

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

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10/2/03  
Date

2003 HOUSE JUDICIARY

HB 1243

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10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-29-03

Tape Number	Side A	Side B	Meter #
1	xx		0-end
1		xx	0-end
2	xx		0-middle
Committee Clerk Signature <i>J Penrose</i>			

**Minutes:** 12 members present, 1 member absent (Rep. Onstad) (Tape 1, Side A)

**Chairman DeKrey:** We will open the hearing on HB 1243.

**Rep. Maragos:** Introduced the bill. Read through the different sections of the bill.

**Chairman DeKrey:** Regarding the confidentiality of lottery records, what exactly is not going to be confidential. I understand that applications for security checks, but audit work papers, worksheets, and auditing procedures, what are you getting at there? I assume the state auditor is going to be auditing the lottery, would the records be public after his audit is complete?

**Rep. Maragos:** Yes, ND has open records law. There are some requirements for joining the multi-state lottery that have to be covered, and as long as it doesn't come into conflict with this problem, the records would be open.

**Rep. Klemin:** On pg. 11, line 31, pg 12 - ticket gifted to minor, and paid to parents, why not to minors. Why can't the minor keep the proceeds of the prize, if it is won by that ticket.

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**Rep. Maragos:** This is modeled on legislation from other states covering this. We attempted to be uniform with states around us, so that there wouldn't be an excuse for people not to do their business with regards to the lottery in the state of ND. It was the policy decision that the parent or guardian was in the best position to know what to do with those proceeds from a gift.

**Rep. Klemin:** The parent or guardian would be responsible for the taxes?

**Rep. Maragos:** I would assume that they would be paid out of the proceeds.

**Rep. Klemin:** What if the prize taken is over time, what happens when that minor becomes an adult, will it continue to be paid to the parent or guardian, regardless of whether that minor becomes 18. That may be an area we need to take a look at.

**Rep. Maragos:** Your point is well taken, and if you think we need an amendment, I'd be open to that.

**Rep. Klemin:** Going on to page 12, line 23 and 24, the right of a person to a prize drawing or award is not assignable. What if the person takes the payments in installments, and the person changes his mind, and now would like to have the lump sum for some reason. If this was like any other kind of payment, you could assign that. Why can't we do that with the lottery prize.

**Rep. Maragos:** I don't have an answer, we crafted this legislation based on other states' legislation.

**Rep. Klemin:** The Uniform Commercial Code is adopted in all 50 states, that has a provision that allows a person to grant someone else a security interest in the right to proceeds. I wonder if you could grant a security interest. That seems to be inconsistent with the other states.

*Dorena Ballarín*  
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**Rep. Maragos:** This may be, for reasons that the multi-state lottery, believe it is in their best interest to maintain this, and it could be a condition of application; but if not, I agree that we should amend it to reflect what the UCC says to do with that money.

**Rep. Klemin:** We would have to have an answer to that question before we proceed.

**Rep. Maragos:** I can certainly find out.

**Chairman DeKrey:** On top of pg 11, "as nearly as practical", what does that mean?

**Rep. Maragos:** I don't know - used legislation from a model.

**Rep. Grande:** On pg 4, we are talking about the appointment with employment, who would have to upfront the costs for the employees on this.

**Rep. Maragos:** I would envision that all of the upfront costs will be borrowed by the Bank of ND, to implement the lottery and then out of the initial revenues, all of that money would be paid back to the Bank of ND.

**Rep. Grande:** Then on the next section, section 4 with the annuity, doesn't the Powerball itself handle the payout, or is ND going to be responsible for all tickets sold in ND, pg. 4, line 17, need to set up an annuity, is ND held in the facility of the payout, or does Powerball itself, hold the winnings, is the state going to be holding the winning dollars, or does Powerball hold the winning dollars and payout.

**Rep. Maragos:** I don't have that answer.

**Rep. Grande:** On pg. 10, would the rules being written come from the Administrative Rules Committee process.

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**Rep. Maragos:** I would expect that that would be the case, if it is the law in ND. We have to set a mechanism in place for accomplishing what the voters told us we had to accomplish. This is an incremental, by stage process.

**Rep. Grande:** What is the process going to be.

**Rep. Maragos:** Rules will be developed to accomplish this. I don't know what rules we would do differently for one simple act, to provide the service of a multi-state lottery. I am sure that the AG understands what the people want, and will craft a proper rules in order to accomplish their directive.

**Chairman DeKrey:** Thank you. I will call on the Attorney General.

**Wayne Stenehjem, AG:** I was not necessarily here in support or opposition, but simply to recognize that I know that it is your duty to enact a ND lottery. (see attached amendments) If you are interested in getting the lottery up and running as soon as possible, then one of the amendments we are proposing to permit my office to use that expedited rule process, so that we can things up and running. That is why I have asked that this bill include a Lottery Advisory Commission to be made up of members, a majority appointed by the legislature.

**Rep. Eckre:** On pg 6, line 30-31, any person lawfully engaged in non-governmental business on state property, so the cafeteria here can sell.

**Mr. Stenehjem:** I think the bill is written right, governmental agencies cannot.

**Rep. Bernstein:** Getting back to section 53-12-27 about selling lottery products on the Indian reservations, is it my understanding that if ND enters the Powerball, they can set up a venue in Montana or Minnesota to sell tickets, since the Indian reservations have always been looked at as

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a separate government entity and yes they are part of ND for some things and not part of ND for other things.

**Mr. Stenejem:** I think the reservation should have the same opportunity as anybody else to enter into retail sale of tickets.

**Rep. Kingsbury:** As far as retailers, would charitable gaming be able to sell tickets.

**Mr. Stenejem:** I think you need to address that as a policy decision as well. I don't think there is anything wrong with it, but you need to decide if that is something you want to have.

