of what is not a very dependable source of revenues.

Thank you very much and I look forward to your questions afterwards.

CHAIRPERSON JAMES: Thank you.