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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3399

March 4, 2010

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The bill was read for the first time and referred to the Committee on Commerce and Labor

A bill for an act

1.1 relating to economic development; creating the jobs, family, and economic
1.2 development fund; providing a funding mechanism for agricultural, rural,
1.3 early childhood, bioscience, medical technology, and economic development;
1.4 providing a funding mechanism for athletic, recreational, and extracurricular
1.5 activities and capital improvements; providing for and regulating gaming
1.6 activities at racetracks and increasing purses; amending Minnesota Statutes 2008,
1.7 sections 240.07, subdivision 3; 240.35, subdivision 1; 299L.07, subdivisions 2,
1.8 2a; 340A.410, subdivision 5; 541.20; 541.21; proposing coding for new law in
1.9 Minnesota Statutes, chapters 3; 240.
1.10

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. **[3.886] JOBS, FAMILY, AND ECONOMIC DEVELOPMENT FUND.**

1.13 The jobs, family, and economic development fund is created as a separate fund in
1.14 the state treasury. The fund consists of money deposited in the fund pursuant to section
1.15 240.31, subdivision 5. Appropriations from the fund may be on an annual or biennial basis
1.16 and are dedicated for the following purposes.

1.17 (1) Twenty percent of the fund is dedicated and may be appropriated for agricultural
1.18 and rural development, including livestock and biofuel development grants and
1.19 investments to stimulate other businesses and employment opportunities.

1.20 (2) Twenty percent of the fund is dedicated and may be appropriated for early
1.21 childhood development and family education.

1.22 (3) Twenty percent of the fund is dedicated and may be appropriated for research
1.23 and development of bioscience and medical technology businesses and employment
1.24 opportunities. During the first two years, 50 percent of the grants authorized by this
1.25 paragraph shall be for attracting bioscience and high-technology jobs to the Elk Run Park
1.26 and the University of Minnesota Research Parks.

2.1 (4) Twenty percent of the fund is dedicated and may be appropriated for athletic,
2.2 recreational, and extracurricular facilities and programs and to stimulate capital
2.3 improvements and employment.

2.4 (5) Twenty percent of the fund is dedicated and may be appropriated for general
2.5 fund expenditures.

2.6 Sec. 2. Minnesota Statutes 2008, section 240.07, subdivision 3, is amended to read:

2.7 Subd. 3. **License issuance.** (a) If after considering the information received from
2.8 the hearing and investigations, the commission determines that the applicant will conduct
2.9 horse racing in accordance with all applicable laws and rules, will not adversely affect the
2.10 public health, welfare, and safety, that the license will not create a competitive situation
2.11 that will adversely affect racing and the public interest and that the applicant is fit to
2.12 sponsor and manage racing, the commission may issue a class B license.

2.13 (b) If the commission determines that the licensee will operate a card club in
2.14 accordance with all applicable law and rules and the applicant's approved plan of operation
2.15 under section 240.30, subdivision 6, that the operation of a card club by the licensee will
2.16 not adversely affect the public health, welfare, and safety, and that the licensee is fit to
2.17 operate a card club, the commission may include with the class B license an authorization
2.18 to conduct a card club at the licensee's class A racetrack as provided in section 240.30.
2.19 The commission may give an interim authorization for the operation of a card club that
2.20 is effective until the expiration of the licensee's class B license and may charge for the
2.21 interim authorization a proportionate amount of the additional class B license fee under
2.22 section 240.10.

2.23 (c) If the commission determines that the licensee will operate additional gambling
2.24 activities under section 240.31 in accordance with applicable laws and rules and the
2.25 applicant's approved plan of operation, and that the operation of the activity will not
2.26 adversely affect the public health, welfare, and safety, and that the licensee is fit to conduct
2.27 the activity, the commission may include with the class B license an authorization to
2.28 conduct additional gambling activities at the licensee's class A racetrack as provided in
2.29 section 240.31. The commission may give an interim authorization for the operation of
2.30 the activity that is effective until the expiration of the licensee's class B license and may
2.31 charge a proportionate amount of the additional class B license fee under section 240.10
2.32 for the interim authorization. The commission shall not authorize a class B licensee to
2.33 conduct gambling activities, pursuant to section 240.31, unless the licensee has, within the
2.34 preceding 12 months, conducted 75 days of live racing, consisting of not less than eight
2.35 live races on each racing day, at the class A facility where the licensee conducts racing.

3.1 For licensees seeking approval for the first time, the 75-day racing requirement shall be
3.2 deemed to have been met if the licensee has applied for and been granted at least 75
3.3 days of live racing to be conducted in the next race meet. The live racing requirement
3.4 established by this paragraph may be adjusted by written agreement between a class B
3.5 licensee and the horsepersons' organization representing the majority of all owners and
3.6 trainers licensed by the commission. Any agreement entered into under this paragraph
3.7 must be filed with the commission.

