

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 425 (Delegates Bozman and Conway)
 Ways and Means

Video Lottery Terminals - New Racetrack at Pocomoke City

This bill authorizes up to 2,500 video lottery terminals (VLTs) at a track to be built at Pocomoke City provided specified conditions are met, provides for the distribution of VLT proceeds, creates the Education Trust Fund (ETF) and other special funds, and continues the current prohibition on additional forms of commercial gambling.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: General fund revenues decrease beginning in FY 2008 due to decreased lottery sales, totaling \$10 million annually. General fund expenditures decrease in FY 2008 and beyond due to the availability of revenues from the ETF. Special fund revenues and expenditures increase for lottery agency administrative expenses, local aid, purse dedication, bred funds, gambling addiction treatment expenditures, and education beginning in FY 2008, except lottery and State Police expenditures which begin in FY 2007. **Appendix 1** shows the revenues and expenditures by fund in greater detail.

(\$ in millions)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
GF Revenue	\$0	\$0	(\$10.0)	(\$10.0)	(\$10.0)
SF Revenue	0	0	76.2	137.2	140.1
GF Expenditure	.2	.1	(55.5)	(100.4)	(102.5)
SF Expenditure	0	4.5	76.2	137.2	140.1
Net Effect	(\$.2)	(\$4.6)	\$45.5	\$90.4	\$92.5

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Revenues for Worcester County and Pocomoke City would increase by approximately \$7.4 million in FY 2008, increasing to \$13.7 million at VLT full implementation in FY 2010. Local expenditures increase significantly for these local governments.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The major provisions of the bill are as follows:

Authorization of Pocomoke City VLT Facility

The bill authorizes a total of 2,500 VLTs at a racetrack to be constructed at Pocomoke City provided certain conditions are met. On or before September 1, 2005 the principal owner of Ocean Downs Raceway, the State, Worcester County, and Pocomoke City must enter into a legally-binding agreement in which: (1) the State directs Pocomoke City to sell or lease specified land south of Pocomoke City on U.S. Route 13 to the Ocean Downs Raceway; (2) Ocean Downs Raceway agrees to build a new standardbred race track with a minimum capital investment of \$10 million; and (3) Ocean Downs Raceway finances in full the infrastructure costs associated with the new race track as identified by the State, Worcester County, and Pocomoke City. These infrastructure costs must include construction and maintenance of access roads, parking facilities, and adequate public water and sewage for the new facility.

The bill provides that subject to the legal agreement, on or before September 1, 2007: (1) Pocomoke City sells or leases the specified land to Ocean Downs Raceway; (2) Ocean Downs Raceway files a bond for faithful performance of the requirements of the agreement and submits proof of this bond to the State; and (3) the principal owner of Ocean Downs Raceway begins operating a completed racetrack facility at the specified location and ceases to operate the Ocean Downs Raceway currently operating in Berlin.

If these conditions are met, the State will issue a VLT license to the newly constructed racetrack in Pocomoke City that requires a minimum of 40 and maximum of 100 live racing days at the track annually. The Pocomoke track may be authorized to conduct specified betting including simulcasting.

Distribution of Video Lottery Terminals Proceeds

The Comptroller is required to distribute the proceeds of VLT operations, which must be transferred electronically on a daily basis to the State Lottery Fund.

From the gross proceeds of VLTs, after pay out to players, proceeds are distributed as follows:

- 4% to the State Lottery Agency for administrative costs;
- 6% to the Purse Dedication Account (PDA) to enhance horse racing purses and to provide funds for the horse breeding industry;
- 3% each in grants to Worcester County and Pocumoke City;
- 39% to VLT operation licensee; and
- 45% to the ETF established under the bill.

Lottery Commission Authority and Duties

The bill reiterates the current prohibition on additional forms of gambling, other than those currently authorized under State law (lottery, horse racing, and charitable gambling). The State Lottery Commission will provide regulation and oversight of the VLT program. VLTs will be owned or leased by the State Lottery Commission and under the control of the commission at all times. One member of the State Racing Commission will serve as a liaison to the lottery commission.