**Rep. Klemin:** The initiated measure that we had, it said the legislature shall implement a lottery. We do have to come up with a lottery bill.

**Mr. Stenejem:** That is my understanding.

**Chairman DeKrey:** Thank you.

**Chuck Keller, Chief Auditor of Gaming, AG:** (explained the amendments and fiscal note)

**Rep. Klemin:** In your amendment, regarding putting unclaimed prize money into the general fund, that sound like a policy amendment, rather than a technical amendment.

**Mr. Keller:** It's really both.

**Rep. Klemin:** Since this comes up in all these other states with mutli-state lotteries, how do they do it.

**Mr. Keller:** I'm not sure.

**Rep. Maragos:** I think it varies from state to state, they've got their own rules.

**Rep. Klemin:** We have Unclaimed Property Division already that takes property.

**Mr. Keller:** Money can go wherever they want it to go, but ultimately it should end up in the general fund.

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**Rep. Kretschmar:** Why are you taking out section 1 of the bill.

**Mr. Keller:** It negates the necessity of qualifying subdivision a and deleting subdivision b.

**Rep. Grande:** Let's take a look at the annuity section, when you have payouts, so if they are smaller prizes, the state will pay those, MSL will be in charge of the grand prize winnings?

**Mr. Keller:** In the example, it was the assumption that the grand prize winner was a resident of another state, so our \$.33 of each \$.50 will ultimately go to the other state. Should the grand prize winner be from ND, ND would retain its entire \$.50 plus MSL would collect from all the other states in the game pool the amount that they did not need to pay off their ticket holders in their state and all that money would then be transferred to ND, and the lottery would pay off the prize to the player of the grand prize.

**Rep. Grande:** Are there different multi-state lotteries.

**Mr. Keller:** There are different multi-state lotteries, such as MSL, Mega Millions, and Powerball. I think your question is who is responsible for executing the annuity with the player, is it ND or MSL. I believe it's MSL.

**Rep. Grande:** So why is ND setting up an annuity, on pg 4, line 17, authorizing the establishment of the annuity.

(Tape 1, Side B)

**Mr. Keller:** I agree with you, the reference to the annuity should be deleted.

**Rep. Grande:** In regard to unclaimed property, it doesn't establish the time frame here, it says must be retained for a period deemed appropriate by the director. What is being done in other states, shouldn't we already know what our time frame is since they have one year to collect, pg 12, line 25.

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**Mr. Keller:** The states vary in their time deadlines.

**Rep. Klemin:** We are dealing here with a multi-state lottery, where the prize is coming from a pool of funds where tickets have been purchased in other states?

**Mr. Keller:** Yes.

**Rep. Klemin:** What if a resident of Minnesota, who comes to ND and buys a Powerball ticket. What state gets the tax from the winnings?

**Mr. Keller:** The ticket holder must redeem the prize winning ticket in the state in which the person purchased it.

**Rep. Klemin:** It probably becomes even more relevant if you are in a state where there is no income tax. South Dakota, for example, have no income tax, if a SD resident buys a ticket in ND or vice versa, I think it will become a very important issue that we need to resolve.

**Mr. Keller:** I would be happy to get the answer for you.

**Rep. Maragos:** Can you address the question of Rep. Klemin earlier about the minor who was gifted a ticket and if should win lottery, what happens.

**Mr. Keller:** I believe the question was that if a ticket was given to a minor, and the minor happened to win, what would happen to the proceeds when the minor became adult. I would say at that point the payment would then be made payable to the minor (now adult).

**Rep. Grande:** Do we need language in there that the payout would be going to the minor's parent or guardian and held in trust until the age of 18, it is not for the parent to spend, it is the gift of the child.

**Mr. Keller:** Whatever the answer is, I will get it to you.

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**Chairman DeKrey:** Thank you. We will start taking testimony from the general public. The issue of the lottery itself is already been resolved. We do have to put into effect a multi-state lottery. Direct your comments toward the bill that is in front of us, how you wish it to be amended, because we are going to pass a lottery bill.

**Warren DeKrey, Chairman of ND Council on Gambling Problems:** (see attached testimony and amendments).

**Rep. Delmore:** You have a considerable number of amendments, it was understanding that your group was involved in the drafting of this bill, how many of the amendments that you are submitting to us today, were also submitted earlier.

**Mr. DeKrey:** These amendments were not submitted at the task force, because we did not have the bill to see.

**Rep. Kretschmar:** Are your proposed amendments, the law or rules in the surrounding states dealing with their lotteries, where did you obtain those you talk about.

**Mr. DeKrey:** Several of these came from surrounding states.

**Rep. Klemin:** One proposal is to maintain confidentiality of the identity of winners of prizes, so it can't be published or promoted by certain persons who won the prize, unless the winner decides to agree to make it public.

**Mr. DeKrey:** That was not the intention of that.

**Rep. Eckre:** You've got one amendment in here that you can't use the name or picture of current or previously elected state official. If somebody is out of office and they want to, wouldn't that be unconstitutional.

**Mr. DeKrey:** Yes, it would.

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**Tom Woodmansee, President of the Retail Grocers Association:** We have been in contact with Rep. Maragos and are in support of whatever bill gets passed.

**Patty Lewis, ND Hospitality Association:** Support.

**Russ Hanson, ND Petroleum Association:** Support.

**Bert Knell, co-chair of Lottery:** Support, but am upset by changing age from 18 to 21.

**Governor Arthur Link:** Support amendments of Mr. DeKrey. Let us shine the light of day on the lottery operations, keep open records.

**Herbert Wilson, MD, Chair of Council of Compulsive Gambling:** (see attached testimony).

Neutral. We want training for treatment problems. Want appropriate treatment for gamblers.