3.8 ~~(e)~~ (d) The license is for a period of one year.

3.9 **Sec. 3. [240.31] OTHER GAMES.**

3.10 Subdivision 1. **Authorization.** The commission may authorize a class B operator
3.11 of a class A racetrack, which is specifically authorized to conduct gambling activities in
3.12 addition to pari-mutuel horse race wagering, to operate gaming machines and to conduct
3.13 banked card games. For the purposes of this subdivision, a "gaming machine" means any
3.14 device that may provide something of value to a person operating the device, the award of
3.15 which is based, in whole or in part, upon chance.

3.16 Subd. 2. **Installation and operation permitted.** A class B licensee authorized by
3.17 this section may own or lease, install, maintain, and operate gaming machines within
3.18 the licensed premises of the licensee's class A racetrack, as defined in the approved
3.19 class A license, if the commission has authorized the operation as provided in section
3.20 240.07, subdivision 3, paragraph (c). The commission may withdraw its authorization
3.21 for operation of gaming machines at any time for a violation of a law or rule governing
3.22 gaming machine operation.

3.23 Subd. 3. **Supervision.** (a) A class B licensee who operates gaming machines at
3.24 the licensee's class A racetrack is responsible for conducting and supervising gaming
3.25 machine play and operation, providing all necessary equipment, services, and personnel,
3.26 and reimbursing the commission for costs related to gaming machine regulation and
3.27 enforcement.

3.28 (b) The commission and its representatives, and the director of the division of
3.29 alcohol and gambling enforcement and the division's representatives, have the right, at any
3.30 time without prior notice and without a search warrant, to (1) inspect the licensee's books,
3.31 records, and other indicators of total plays on and gross receipts from gaming machines on
3.32 the licensed premises, (2) inspect any computer hardware or software that relate to the
3.33 operation of gaming machines on the licensed premises, and (3) have unrestricted access
3.34 to any part of any gaming machine on the licensed premises.

4.1 Subd. 4. **Plan of operation.** (a) The commission shall not authorize a class
4.2 B licensee to operate gaming machines unless the licensee has submitted, and the
4.3 commission has approved, a plan of operation for gaming machine operation. The plan
4.4 must set forth all necessary details for the operation of gaming machines, including but
4.5 not limited to:

4.6 (1) types of games to be offered;

4.7 (2) designation of the licensee's employees who will have access to the interior
4.8 and exterior of gaming machines;

4.9 (3) designation of the licensee's employees who will have access to cash inserted
4.10 and removed from gaming machines;

4.11 (4) security measures and internal control systems to be adopted and implemented
4.12 by the licensee to insure integrity of gaming machine play and security of all money
4.13 removed from gaming machines;

4.14 (5) measures to be adopted and implemented by the licensee to insure the security
4.15 and safety of patrons of that portion of the licensed premises where gaming machines
4.16 are operated;

4.17 (6) a description of the design, manufacture, and operation of gaming machines the
4.18 licensee will own or lease and operate; and

4.19 (7) a plan for the training of all personnel who work in that portion of the licensed
4.20 premises where gaming machines are operated in the identification of problem gamblers
4.21 and appropriate action to prevent or control problem gambling.

4.22 (b) Deviation from the standards in paragraph (a) requires prior approval of the
4.23 commission in the same manner as amendments to the plan of operation under this
4.24 subdivision.

4.25 Subd. 5. **Amendments to plan.** The licensee may amend the plan of operation and
4.26 implement those amendments only with the commission's prior approval.

4.27 Subd. 6. **Violations of plan.** (a) A violation of an approved plan of operation,
4.28 or implementation of an amendment to an approved plan of operation without the
4.29 commission's prior approval, is deemed to be a violation of a rule of the commission.

4.30 (b) Gaming machine play and operation are deemed to be relevant to the integrity of
4.31 horse racing activities in Minnesota for purposes of sections 240.03; 240.06, subdivision
4.32 7; 240.08; and 240.27, subdivision 1.

4.33 Subd. 7. **Removal of nonconforming machines.** The commission or its authorized
4.34 representatives, and the director of Alcohol and Gambling Enforcement and its authorized
4.35 representatives, may order a class B licensee to remove from use any gaming machine

5.1 that the commission or director determines to be out of compliance with the approved
5.2 plan of operation.

5.3 Subd. 8. **Minimum age for play.** A licensee may not permit a person under the age
5.4 of 18 to play a game on or win a prize from a gaming machine that the licensee operates.
5.5 Violation of this subdivision is a gross misdemeanor.