The commission has authority to issue subpoenas and conduct investigations and hearings and require a bond for faithful performance of the requirements of the bill. Commission employees must be present at VLT facilities during all hours of VLT operation for the purpose of certifying revenue from VLTs and receiving complaints from the public.

VLT Licenses

Licenses must be obtained by the VLT operator, VLT manufacturers, and VLT employees. All applicants for VLT-related licenses are subject to an application process that involves a State and national criminal history records check. All applicants for VLT-related licenses must establish their qualifications including financial stability and background of the applicant and all individuals and business entities associated with the applicant, integrity of financial backers and investors, good character and honesty, and sufficient business ability and experience.

VLT operation and manufacturer license applicants must provide additional information that includes the financial structure of the entity and names, personal history, and criminal history of all officers, partners, and principal employees; the names of all holding companies, subsidiaries, or other business entities of the applicant; and the names of all persons who own or control the business entity as well as a description of all bonus and profit-sharing agreements.

The term of a VLT operation license is 15 years. At the end of the 15-year term, the licensee may reapply for a license renewal of 10 years, with the fee to be determined by

future statute. The bill provides that a VLT-related license is a revocable privilege and that it is the intent of the bill to prohibit the creation of a property right in a license granted under the bill.

A VLT license issued under the bill may not be transferred, sold, or pledged as collateral. A licensee may not sell or transfer more than 5% of the legal or beneficial ownership in the license without the approval of the commission.

A VLT licensee must meet the State's minority business participation requirements for facility construction and procurement; and meet Worcester County's minority business participation requirements, to the extent practicable, if they are higher than the State's. The VLT licensee is required to give preference to hiring individuals who live within 30 miles of the facility and must provide health insurance to its employees.

The VLT licensee is required to commence operations by September 1, 2007. The State Lottery Commission can extend this deadline by up to one year.

Other Regulation of Video Lottery Operations and Consumer Protections

The bill prohibits a VLT operation licensee from offering food (except finger food and the like) and beverages, including alcoholic beverages, for free or for a price that is lower than the prices in Worcester County.

The commission must adopt regulations to reduce or mitigate the effects of problem gambling, including provisions that provide for mandatory exclusion of career offenders from VLT facilities; procedures that permit self-exclusion from VLT facilities for individuals with gambling problems; limits on the dollar amount that VLT machines will accept; payouts of winnings above a certain amount by check; limits on the number, location, and maximum withdrawal amounts for ATMs; conspicuous disclosures related to VLT payouts and odds; limitation and prohibition on the use of negotiable instruments by consumers; and consumers being given a record of spending levels to the extent that marketing measures that track customer spending are used.

Purse Dedication Account

The bill creates a PDA to which 6% of gross proceeds from the new track will be distributed. Funds from the account are to be distributed as follows: 89% to standardbred purses and 11% to the Standardbred Race Fund.

Education Trust Fund

The bill creates an ETF as a special, nonlapsing fund that will receive 45% of gross VLT revenues from the Pocomoke City track facility to fund the Bridge to Excellence in Public Schools Act of 2002 (Chapter 288 of 2002).

Grants to Local Governments

The bill provides that 3% of VLT proceeds are distributed to Worcester County and 3% to Pocomoke City. The bill also provides that the State may pay for the reasonable transportation costs necessary to mitigate the impact on the communities in immediate proximity to the VLT facilities and to make VLT facilities accessible to the public to the extent that these transportation costs are not covered by the legal agreement reached on September 1, 2005.

Compulsive Gambling Fund

The bill assesses a \$390 fee per VLT terminal to be paid by VLT operation licensees that will be placed into a Compulsive Gambling Fund administered by the Department of Health and Mental Hygiene (DHMH). The fund must be used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs.

Other Provisions

The Governor's Office of Minority Affairs must monitor compliance with applicable minority participation requirements in equity sales and facility construction. The State Lottery Commission must submit to the Governor and the General Assembly a report that contains information on the operation and finances of the Pocomoke City facility and, with the assistance of the Worcester County Sheriff and State Police, information on crimes that occur at and around the Pocomoke City facility.

