

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

LOTTERY TASK FORCE

Monday, January 6, 2003
Peace Garden Room, State Capitol
Bismarck, North Dakota

Representative William E. Kretschmar, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives William E. Kretschmar, Kim Koppelman, Andrew Maragos, Lonny Winrich; Senators Bill L. Bowman, Ray Holmberg, Aaron Krauter

Others present: See attached appendix

Representative Koppelman said the minutes of the December 2, 2002, task force meeting reflected that it was his opinion and the consensus of the task force at that meeting that Powerball is the game that is intended to be played in the state.

Representative Maragos said it is important that any legislation passed does not specify Powerball as the only game that may be played in the state. He said if the state is not accepted into the Powerball group, another game will need to be selected.

Senator Holmberg said the Multi-State Lottery Association (MUSL) offers more games than Powerball. However, he said, Powerball is the kind of game this state would be interested in joining.

It was moved by Senator Holmberg, seconded by Representative Maragos, and carried on a voice vote that the minutes of the December 2, 2002, meeting, as amended, and the minutes of the December 19, 2002, meeting be approved as distributed.

At the request of Chairman Kretschmar, committee counsel distributed a memorandum entitled *Timeline and Sequence of Events for Lottery Implementation*. She said the information was based on information received from MUSL and the South Dakota Lottery.

In response to a question from Senator Krauter, committee counsel said for the lottery legislation to take effect before August 1, 2003, an emergency clause will be necessary.

At the request of Chairman Kretschmar, committee counsel reviewed a bill draft [30219.0200] prepared for Representative Maragos regarding the establishment and operation of a lottery. She said Section 1 of the bill draft amends the criminal code provision that outlaws participation in a lottery and removes the restrictions on lottery advertising. She said the bill draft creates a division of the Attorney General's office to be known as the North Dakota Lottery. She said the bill draft provides that a director would be hired by the Attorney General to implement and operate the

lottery. She said a five-member lottery advisory commission would assist the Attorney General and the director in the operation of the lottery.

It was moved by Representative Koppelman, seconded by Senator Bowman, and failed on a roll call vote that the overstrike be removed over lines 18 and 19 on page 1 of the bill draft. Representative Koppelman and Senators Bowman and Holmberg voted "aye." Representatives Kretschmar, Maragos, and Winrich and Senator Krauter voted "nay."

In response to a question from Representative Koppelman, Representative Maragos said the number of retail sites in the state will depend on the contract with the vendor. He said a balance will be needed between making the lottery as profitable as possible and making the lottery terminals available to every person in the state who wants to play the lottery. He said the voters of the state have sent a clear message that they want to play the lottery in this state. He said each of the surrounding states uses a different vendor. He said the state may want to consider reducing its vendor costs by combining services with one of the surrounding states.

In response to a question from Senator Bowman, Representative Maragos said under the bill draft the director and the Attorney General would make the decisions as to which retailers are awarded lottery terminals.

In response to a question from Senator Krauter, Representative Maragos said he is comfortable with the lottery structure contained in the bill draft. He said because of the experience the Attorney General's office has in the regulation of charitable gaming, the office has the track record and expertise necessary to operate the lottery.

Senator Krauter said while combining certain aspects of the lottery with another state is an option to consider, it is important to consider whether the consolidation would take jobs out of the state.

In response to a question from Senator Krauter, Representative Maragos said it is his intent that only the computer systems be shared, not people and jobs.

Senator Holmberg said the new Section 53-12-09 in the bill draft should include geographic remoteness as a criteria for the selection of lottery sites.

In response to a question from Senator Bowman, Representative Maragos said any rules adopted to implement the lottery will be subject to the scrutiny of the Legislative Assembly. He said the entire lottery process will be subject to legislative oversight and is subject to change.

Senator Holmberg said the people of the state sent a clear message that they want a lottery in the state. He said the lottery measure won by a greater percentage of the vote than did any member of the Legislative Assembly.

Representative Koppelman said he is concerned about the pervasiveness of the lottery. He said the youth of the state should not be overwhelmed by lottery advertising.

In response to a question from Representative Koppelman, Representative Maragos said the state needs to start the lottery process and then evaluate the process to determine if there are any problems. He said the citizens of the state should be treated the same as citizens in the surrounding states.

Representative Kretschmar said the lottery operation must be squeaky clean. He said honesty, integrity, and fairness must prevail. He said because of the Attorney General's experience in conducting charitable gaming, he supports the Attorney General as the office to operate the lottery.

Representative Koppelman said he also has total confidence in the Attorney General and he believes the integrity of the lottery will be important.

Senator Bowman said with gaming comes responsibility. He said he would like to see a certain percentage of proceeds appropriated to gambling addiction treatment. He said those people who buy tickets should help pay for those who have gambling problems.