**Rep. Klemin:** You have a paragraph in your written testimony, asking for an appropriation of \$500,000 per biennium.

**Mr. Wilson:** That was our understanding, there was some misunderstanding here.

**Rep. Maragos:** What he says is not in excess of \$500,000 per biennium and the agreement was a 1/2 % of net proceeds annually not to exceed a cap of \$250,000. So the bill was written as 1%, not to exceed a cap of \$250,000, which does the same thing.

**Rep. Klemin:** But his testimony here says \$500,000.

**Rep. Maragos:** At 1/2% it would be \$500,000, but what we did was double the 1/2 to 1% and left the \$250,000, has the same net effect.

**Rep. Grande:** The bill says \$200,000.

**Rep. Maragos:** That was a typo, as I mentioned in my earlier testimony, it should read \$250,000 and we will amend it to \$250,000.

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**Rep. Eckre:** That seems to be generous dollars for treatment. The studies show it is not the people who buy lottery tickets who are compulsive gamblers; compulsive gamblers are like drug addicts and alcoholics, they want instant gratification. Lottery tickets aren't instant gratification, you don't buy to win immediately.

**Mr. Wilson:** This money goes to the Dept. of Human Services, not just for Powerball problems. Any kind of gambling.

**Rep. Klemm:** So when the money is transferred to the State Treasurer and put in the compulsive gambling prevention treatment fund, it can be used for any type of gambling, not just lottery.

**Mr. Wilson:** I believe that it correct.

**Chairman DeKrey:** Thank you for appearing. Any further testimony.

**Andrew Varvel:** (see attached testimony and attached amendments).

**Chairman DeKrey:** Thank you. Any further testimony.

**Bruce Brooks, ND Council on Gambling Problems:** Favor of raising age from 18 to 21.

**Chairman DeKrey:** Thank you. Any further testimony.

(Tape 2, Side A)

**Courtney Koebele, ND Newspaper Association and ND Broadcasters Association:** Oppose confidentiality of lottery records.

**Chairman DeKrey:** Did the Attorney General go far enough as far as your group is concerned.

**Ms. Koebele:** I don't think so, but we have been working and talking with them and we would be happy to work with the bill sponsors and the AG's office.

**Chairman DeKrey:** Thank you. Any further testimony.



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**Dawn Cronin, Lutheran Social Services of ND:** Favor of going from 1% to 10% for treatment, need more dollars.

**Chairman DeKrey:** Thank you. Any further testimony.

**Christine Kindel, ND Family Alliance:** (see attached testimony).

**Rep. Delmore:** Regarding the ticket to minor, whether it is in the bill or not, will it curtail people from doing that?

**Ms. Kindel:** It may not.

**Rep. Delmore:** Do you know what other states allow that provision?

**Ms. Kindel:** I don't know.

**Chairman DeKrey:** Thank you. Any further testimony on HB 1243.

**Kenny Koehn, Vice Chair, ND Council on Gambling Problems:** We need to protect the kids and need to set aside more dollars for treatment. The amount of dollars has been reduced since the start of the bill. I don't think the public has been given all the information. We have an obligation to protect our youth from vices, and the lottery is a vice and a moral issue.

**Chairman DeKrey:** Thank you. Rep. Maragos wishes to speak as the chairman of the committee that put the bill together.

**Rep. Maragos:** We need to move expeditiously.

**Rep. Wrangham:** Regarding the duties of the legislature, are we the proverbial dog or the proverbial tail.

**Rep. Maragos:** The people are the proverbial dog and we are the proverbial tail.

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**Rep. Klemin:** Getting back to the amount of money that is going into the compulsive gambling treatment fund, the \$250,000 cap, would it make any difference what the % is, as long as you don't exceed the cap?

**Rep. Maragos:** I don't believe so.

**Rep. Klemin:** Whether it's 1% or 10%, it would still be a cap of \$250,000.

**Rep. Maragos:** That's true, we could put any % we want on it, we thought that was a reasonable amount.

**Rep. Klemin:** I guess we're talking about net proceeds and I don't know where the number of \$1.7 million comes from for net proceeds, but is that what we're talking about.

**Rep. Maragos:** Remember, the AG's office gave us the most conservative estimate of what they thought would be reserved for the state after all expenses were taken care of. It might be a lot more than that. We don't know.

**Rep. Klemin:** I guess from your perspective, as long as the \$250,000 cap is there, whether it's 1% or 10%, we don't have to cover that.

**Rep. Maragos:** I like the bill the way it is written, and I don't want to change it. We believe that a portion of these funds is an acceptable level of support.

**Rep. Bernstein:** Wasn't there a lot of speculation in promoting the lottery in the first place. These people have just as much right to their speculations as the lottery did when it was proposed.

**Rep. Maragos:** There is no speculation as to the facts. Our citizens want to buy lottery tickets in our state.

**Rep. Bernstein:** There was speculation as to how much the lottery would bring to the state.

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**Rep. Maragos:** We've never done this before.

**Rep. Bernstein:** So in other words you had the opportunity to speculate, but these people here you chastise them for their speculation.

**Rep. Maragos:** Not at all. I want them to come with hard figures. The people want to be able to buy their tickets in ND. What speculation is there in that.

**Rep. Bernstein:** The benefits of the lottery, how much money the lottery will bring into ND.

**Rep. Maragos:** That's not why I voted for it, I wanted to be able to buy a ticket legally.

**Chairman DeKrey:** Thank you.

**Rep. Maragos:** The people expressed themselves, they voted for the lottery.

**Chairman DeKrey:** We will close the hearing.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Judiciary Committee

☐ Conference Committee

Hearing Date 2-3-03

Tape Number	Side A	Side B	Meter #
3	x		13-40

Committee Clerk Signature

*D. Penrose*

**Minutes:** 12 members present, 1 member absent (Rep. Bernstein)

**Chairman DeKrey:** What are the committee's wishes in regard to HB 1243.

**Rep. Maragos:** I move the A.G.'s amendments #1.

**Rep. Delmore:** Seconded.

Voice vote: Carried.