5.6 Subd. 9. **Posting of notice.** A class B licensee who has been authorized to
5.7 operate gaming machines must prominently post, in the portion of the licensed premises
5.8 where gaming machines are operated, the toll-free telephone number established by the
5.9 commissioner of human services in connection with the compulsive gambling program
5.10 established under section 245.98.

5.11 Subd. 10. **Local regulation prohibited.** Except as provided in section 240.17,
5.12 subdivision 4, a political subdivision may not prohibit or regulate gaming machines
5.13 authorized under this section, or impose a tax on the proceeds of gaming machines
5.14 authorized under this section.

5.15 Subd. 11. **Purses.** From the sum of all money received by the licensee from
5.16 gambling activities authorized under subdivision 1, less the amount paid out in prizes and
5.17 winnings and fees required, pursuant to subdivision 14, the licensee must set aside a
5.18 minimum of ten percent for purses for live horse races conducted at class A facilities in the
5.19 state. The minimum amount of purse set-aside is increased to 14 percent for any activities
5.20 conducted five years or more after the enactment of this section. Set-asides required by
5.21 this paragraph shall be transmitted to the commission which shall establish an account for
5.22 each breed racing in the state. The commission shall allocate these funds based on the
5.23 percentage of wagering handled on each breed for races conducted at a class A facility
5.24 during the previous calendar year. The commission shall transfer 15 percent of the amount
5.25 allocated to each breed to its breeder's fund. The commission shall routinely transfer the
5.26 remaining money in the accounts to the licensees conducting racing for each breed and
5.27 direct the licensee to augment the purses for that breed with the funds received from the
5.28 commission. Purse augmentations required pursuant to this subdivision are in addition to
5.29 purse payments otherwise established by law or contract.

5.30 Subd. 12. **Reimbursement to commission.** The commission shall require that
5.31 the licensee reimburse it for the commission's actual costs of regulating any additional
5.32 gambling activities under this section. Amounts received under this subdivision must be
5.33 deposited as provided in section 240.155, subdivision 1.

5.34 Subd. 13. **Reporting.** The class B licensee shall report all income generated by the
5.35 additional gambling activities in an annual report to the Racing Commission. The report

6.1 shall also account for all costs of operation, taxes paid, purses paid, and amounts paid to
 6.2 the breeder's fund.

6.3 Subd. 14. **Fee.** The licensee must pay to the commission an annual gambling
 6.4 activities fee equal to 32 percent of all money received by the licensee from gambling
 6.5 activities authorized under this section, less the amount paid out in prizes and winnings.
 6.6 The fee established by this subdivision shall be 42 percent on amounts received by a
 6.7 licensee in excess of \$125,000,000 in a calendar year, less the amount paid out in prizes
 6.8 and winnings. The licensee must pay this fee on a quarterly basis. The commission shall
 6.9 distribute the fee revenue it collects, on a quarterly basis, as follows:

6.10 (1) one percent of the amount paid by each licensee to the city in which the licensee
 6.11 is conducting games authorized, pursuant to section 240.31, is located;

6.12 (2) one percent to the county in which the licensee is conducting games authorized,
 6.13 pursuant to section 240.31, is located; and

6.14 (3) the remainder to the commissioner of revenue for deposit in the jobs, family, and
 6.15 economic development fund established in section 3.886.

6.16 Sec. 4. Minnesota Statutes 2008, section 240.35, subdivision 1, is amended to read:

6.17 Subdivision 1. **Generally.** A licensee of the commission may detain a person if
 6.18 the licensee has probable cause to believe that the person detained has violated section
 6.19 609.76 while at a card club authorized by section 240.30, or participating in gambling
 6.20 activities authorized by section 240.31. For purposes of this section, "licensee" means the
 6.21 commission's director of racing security or a security officer licensed under Minnesota
 6.22 Rules, chapter 7878.

6.23 Sec. 5. Minnesota Statutes 2008, section 299L.07, subdivision 2, is amended to read:

6.24 Subd. 2. **Exclusions.** Notwithstanding subdivision 1, a gambling device:

6.25 (1) may be sold by a person who is not licensed under this section, if the person (i) is
 6.26 not engaged in the trade or business of selling gambling devices, and (ii) does not sell
 6.27 more than one gambling device in any calendar year;

6.28 (2) may be sold by the governing body of a federally recognized Indian tribe
 6.29 described in subdivision 2a, paragraph (b), clause (1), which is not licensed under this
 6.30 section, if (i) the gambling device was operated by the Indian tribe, (ii) the sale is to
 6.31 a distributor licensed under this section, and (iii) the licensed distributor notifies the
 6.32 commissioner of the purchase, in the same manner as is required when the licensed
 6.33 distributor ships a gambling device into Minnesota;

7.1 (3) may be possessed by a person not licensed under this section if the person holds
7.2 a permit issued under section 299L.08; ~~and~~

7.3 (4) may be possessed by a state agency, with the written authorization of the director,
7.4 for display or evaluation purposes only and not for the conduct of gambling; and

7.5 (5) may be possessed by a licensee authorized to conduct gambling activities
7.6 pursuant to section 240.31, subdivision 1.