Representative Maragos said he agreed that a percentage of funds should be used for people with gambling problems. He said 1 percent or \$250,000 per biennium, whichever is less, should be designated for gambling addiction treatment.

Senator Krauter said the amount or percentage designated for treatment should be part of the lottery bill.

It was moved by Senator Krauter, seconded by Senator Bowman, and carried on a roll call vote that the bill draft include a provision that sets aside 1 percent or \$250,000 of net lottery proceeds per biennium, whichever is less, for gambling addiction programs. Representatives Kretschmar, Koppelman, Maragos, and Winrich and Senators Bowman, Holmberg, and Krauter voted "aye." No negative votes were cast.

Senator Holmberg said the South Dakota Lottery officials pointed out that people with gambling addictions nearly always have other addictions as well. He said it was noted that it is more effective to treat all addictions rather than just treat the gambling addiction.

Senator Bowman said adding this language to the bill draft would let people know there is a concern about gambling addiction issues. He said the money set aside under the bill draft should go to a pool of funds that is used to help people with addiction problems.

Senator Krauter said the amount set aside under the bill draft should be used for addiction counseling or addiction with an emphasis on gambling addiction.

Senator Holmberg said addiction is a term associated with instant gratification. He said people will not get that same feeling of instant gratification from an on-line lottery game.

Representative Kretschmar said the bill draft should also include a provision that provides for legislative oversight. He said the Legislative Council chairman should be given the authority to assign oversight duties to an interim committee.

Representative Maragos said the bill draft contains a provision that permits the Governor to negotiate with the tribes for the sale of lottery products on the reservations.

Mr. Keith Lauer, Gaming Division, Attorney General's office, said the tribes contract with an organization for conducting charitable gaming. He said the charitable games on the reservations operate under North Dakota gaming rules. He said the tribes license charitable organizations. He said charitable games are considered to be Class 2 games.

In response to a question from Senator Krauter, Mr. Lauer said an addendum could be added to the gaming compacts. He said the state does not collect any taxes from the charitable games conducted on the reservations.

Representative Maragos said the state may want to sell lottery tickets on the reservations to keep the lottery dollars in the state.

Senator Krauter said the task force and the Legislative Assembly may want to consider depositing the lottery net proceeds in the common schools trust fund rather than the general fund.

Senator Holmberg said the state should not rely on this source of money.

Representative Maragos said during the preelection debate on the lottery, people had different ideas on how the money should be spent. He said most of the money in the state is spent on either the elderly or on youth. He said the Legislative Assembly is very efficient and will not fund things that are unnecessary. He said the money should be spent where it is the most needed.

In response to a question from Senator Holmberg, Representative Maragos said the lottery will be self-funded. He said the lottery's first obligation will be to repay the startup costs.

Senator Bowman said the task force should concentrate on getting a basic lottery bill draft introduced. He said the other debating can be done in the standing committee hearings.

In response to a question from Representative Koppelman, Representative Maragos said MUSL has requirements that the lottery be properly promoted and marketed. He said the state can contract with the private sector for advertising and marketing; however, the promotion must adhere to MUSL guidelines and requirements.

Chairman Kretschmar called on Mr. Bruce Brooks, North Dakota Coalition on Gambling Problems, Minot, for comments concerning the implementation of the lottery. Mr. Brooks said he recommends the age limit for purchasing lottery tickets be set at 21 and that it be stringently enforced. He said the loss of sales tax revenue by home rule entities resulting from lottery ticket purchases should be remedied. He said with the exception of purchasing lottery tickets, members of the Legislative Assembly and their immediate families should be prohibited from participation in the guidance, management, operation, vending, or any other aspect of the lottery. He said lottery winnings of \$100 or more should be held until the state determines that the winner does not owe a debt to the state or is not in arrears in child or spousal support. Mr. Brooks submitted written testimony, a copy of which is on file in the Legislative Council office.

Chairman Kretschmar called on Ms. Lisa Vig, Lutheran Social Services, Fargo. Ms. Vig said she is an addiction counselor. She said Lutheran Social Services treated 150 individuals last year with gambling addictions. She said there are as many casino addicts as there are charitable gaming addicts. She said she appreciated the efforts of the task force to consider setting aside a portion of the proceeds for compulsive gambling treatment programs. Ms. Vig distributed information regarding compulsive gambling treatment, copies of which are on file in the Legislative Council office.

In response to a question from Senator Bowman, Ms. Vig said providing gambling addiction counseling costs about \$80 to \$90 per hour. She said the typical treatment program is about six hours per week for 16 weeks.