**Rep. Maragos:** I move the A.G.'s amendments #2.

**Rep. Grande:** Seconded.

Voice vote: Carried.

**Rep. Maragos:** I move the A.G.'s amendments #3.

**Rep. Grande:** Seconded.

Voice vote: Carried.

**Rep. Maragos:** I move the A.G.'s amendments #4.

**Rep. Delmore:** Seconded.

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Voice vote: Carried.

**Rep. Grande:** I have some amendments. I would like to see the selection of the committee be put together on who will be selected to sell tickets, but leaves an out for the Director.

**Rep. Maragos:** I would reject any amendments like this, because the A.G. didn't say he needed anything like this.

**Chairman DeKrey:** Explain the rest of your amendments.

**Rep. Grande:** Pg 12, it just puts into place as far as transferring of the funds, it's not stated there. So we were left with what was the intention of the unclaimed prize money. Was it going to the trust fund, was it going someplace, this just states that it is going to go to the general fund. I didn't put the time period in by statute, because they wanted to put that in by rule. So I am just stating where the money is going to go.

**Rep. Maragos:** As its written, must be retained for a period deemed appropriate by the director, I need to visit just to make sure there isn't a reason based on our application to the multi-state lottery that this is their requirement. Let me check on that.

**Rep. Grande:** That is why I didn't touch the time period there. We could ask for 180 days because that is typical of other states, but I thought we should leave that up to rules, for that reason. All I am asking for is direction for the money.

**Chairman DeKrey:** Anyone else have any amendments.

**Rep. Klemin:** I don't have anything to hand out, but I had asked the question about a couple of things that Mr. Keller was going to get back to us about having to do with the lottery ticket given as a gift to the child and the money goes to parent. The other had to do with income tax, the third question I had was the confidentiality of the names of the winners.

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**Chairman DeKrey:** Why don't you get together and work out these questions and we will close the hearing for now. Bring your amendments tomorrow for committee work.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Judiciary Committee

☐ Conference Committee

Hearing Date 2-4-03

Tape Number	Side A	Side B	Meter #
3	x		45.5-end
3		x	0-3.6
Committee Clerk Signature <i>A. Penrose</i>			

Minutes: 13 members present.

Chairman DeKrey: What are the committee's wishes in regard to HB 1243.

Rep. Grande: I have an amendment regarding the selection of the retailers. I went over them with the AG and found that one was being taken care of by one of their other amendments, so what I am presenting here is right.

Rep. Maragos: I move the amendment.

Rep. Grande: Seconded.

Voice vote: Carried.

Rep. Klemin: I move the Klemin amendment dated 2/4/03.

Rep. Grande: Seconded.

Voice vote: Carried.

Chairman DeKrey: We will have the AG engross the bill so we can look at all the amendments. We will close for now.

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Judiciary Committee

☐ Conference Committee

Hearing Date 2-5-03

Tape Number	Side A	Side B	Meter #
2		xx	37.5-48
Committee Clerk Signature <i>Al Penrose</i>			

**Minutes:** 13 members present.

**Chairman DeKrey:** What are the committee's wishes in regard to HB 1243.

**Rep. Maragos:** I move the AG's #5 amendments.

**Rep. Eckre:** Seconded.

**Voice vote:** Carried.

**Rep. Maragos:** I move a Do Pass as amended and be rereferred to Appropriations.

**Rep. Delmore:** Seconded.

**11 YES 2 NO 0 ABSENT DO PASS AS AMENDED AND BE REREFERRED TO  
APPROPRIATIONS CARRIER: Rep. DeKrey**

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**FISCAL NOTE**  
Requested by Legislative Council  
03/19/2003

Amendment to: HB 1243

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$1,431,000	\$5,325,000	\$2,297,000	\$6,993,000
Expenditures	\$0	\$85,000	\$0	\$3,894,000	\$0	\$4,696,000
Appropriations	\$0	\$0	\$0	\$3,894,000	\$0	\$4,696,000

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The bill creates a North Dakota lottery division within the Office of Attorney General. The lottery would join other government-authorized lotteries to operate a joint lottery game. The bill appropriates funds for compulsive gambling prevention and treatment services, provides for hiring a director and necessary employees, authorizes the director to contract for various services, creates a lottery advisory commission, provides for licensing of retailers, establishes lottery operating and prize payment funds, requires an annual audit, requires an annual transfer of net proceeds to the general fund, and provides for a setoff on certain prize amounts to satisfy debt owed to or collected through state agencies.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

General fund revenues are estimated net proceeds, after deducting the charitable gambling prevention and treatment services, resulting from operating a North Dakota lottery starting January 1, 2004.

Other Funds revenues are estimated sales of lottery tickets, less prizes, plus estimated license and criminal history record check fees.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Other funds expenditures are estimated administrative and operating expenses and funding for compulsive gambling prevention and treatment services (capped at \$400,000). These expenses include salaries for 6 FTE's, the lottery commission, vendor fees, marketing, advertising, association dues, and one-time start-up costs.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

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Operator's Signature

Date

Other funds appropriations equal other funds expenditures.