Beginning in September 2010, every five years the Board of Public Works, in conjunction with the State Lottery Commission and State Racing Commission, must review all contracts and leases between the Pocomoke City Racetrack owner and the State, Worcester County, or Pocomoke City.

Current Law: Specified types of gambling are allowed in Maryland. This includes the State lottery and wagering on horse racing. Bingo, bazaars, and gaming nights are allowed for some nonprofit organizations on a county-by-county basis. Several counties permit for-profit bingo. In addition, some nonprofit organizations in Eastern Shore counties are allowed to operate up to five slot machines, provided that at least 50% of the

proceeds go to charity. VLTs are not authorized for operation in the State. For more information on gambling and horse racing in Maryland, consult the *Legislators' Guide to Video Lottery Terminal Gambling*.

Background: Over the past several legislative sessions, various proposals have been introduced to authorize VLTs at the State's horse racing tracks or other tourist destinations in the State. Numerous states have authorized VLT gambling. For more information on prior year introductions and other state VLT regimes, consult the *Legislators' Guide to Video Lottery Terminal Gaming*.

State Revenues:

VLT Revenues

The racetrack at Pocomoke City may be licensed to operate a total of 2,500 VLTs. Assuming all parties agree to and execute the legal agreements specified by the bill, VLT revenues could be generated beginning in fiscal 2008. **Exhibit 1** details the revenue distribution resulting from VLTs for fiscal 2008 through 2010.

Exhibit 1
Distribution of VLT Revenues
(\$ in Millions)

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Total Annual Gross	\$123.6	\$223.4	\$228.1
ETF	55.6	100.5	102.7
Licensee	48.2	87.1	89.0
PDA	7.4	13.4	13.7
Local	7.4	13.4	13.7
Lottery Operations	4.9	8.9	9.1

It is assumed that the facility begins operating on September 1, 2007 as specified by the bill, begins operating at 50% of capacity, and will reach full capacity one year later. Further, it is assumed that the facility, as the only authorized VLT facility in the State, has a win-per-day of \$250.

Effect on Lottery Sales

The Department of Legislative Services (DLS) estimates that the authorization of 2,500 VLTs, when fully implemented, will cause a permanent reduction in lottery revenues of \$10 million annually versus what is currently forecasted.

Compulsive Gambling Fund

Approximately \$1.0 million annually, based on \$390 per VLT at full implementation, will be credited to the Compulsive Gambling Fund administered by DHMH. The fund must be used to establish a 24-hour hotline, provide counseling and other support services for compulsive gamblers, and establish problem gambling prevention programs.

DHMH advises that when the facility is at full capacity in fiscal 2008 and beyond, the money credited to the Compulsive Gambling Fund will be distributed as follows:

Statewide hotlines	\$200,000
Gambling prevention effort	300,000
Outpatient treatment services	332,500
Residential treatment services	<u>142,500</u>
Total	\$975,000

State Expenditures:

Administrative Expenditures

Lottery Agency

The Lottery Agency states that it will need 14 additional employees. The agency estimates a budget request of approximately \$4.5 million will be needed for fiscal 2007 to pay for start-up costs associated with VLT operations. Administrative costs for the State Lottery to operate video terminals would be approximately \$4.9 million in fiscal 2008. This estimate assumes that the cost of leasing and maintaining VLT terminals and central computer system as well as providing for additional staff will be equal to approximately 4% of gross revenues. Lottery Agency administration expenses are assumed to be consistent with the percent of gross proceeds allocated to it, so no net effect is assumed. To the extent that expenses are higher or lower than estimated, the net effect could change accordingly.

Department of State Police

The Department of State Police would incur increased general fund expenditures of approximately \$164,100 in fiscal 2006 as a result of equipment costs and hiring one full-time trooper and one office secretary to handle the anticipated volume of background checks.

Education Expenditures

As shown in **Appendix 1**, State VLT revenues after operating costs are dedicated to the ETF to be used for public education programs associated with the Bridge to Excellence in Public Schools Act of 2002 (Chapter 288). Under Chapter 288 there are significant increases in education aid beginning with fiscal 2005. It is assumed that the availability of the ETF revenues to fund the increase in education mandated by Chapter 288 will result in an equivalent decrease in general fund expenditures beginning in fiscal 2008.