7.7 Sec. 6. Minnesota Statutes 2008, section 299L.07, subdivision 2a, is amended to read:

7.8 Subd. 2a. **Restrictions.** (a) A manufacturer licensed under this section may sell,
7.9 offer to sell, lease, or rent, in whole or in part, a gambling device only to a distributor
7.10 licensed under this section or to a licensee authorized to conduct gambling activities
7.11 pursuant to section 240.31, subdivision 1.

7.12 (b) A distributor licensed under this section may sell, offer to sell, market, rent,
7.13 lease, or otherwise provide, in whole or in part, a gambling device only to:

7.14 (1) the governing body of a federally recognized Indian tribe that is authorized
7.15 to operate the gambling device under a tribal state compact under the Indian Gaming
7.16 Regulatory Act, Public Law 100-497, and future amendments to it;

7.17 (2) a person for use in the person's dwelling for display or amusement purposes in a
7.18 manner that does not afford players an opportunity to obtain anything of value;

7.19 (3) another distributor licensed under this section; ~~or~~

7.20 (4) a person in another state who is authorized under the laws of that state to possess
7.21 the gambling device; or

7.22 (5) to a licensee authorized to conduct gambling activities pursuant to section
7.23 240.31, subdivision 1.

7.24 Sec. 7. Minnesota Statutes 2008, section 340A.410, subdivision 5, is amended to read:

7.25 Subd. 5. **Gambling prohibited.** (a) Except as otherwise provided in this
7.26 subdivision, no retail establishment licensed to sell alcoholic beverages may keep, possess,
7.27 or operate, or permit the keeping, possession, or operation on the licensed premises of dice
7.28 or any gambling device as defined in section 349.30, or permit gambling therein.

7.29 (b) Gambling equipment may be kept or operated and raffles conducted on licensed
7.30 premises and adjoining rooms when the use of the gambling equipment is authorized by
7.31 (1) chapter 349, (2) a tribal ordinance in conformity with the Indian Gaming Regulatory
7.32 Act, Public Law 100-497, or (3) a tribal-state compact authorized under section 3.9221.

7.33 (c) Lottery tickets may be purchased and sold within the licensed premises as
7.34 authorized by the director of the lottery under chapter 349A.

8.1 (d) Dice may be kept and used on licensed premises and adjoining rooms as
8.2 authorized by section 609.761, subdivision 4.

8.3 (e) Gambling devices may be operated on the premises of a licensed racetrack as
8.4 authorized by section 240.31, subdivision 1.

8.5 Sec. 8. Minnesota Statutes 2008, section 541.20, is amended to read:

8.6 **541.20 RECOVERY OF MONEY LOST.**

8.7 Every person who, by playing at cards, dice, or other game, or by betting on the hands
8.8 or sides of such as are gambling, shall lose to any person so playing or betting any sum of
8.9 money or any goods, and pays or delivers the same, or any part thereof, to the winner,
8.10 may sue for and recover such money by a civil action, before any court of competent
8.11 jurisdiction. For purposes of this section, gambling shall not include pari-mutuel or other
8.12 wagering activity conducted under a license issued pursuant to chapter 240, purchase or
8.13 sale of tickets in the state lottery, or gambling authorized under chapters 349 and 349A.

8.14 Sec. 9. Minnesota Statutes 2008, section 541.21, is amended to read:

8.15 **541.21 COMMITMENTS FOR GAMBLING DEBT VOID.**

8.16 Every note, bill, bond, mortgage, or other security or conveyance in which the whole
8.17 or any part of the consideration shall be for any money or goods won by gambling or
8.18 playing at cards, dice, or any other game whatever, or by betting on the sides or hands
8.19 of any person gambling, or for reimbursing or repaying any money knowingly lent or
8.20 advanced at the time and place of such gambling or betting, or lent and advanced for any
8.21 gambling or betting to any persons so gambling or betting, shall be void and of no effect
8.22 as between the parties to the same, and as to all persons except such as hold or claim under
8.23 them in good faith, without notice of the illegality of the consideration of such contract or
8.24 conveyance. The provisions of this section shall not apply to: (1) pari-mutuel or other
8.25 wagering activity conducted under a license issued pursuant to chapter 240; (2) purchase
8.26 of tickets in the state lottery under chapter 349A; (3) gaming activities conducted pursuant
8.27 to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.; or (4) lawful gambling
8.28 activities permitted under chapter 349.