Name:	Chuck Keller/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4482/328-3822	Date Prepared:	03/20/2003

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Dorena Hall  
Operator's Signature

10/2/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
03/11/2003

Amendment to: HB 1243

**1A. State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$1,486,000	\$5,325,000	\$2,442,000	\$6,993,000
Expenditures	\$0	\$0	\$0	\$3,839,000	\$0	\$4,551,000
Appropriations	\$0	\$0	\$0	\$3,839,000	\$0	\$4,551,000

**1B. County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The bill creates a North Dakota lottery division within the Office of Attorney General. The lottery would join other government-authorized lotteries to operate a joint lottery game. The bill appropriates funds for compulsive gambling prevention and treatment services, provides for hiring a director and necessary employees, authorizes the director to contract for various services, creates a lottery advisory commission, provides for licensing of retailers, establishes lottery operating and prize payment funds, requires an annual audit, requires an annual transfer of net proceeds to the general fund, and provides for a setoff on certain prize amounts to satisfy debt owed to or collected through state agencies.

**3. State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

**A. Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

General Fund revenues are estimated net proceeds resulting from operating a North Dakota lottery starting January 1, 2004.

Other Funds revenues are estimated sales of lottery tickets, less prizes, plus estimated license and criminal history record check fees.

**B. Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Other funds expenditures are estimated administrative and operating expenses and funding for compulsive gambling prevention and treatment services. These expenses include salaries for 6 FTE's, the lottery commission, vendor fees, marketing, advertising, association dues, and one-time start-up costs.

**C. Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

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*Deanna Hall*  
Operator's Signature

10/2/03  
Date

Other funds appropriations equal Other funds expenditures.

Name:	Charles Keller/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-4482/328-3622	Date Prepared:	03/12/2003

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Deanna Hall  
Operator's Signature

12/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
02/10/2003

Amendment to: HB 1243

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$1,835,000	\$5,325,000	\$2,573,000	\$6,993,000
Expenditures	\$0	\$0	\$0	\$3,690,000	\$0	\$4,420,000
Appropriations	\$0	\$0	\$0	\$3,690,000	\$0	\$4,420,000

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The bill creates a North Dakota lottery division within the Office of Attorney General. The lottery would join other government-authorized lotteries to operate a joint lottery game. The bill appropriates funds for compulsive gambling prevention and treatment services, provides for hiring a director and necessary employees, authorizes the director to contract for various services, creates a lottery advisory commission, provides for licensing of retailers, establishes lottery operating and prize payment funds, requires an annual audit, requires an annual transfer of net proceeds to the general fund, and provides for a setoff on certain prize amounts to satisfy debt owed to or collected through state agencies.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

General Fund revenues are estimated net proceeds resulting from operating a North Dakota lottery starting January 1, 2004.

Other Funds revenues are estimated sales of lottery tickets, less prizes, plus estimated license and criminal history record check fees.

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

Other Funds expenditures are estimated administrative and operating expenses and funding for compulsive gambling prevention and treatment services. These expenses include salaries for 6 FTE's, lottery commission, vendor fees, marketing, advertising, association dues, and one-time start-up costs.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

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Operator's Signature

Date

Other Funds appropriations equal Other Funds expenditures.

Name:	Charles Keller/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-4482/328-3622	Date Prepared:	02/13/2003

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Dennis G. Hall  
Operator's Signature

10/2/03  
Date

**FISCAL NOTE**  
Requested by Legislative Council  
01/13/2003

Bill/Resolution No.: HB 1243

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$1,738,000	\$5,936,000	\$2,626,000	\$7,737,000
Expenditures	\$0	\$0	\$0	\$4,198,000	\$0	\$5,111,000
Appropriations	\$0	\$0	\$0	\$4,198,000	\$0	\$5,111,000

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The bill would enable the State of North Dakota to participate in a multistate lottery. The bill would create a North Dakota lottery division of the Office of Attorney General, create a compulsive gambling prevention and treatment fund, specify the responsibilities and authority of a lottery director, require a competitive bid process on selecting a primary vendor, prescribe the selection process and qualifications of lottery retailers, establish a lottery advisory commission, establish a lottery operating fund, provide rule-making authority, set restrictions on the sale and purchase of lottery tickets, and provide for a setoff on certain lottery prize amounts to satisfy debt owed or collected through state agencies.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

General Fund revenues are estimated net proceeds resulting from operating a North Dakota lottery starting January 1, 2004.

Other funds revenues are estimated sales of lottery tickets, less prizes, plus estimated license fees, fees for doing record checks and unclaimed prizes.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Other funds expenditures are estimated administrative and operating expenses and funding for problem gambling. These expenses include salaries for 6 FTE's, lottery commission, vendor and retailer fees, marketing and advertising, dues and one-time start-up costs.

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C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Other funds appropriations are the same as the expenditures.

Name:	Charles Keller/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-4482/328-3622	Date Prepared:	01/28/2003

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Deanna Hall  
Operator's Signature

1/2/03  
Date



30219.0301  
Title.0400

Prepared by the Legislative Council staff for  
House Judiciary  
February 6, 2003

VR  
2/4/03  
108 S

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 1, line 1, replace the second "and" with "a new subsection to section 57-38-57,"

Page 1, line 2, after "57-39.2-04" insert ", and a new subsection to section 57-39.2-23"

Page 1, line 3, after the second comma insert "disclosure of confidential income and sales and use tax information,"

Page 1, line 4, after "reenact" insert "subsection 2 of section 50-09-14 and subsection 2 of" and replace "12.1-28-02" with "54-10-01"

Page 1, line 5, replace "lottery offenses" with "setoffs of lottery prize payments for payment of child support and to the powers and duties of the state auditor"

Page 1, remove lines 8 through 23

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 2, remove lines 1 through 30

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 3, remove lines 1 and 2

Page 3, after line 8, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 50-09-14 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person aggrieved by an action taken by the state agency or a child support agency under section 14-09-25, ~~chapter 35-34, this chapter, or chapter 53-12~~ or by the North Dakota lottery director under chapter 53-12 to establish or enforce a child support order may seek review of the action of the state agency or child support agency in the court of this state that which issued or considered the child support order. If an order for child support was issued by a court or administrative tribunal in another state, any person aggrieved by an action taken by the state agency or a child support agency under section 14-09-25, ~~chapter 35-34, this chapter, or chapter 53-12~~ or by the North Dakota lottery director under chapter 53-12 to enforce that order may seek review of the action of the state agency or child support agency in any court of this state which has jurisdiction to enforce that order, or if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the necessary parties. Any review sought under this subsection must be commenced within thirty days after the date of action for which review is sought. A person who has a right of review under this subsection may not seek review of the actions of the state agency or child support agency in a proceeding under chapter 28-32."