In response to a question from Representative Koppelman, Ms. Vig said although lotto games like Powerball are not as compulsive as instant winner games, the lotto games can be a gateway form of gambling.

In response to a question from Representative Kretschmar, Ms. Vig said she was aware of one individual whose addiction started with Powerball.

In response to a question from Representative Maragos, Ms. Vig said gambling addiction treatment in the state is funded by a variety of sources, including the client, the United Way, the state, and the Mental Health Association. She said the state funds \$62,500 per year for gambling addiction programs. She said the length of gambling addiction treatment is similar to the treatment for alcohol and drug addictions, but

more insurance reimbursement is available for drug and alcohol treatment.

In response to a question from Representative Kretschmar, Ms. Vig said Mr. Dick Ellefson, Bismarck, is a private provider who provides gambling addiction treatment. She said about 20 percent of compulsive gamblers have a current coaddiction and the other 80 percent of compulsive gamblers are recovering from another addiction.

Chairman Kretschmar called on Mr. Warren Dekrey, North Dakota Council on Gambling Problems, for comments regarding the bill draft. Mr. Dekrey said the minimum age for purchasing a lottery ticket in the state should be set at 21 years. He said if the legal age for purchasing a lottery ticket were set at the same minimum age as for charitable gaming, the sale of tickets would be easier to monitor and police. He said promoting and advertising the lottery to young people could cause problems. He said the lottery should not be promoted to youth.

In response to a question from Senator Krauter, Mr. Lauer said individuals must be 21 years of age to play the games at the Indian casinos in the state.

Chairman Kretschmar called on Mr. Pat Crotty, Bismarck, for comments regarding the bill draft. Mr. Crotty said the state would not be well served by setting an age restriction of 21 years on a citizen who wishes to buy a lottery ticket if all states that surround North Dakota have an age minimum of 18 years. He said he supports the concept of sharing administrative costs for the lottery with a state such as South Dakota. He said he would encourage the task force to maximize the ability of the state's citizens to participate in the full range of games offered. Mr. Crotty submitted written testimony, a copy of which is on file in the Legislative Council office.

In response to a question from Senator Bowman, Mr. Crotty said the lottery should not be marketed specifically to 18- to 20-year-olds, but the lottery should be made available to that age group. He said regardless of whether the person is 18 years old or 21 years old, they are adults and must be personally responsible. He said giving a person a freedom does not mean the person has the authority to act inappropriately.

Chairman Kretschmar called on Ms. Dawn Cronin, Lutheran Social Services, Fargo, for comments regarding the lottery and the bill draft. Ms. Cronin said there is evidence that the earlier in life a person starts gambling, the more likely it is the person will become a problem gambler.

In response to a question from Representative Maragos, Ms. Cronin said she is aware of about 20 individuals between 18 and 20 years of age in the Fargo area who have been treated for problem gambling in the past six months. She said there is very little problem gambling prevention and gambling education being done in the schools in the state. She

said Minnesota does an excellent job in the area of education and prevention.

In response to a question from Representative Koppelman, Mr. Lauer said under the bill draft it is the responsibility of the individual selling the lottery ticket to make sure the buyer is of legal age. He said the bill draft provides penalties for selling lottery tickets to minors.

At the request of Chairman Kretschmar, Mr. Lauer distributed information regarding the annual sales of five Minnesota lottery retailers in East Grand Forks and Moorhead, Minnesota.

Chairman Kretschmar called on Dr. Marlin Johnson, Bismarck, for comments regarding the lottery and the bill draft. Dr. Johnson said he is a retired medical doctor. He said he has served on the Lutheran Social Services board. He said in his 50 years of practice he saw many patients with addictions. He said he was glad to hear that the task force was considering the addiction aspect of the lottery and he would encourage continued discussion on the topic.

Chairman Kretschmar called on Mr. Warren Wenzel, Pastor, United Methodist Church, Linton, for comments on the lottery and the bill draft. Mr. Wenzel said the age for buying a lottery ticket should be set at 21 years of age. He said 21 is the minimum age

recommended by national studies. He said he has witnessed individuals under age 18 buying pull tabs. He said lottery tickets should not be sold in convenience stores. He said certain areas and businesses should be gambling-free areas. He said advertising for the lottery should be severely restricted. He said the press tends to glamorize the lottery. He said putting the responsibility for the regulation, operation, and enforcement of the lottery in the Attorney General's office is like having the "fox watching the hen house."

Senator Bowman said the minimum age for buying a lottery ticket will be an issue that will be discussed in the standing committees during the legislative session.

Chairman Kretschmar said this is the final meeting of the task force. Chairman Kretschmar adjourned the meeting at 11:45 a.m.

Vonette J. Richter
Counsel

ATTACH:1