

# HOUSE BILL REPORT

## HB 1326

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**As Reported by House Committee On:**  
State Government & Tribal Affairs

**Title:** An act relating to prize-linked savings deposits.

**Brief Description:** Authorizing prize-linked savings deposits.

**Sponsors:** Representatives Appleton, Hope, Lias, Warnick, Miloscia, Goodman, Kagi, Darneille and Bailey.

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 2/3/11, 2/9/11 [DPS].

**Brief Summary of Substitute Bill**

- Allows a financial institution to conduct a drawing that includes only persons who deposited funds in a savings program.

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### HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hunt, Chair; Appleton, Vice Chair; Darneille, Dunshee, Hurst, McCoy and Miloscia.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander and Condotta.

**Staff:** Joan Elgee (786-7106).

**Background:**

To constitute "gambling" under the Gambling Act (Act), the elements of prize, chance, and consideration must be present. The Act specifically permits a business to conduct a promotional contest of chance as an advertising and promotional undertaking in which the element of consideration is not present. A promotional contest of chance may not require a

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person to pay any consideration to the contest promoter or purchase anything of value from the business. Visiting a location, completing a form or survey, obtaining a coupon by purchasing a newspaper, and other acts are defined not to be consideration. These contests are specifically stated not to be "gambling" under the Act.

Certain requirements relating to deceptive promotional advertising apply to promotions, such as sweepstakes and contests. The odds of being awarded a prize and other matters must be disclosed.

Some states, including Michigan, Rhode Island, and Maryland, allow financial institutions to offer prizes linked to savings accounts. In Michigan, for example, credit union members may open a year-long share certificate and earn one entry into a monthly prize drawing and one entry into an end of the year drawing for a grand prize.

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### **Summary of Substitute Bill:**

The Gambling Act is amended to allow a financial institution to conduct a particular type of promotional contest of chance. The permitted contest (contest) is a drawing for a prize in which only persons who deposited funds in a savings account, certificate of deposit, or any other savings program are eligible for prizes. No contest may be conducted, wholly or partially, by means of the Internet. A person may not be required to pay any consideration, other than the deposit of funds, or purchase anything of value from the financial institution. The contests authorized are not "gambling." A financial institution includes banks, trust companies, mutual savings banks, savings and loan associations, and credit unions.

The Director of the Department of Financial Institutions (Director) may prohibit a contest if it is: (1) likely to or does adversely affect the financial institution's safety and soundness; (2) administered in an unsafe and unsound or imprudent manner, or in a manner that is likely to or does result in actual or potential reputational harm to the financial institution; or (3) likely to or has misled the financial institution's members, depositors, or the general public. The Director may examine the conduct of a contest and exercise enforcement powers, and may issue a cease and desist order for a violation. Financial institutions must maintain records sufficient to facilitate an audit and must provide the records to the Director upon request.

Specific authority is given to credit unions, commercial banks, and mutual savings banks to conduct a contest.

The deceptive promotional advertising requirements do not apply to financial institution savings deposit promotions.

### **Substitute Bill Compared to Original Bill:**

The substitute bill adds provisions giving the Director regulatory authority over contests and grants specific authority to credit unions, commercial banks, and mutual savings banks to conduct a contest. The substitute bill provides that the authority for a commercial bank and a mutual savings bank to conduct a contest takes effect when the Director finds that a federal

regulatory agency has interpreted federal law to permit a commercial bank or a mutual bank to conduct a promotional contest.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except sections 7 and 8, relating to commercial banks and mutual banks, which take effect when the Director determines that a federal regulatory agency has interpreted federal law to permit these banks to conduct a promotional contest.

**Staff Summary of Public Testimony:**

(In support) This bill will encourage low-income people to save at no cost to the state. The prize can be the incentive to use main-stream financial institutions rather than check cashers and payday lenders. Savings, more than income, are a predictor of upward mobility. There are no losers with this program. The asset building coalitions support the bill. People may choose to save rather than participate in a contest with no return. When people re-establish themselves in the community, they get off of public assistance.

Consumers are offered a one-year certificate of deposit by depositing only \$25. For each additional \$25 that is deposited, the person is entered into a drawing and, after a year, they are entered into a drawing for a grand prize. The Michigan program has been effective in that it has reached the people it was supposed to reach. Fifty-five percent of participants reported they had not saved regularly prior to the program. The program will be paid for out of marketing budgets.

This bill clarifies that prize-linked savings are not gambling. Four states currently authorize prize-linked savings, and legislation is being considered in four other states.

(In support with amendments) The proposed substitute bill is supported. This bill will encourage low-income people to begin saving. Prize-linked savings were piloted in 2009 in Michigan, based on research conducted by the Harvard Business School.

(With concerns) The concerns are with the original draft. The recommendations of the Department of Financial Institutions are supported, as they would allow banks to participate. We should be cautious about specific requirements related to product offerings and be careful about adding administrative burdens to what is a community service, not a way to make money.

(Opposed) None.

**Persons Testifying:** (In support) Troy Stang, Northwest Credit Union Association; Rebeca Potasnik, Washington Asset Building Coalition; Lee Wojnar, O Bee Credit Union and Asset Building Coalition of Thurston County; and David Sieminski, Express Advantage.

(In support with amendments) Linda Jekel, Department of Financial Institutions.

(With concerns) Brad Tower, Community Bankers of Washington.

**Persons Signed In To Testify But Not Testifying:** None.