Page 3, line 14, after "3." insert ""Gross profits" means on-line sales of lottery tickets less prize share payments, prizes claimed on redeemed winning tickets, and lottery retailer commissions."

4."

Page 3, line 16, replace "4." with "5."

Page 3, line 20, replace "5." with "6."

Page 3, line 22, replace "6." with "7."

Page 3, line 25, replace "7." with "8.", remove "with whom", and replace "contracted" with "licensed"

Page 3, line 27, replace "8." with "9."

Page 3, line 29, replace "9." with "10."

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 4, line 14, remove "multistate."

Page 4, line 19, after "services" insert ", including services from financial institutions and other state agencies"

Page 4, line 21, replace "Contract with and license" with "License"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 5, line 4, replace "and" with:

"10. Based on reasonable ground or written complaint, suspended, deny, or revoke a lottery retailer's license or impose a monetary fine, or both, for a violation, by the retailer or any agent, member, or employee of the retailer, of this chapter or any rule adopted under this chapter; and"

Page 5, line 5, replace "10." with "11."

Page 5, line 22, remove "multistate"

Page 5, line 24, after "lottery" insert "game"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 6, line 5, after "audit" insert ", conducted by the state auditor."

Page 6, line 15, remove "and persons licensed pursuant to this chapter to the state general fund"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 7, line 13, replace "contract" with "license" and replace "Contract" with "License"

Page 7, line 15, replace "All" with "A", replace "contracts" with "license", and replace "are" with "is"

Page 7, line 16, after "canceled" insert ", revoked," and replace "contract" with "license"

Page 7, line 18, replace "certificate" with "license"

Page 7, line 19, replace "certificate" with "license" and replace "certificate" with "license"

Page 7, line 21, replace "certificate" with "license"

3065

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 9, line 19, after the underscored period insert "For the initial selection of lottery retailers, the commission may recommend, for the director's consideration, lottery retailer applicants for licensure based on criteria prescribed by section 53-12-09."

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 10, line 2, after the underscored period insert "The attorney general may adopt emergency rules for purposes of this section without the finding otherwise required under section 28-32-03."

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 11, line 13, replace "net proceeds" with "gross profits generated"

Page 11, line 16, remove "remainder of the" and replace "from the sale of lottery tickets" with "less the amount allocated to the compulsive gambling prevention and treatment fund and a holdback of any reserve funds the director may need for continuing operations."

Page 11, line 24, replace "authorized" with "licensed"

Page 11, line 28, after "guardian" insert "or deposited in court"

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 12, line 1, after "prize" insert "of five thousand dollars or less"

Page 12, line 2, after the underscored period insert "Any prize of more than five thousand dollars won by a minor must be deposited in court by the director for the benefit of the minor for further disposition pursuant to chapter 30.1-29."

Page 12, line 19, remove "Right to prize nonassignable -"

Page 12, line 21, replace "who" with "that"

Page 12, line 23, replace "duly appointed" with "lawful" and remove "The right of a person to a prize"

Page 12, line 24, remove "drawn or awarded is not assignable."

Page 12, line 25, remove "Unclaimed prize money must be retained for a period deemed"

Page 12, remove line 26

Page 12, line 27, remove "money must be added to the prize pools of subsequent lottery games."

HOUSE AMENDMENTS TO HOUSE BILL NO. 1243 JUD 2/7/03

Page 13, line 1, replace "governor may negotiate" with "North Dakota lottery may license a retailer"

Page 13, line 2, remove "with Indian tribes for the placement and distribution of lottery products"

Page 13, line 3, after "reservations" insert "or on tribal trust land referenced by the tribal-state gaming compacts in effect"

Page 13, line 4, after the second underscored boldfaced period insert:

Page No. 3

30219.0301

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Operator's Signature

10/2/03

Date

4065

"1."

Page 13, line 5, replace "except for official purposes, and may not be disclosed except to" with "including:

- a. Sales and income tax information, financial statements, and credit reports of retailer applicants and persons seeking or doing business with the lottery, and application information other than an applicant's name and retail location;
  - b. Information related to persons owing a debt to the state or having a debt collected through a state agency made confidential by another state law or rule remains confidential under this section;
  - c. Internal control and security procedures and information on bids or contractual data, the disclosure of which is harmful to the efforts of the lottery to contract for goods and services on favorable terms;
  - d. Personal information on a winning player unless the player authorizes, in writing, release of the information; and
  - e. Sales data, the disclosure of which is harmful to the competitive position of the lottery, retailers, or persons seeking or doing business with the lottery.
2. To be confidential, the information must be necessary to the security and integrity of the lottery. The information and records may be disclosed within the attorney general's office or to authorized persons in the proper administration of this chapter or lottery rule or in accordance with a judicial order. Criminal history record check information on a retailer applicant or person seeking or doing business with the lottery may be disseminated only according to chapter 12-60.