Purse Dedication Account

Exhibit 2 details the distribution from the PDA, for fiscal 2008 through 2010, assuming that the account is fully funded in each of those years.

Exhibit 2
Purse Dedication Account

<u>Purse Dedication Account</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
Standardbred Purses	\$6,598,515	\$11,928,086	\$12,181,875
Standardbred Fund	<u>815,547</u>	<u>1,474,258</u>	<u>1,505,652</u>
Total Expenditures	\$7,414,062	\$13,402,344	\$13,687,500

Indirect State Expenditures

In addition to the positive indirect effects to the economy, negative impacts could be expected as well. These effects could include increased levels of crime, unemployment, and personal bankruptcies which could result in a need to significantly increase the State and local spending directed toward these effects. Although these costs cannot be reliably estimated, DLS estimates that these costs are likely to be greater than the funds dedicated to the Compulsive Gambling Fund under this bill. For a more in-depth discussion about the possible social costs as a result of authorizing VLTs, consult the *Legislator's Guide to Video Lottery Terminal Gambling*.

Local Revenues: The bill provides local impact aid for Worcester County and Pocomoke City. Worcester County and Pocomoke City aid would receive equal shares of the total local aid shown in Exhibit 1.

Local Expenditures: VLT facilities will have a substantial impact on the local areas in which they are located and will necessitate additional local expenditures. Worcester County advises that it would undertake a transportation study at of a cost of \$25,000 as a result of the bill and hire one additional police officer at a cost of approximately \$45,700 annually. Additional expenditures at Pocomoke City can be expected.

Small Business Impact: As a result of the bill, the existing racetrack at Ocean Downs could be closed and a new racetrack with VLTs could be opened near Pocomoke City. Small businesses would be impacted by this shift in economic activity as well as the increased economic activity generated by VLT gambling at the proposed track.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Worcester County, State Lottery Agency, Department of State Police, Department of Health and Mental Hygiene, Maryland Department of Transportation, Department of Legislative Services

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mp/rhh

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Appendix 1

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Gross VLT Revenues	\$0	\$0	\$123,567,700	\$223,372,400	\$228,125,000
Licensee	\$0	\$0	\$48,191,400	\$87,115,230	\$88,968,750
Special Fund Revenues					
Education Trust Fund	\$0	\$0	\$55,605,465	\$100,517,580	\$102,656,250
Purse Dedication Account	0	0	7,414,062	13,402,344	13,687,500
Compulsive Gambling	0	0	853,320	975,000	975,000
Local Distributions	0	0	7,414,062	13,402,344	13,687,500
Lottery VLT Administrative	0	0	4,942,708	8,934,896	9,125,000
Total SF Revenues	\$0	\$0	\$76,229,617	\$137,232,164	\$140,131,250
GF Revenues					
Lost Lottery Revenue	0	0	(10,000,000)	(10,000,000)	(10,000,000)
Total GF Revenues	\$0	\$0	(\$10,000,000)	(\$10,000,000)	(\$10,000,000)
Special Fund Expenditures					
Education Trust Fund	\$0	\$0	\$55,605,465	\$100,517,580	\$102,656,250
Purse Dedication Account	0	\$0	\$7,414,062	\$13,402,344	\$13,687,500
Compulsive Gambling	0	\$0	\$853,320	\$975,000	\$975,000
Local Distributions	0	\$0	\$7,414,062	\$13,402,344	\$13,687,500
Lottery VLT Administrative	-	\$4,500,000	\$4,942,708	\$8,934,896	\$9,125,000
Total SF Expenditure	-	4,500,000	76,229,617	137,232,164	140,131,250
GF Expenditures					
State Police	164,070	129,333	132,074	158,268	137,650
Education - from ETF	\$0	\$0	(\$55,605,465)	(\$100,517,580)	(\$102,656,250)
Total GF Expenditures	\$164,070	\$129,333	(\$55,473,391)	(\$100,359,312)	(\$102,518,600)
Net Effect	(\$164,070)	(\$4,629,333)	\$45,473,391	\$90,359,312	\$92,518,600