Page 13, remove lines 6 through 17

Page 13, line 25, remove "Notice of right to appeal -"

Page 13, line 27, replace "in excess of" with "equal to or greater than"

Page 13, line 28, replace "one" with "six"

Page 13, line 29, remove "person's right to appeal to the appropriate court or to"

Page 13, remove line 30

Page 13, line 31, remove "appeal within thirty days after the"

Page 14, line 1, remove "promptly"

Page 14, line 2, after "agency" insert "unless the person notifies the director, in writing, no later than thirty days after receiving the notice of the setoff that the person disputes all or a part of the debt owed or to be collected by the state agency"

Page 14, after line 12, insert:

"53-12-34. Voluntary deposit of adverse claims to prize payment or award. Notwithstanding sections 53-12-20, 53-12-24, 53-12-26, 53-12-30, and 53-12-32, if two or more persons or state agencies make adverse claims to all or a part of a prize

payment or award, upon receipt of written notice from the claimants setting forth their respective claims, the director may deposit, in accordance with section 32-11-02, the contested amount of the prize payment or award with the clerk of court in the district in which an action pertaining to the contested amount is pending or with a court-authorized depository. Upon making the deposit, the state and its officials and employees are discharged and relieved from further liability to any person or agency on account of the prize payment or award.

**SECTION 4. AMENDMENT.** Subsection 2 of section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. The Except for the annual audit of the North Dakota lottery required by section 53-12-07, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and non-general fund moneys. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

**SECTION 5.** A new subsection to section 57-38-57 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner, upon written request from the director of the North Dakota lottery, may provide a written statement to the director, employees, or agents of the North Dakota lottery, in which the tax commissioner is limited to stating that the lottery retailer applicant has complied or not complied with the requirements of this chapter. The information obtained under this subsection is confidential and may be used for the sole purpose of determining whether the applicant meets the requirements of subdivision d of subsection 1 of section 53-12-13 and subdivision d of subsection 1 of section 53-12-14."

Page 14, after line 15, insert:

**"SECTION 7.** A new subsection to section 57-39.2-23 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner, upon written request from the director of the North Dakota lottery, may provide a written statement to the director, employees, or agents of the North Dakota lottery, in which the tax commissioner is limited to stating that the lottery retailer applicant has complied or not complied with the requirements of this chapter. The information obtained under this subsection is confidential and may be used for the sole purpose of determining whether the applicant meets the requirements of subdivision d of subsection 1 of section 53-12-13 and subdivision d of subsection 1 of section 53-12-14."

Renumber accordingly

Date: 2/5/03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1243

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30219.0301 .0400

Action Taken Do Pass As Amended + Referred to Approp.

Motion Made By Rep. Maragos Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein		✓	Rep. Onstad	✓	
Rep. Boehning	✓				
Rep. Galvin		✓			
Rep. Grande	✓				
Rep. Kingsbury	✓				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	✓				

Total (Yes) 11 No 2

Absent 0

Floor Assignment Rep. DeKrey

If the vote is on an amendment, briefly indicate intent:

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Donna Hall  
Operator's Signature

10/2/03  
Date

REPORT OF STANDING COMMITTEE (410)  
February 7, 2003 8:01 a.m.

Module No: HR-24-1934  
Carrier: DeKrey  
Insert LC: 30219.0301 Title: .0400

**REPORT OF STANDING COMMITTEE**

**HB 1243: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (11 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1243 was placed on the Sixth order on the calendar.**

Page 1, line 1, replace the second "and" with "a new subsection to section 57-38-57,"

Page 1, line 2, after "57-39.2-04" insert ", and a new subsection to section 57-39.2-23"

Page 1, line 3, after the second comma insert "disclosure of confidential income and sales and use tax information,"

Page 1, line 4, after "reenact" insert "subsection 2 of section 50-09-14 and subsection 2 of" and replace "12.1-28-02" with "54-10-01"

Page 1, line 5, replace "lottery offenses" with "setoffs of lottery prize payments for payment of child support and to the powers and duties of the state auditor"

Page 1, remove lines 8 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 and 2

Page 3, after line 8, insert:

**"SECTION 2. AMENDMENT.** Subsection 2 of section 50-09-14 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person aggrieved by an action taken by the state agency or a child support agency under section 14-09-25, chapter 35-34, this chapter, or chapter 53-12 ~~or by the North Dakota lottery director under chapter 53-12~~ to establish or enforce a child support order may seek review of the action ~~of the state agency or child support agency~~ in the court of this state ~~that~~ which issued or considered the child support order. If an order for child support was issued by a court or administrative tribunal in another state, any person aggrieved by an action taken by the state agency or a child support agency under section 14-09-25, chapter 35-34, this chapter, or chapter 53-12 ~~or by the North Dakota lottery director under chapter 53-12~~ to enforce that order may seek review of the action ~~of the state agency or child support agency~~ in any court of this state which has jurisdiction to enforce that order, or if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the necessary parties. Any review sought under this subsection must be commenced within thirty days after the date of action for which review is sought. A person who has a right of review under this subsection may not seek review of the actions ~~of the state agency or child support agency~~ in a proceeding under chapter 28-32."

Page 3, line 14, after "3." insert ""Gross profits" means on-line sales of lottery tickets less prize share payments, prizes claimed on redeemed winning tickets, and lottery retailer commissions."

4."

Page 3, line 16, replace "4." with "5."

(2) DESK, (3) COMM

Page No. 1

HR-24-1934

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Operator's Signature

Date

REPORT OF STANDING COMMITTEE (410)  
February 7, 2003 8:01 a.m.

Module No: HR-24-1934  
Carrier: DeKrey  
Insert LC: 30219.0301 Title: .0400

Page 3, line 20, replace "5." with "6."

Page 3, line 22, replace "6." with "7."

Page 3, line 25, replace "7." with "8.", remove "with whom", and replace "contracted" with "licensed"

Page 3, line 27, replace "8." with "9."

Page 3, line 29, replace "9." with "10."

Page 4, line 14, remove "multistate."

Page 4, line 19, after "services" insert ". including services from financial institutions and other state agencies"

Page 4, line 21, replace "Contract with and license" with "License"

Page 5, line 4, replace "and" with:

"10. Based on reasonable ground or written complaint, suspended, deny, or revoke a lottery retailer's license or impose a monetary fine, or both, for a violation, by the retailer or any agent, member, or employee of the retailer, of this chapter or any rule adopted under this chapter; and"

Page 5, line 5, replace "10." with "11."

Page 5, line 22, remove "multistate"

Page 5, line 24, after "lottery" insert "game"

Page 6, line 5, after "audit" insert ". conducted by the state auditor."

Page 6, line 15, remove "and persons licensed pursuant to this chapter to the state general fund"

Page 7, line 13, replace "contract" with "license" and replace "Contract" with "License"

Page 7, line 15, replace "All" with "A", replace "contracts" with "license", and replace "are" with "is"

Page 7, line 16, after "canceled" insert ". revoked." and replace "contract" with "license"

Page 7, line 18, replace "certificate" with "license"

Page 7, line 19, replace "certificate" with "license" and replace "certificate" with "license"

Page 7, line 21, replace "certificate" with "license"

Page 9, line 19, after the underscored period insert "For the initial selection of lottery retailers, the commission may recommend, for the director's consideration, lottery retailer applicants for licensure based on criteria prescribed by section 53-12-09."

Page 10, line 2, after the underscored period insert "The attorney general may adopt emergency rules for purposes of this section without the finding otherwise required under section 28-32-03."

(2) DESK, (3) COMM

Page No. 2

HR-24-1934

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Operator's Signature

Date



REPORT OF STANDING COMMITTEE (410)  
February 7, 2003 8:01 a.m.

Module No: HR-24-1934  
Carrier: DeKrey  
Insert LC: 30219.0301 Title: .0400

Page 11, line 13, replace "net proceeds" with "gross profits generated"

Page 11, line 16, remove "remainder of the" and replace "from the sale of lottery tickets" with "less the amount allocated to the compulsive gambling prevention and treatment fund and a holdback of any reserve funds the director may need for continuing operations."

Page 11, line 24, replace "authorized" with "licensed"

Page 11, line 28, after "guardian" insert "or deposited in court"

Page 12, line 1, after "prize" insert "of five thousand dollars or less"

Page 12, line 2, after the underscored period insert "Any prize of more than five thousand dollars won by a minor must be deposited in court by the director for the benefit of the minor for further disposition pursuant to chapter 30.1-29."

Page 12, line 19, remove "Right to prize nonassignable -"

Page 12, line 21, replace "who" with "that"

Page 12, line 23, replace "duly appointed" with "lawful" and remove "The right of a person to a prize"

Page 12, line 24, remove "drawn or awarded is not assignable."

Page 12, line 25, remove "Unclaimed prize money must be retained for a period deemed"

Page 12, remove line 26

Page 12, line 27, remove "money must be added to the prize pools of subsequent lottery games."

Page 13, line 1, replace "governor may negotiate" with "North Dakota lottery may license a retailer"

Page 13, line 2, remove "with Indian tribes for the placement and distribution of lottery products"

Page 13, line 3, after "reservations" insert "or on tribal trust land referenced by the tribal-state gaming compacts in effect"

Page 13, line 4, after the second underscored boldfaced period insert:

"1."

Page 13, line 5, replace "except for official purposes, and may not be disclosed except to" with "including:"

- a. Sales and income tax information, financial statements, and credit reports of retailer applicants and persons seeking or doing business with the lottery, and application information other than an applicant's name and retail location;
- b. Information related to persons owing a debt to the state or having a debt collected through a state agency made confidential by another state law or rule remains confidential under this section;

- c. Internal control and security procedures and information on bids or contractual data, the disclosure of which is harmful to the efforts of the lottery to contract for goods and services on favorable terms;
  - d. Personal information on a winning player unless the player authorizes, in writing, release of the information; and
  - e. Sales data, the disclosure of which is harmful to the competitive position of the lottery, retailers, or persons seeking or doing business with the lottery.
2. To be confidential, the information must be necessary to the security and integrity of the lottery. The information and records may be disclosed within the attorney general's office or to authorized persons in the proper administration of this chapter or lottery rule or in accordance with a judicial order. Criminal history record check information on a retailer applicant or person seeking or doing business with the lottery may be disseminated only according to chapter 12-60."

Page 13, remove lines 6 through 17

Page 13, line 25, remove "Notice of right to appeal -"

Page 13, line 27, replace "in excess of" with "equal to or greater than"

Page 13, line 28, replace "one" with "six"

Page 13, line 29, remove "person's right to appeal to the appropriate court or to"

Page 13, remove line 30

Page 13, line 31, remove "appeal within thirty days after the"

Page 14, line 1, remove "promptly"

Page 14, line 2, after "agency" insert "unless the person notifies the director, in writing, no later than thirty days after receiving the notice of the setoff that the person disputes all or a part of the debt owed or to be collected by the state agency"

Page 14, after line 12, insert:

"53-12-34. Voluntary deposit of adverse claims to prize payment or award. Notwithstanding sections 53-12-20, 53-12-24, 53-12-26, 53-12-30, and 53-12-32, if two or more persons or state agencies make adverse claims to all or a part of a prize payment or award, upon receipt of written notice from the claimants setting forth their respective claims, the director may deposit, in accordance with section 32-11-02, the contested amount of the prize payment or award with the clerk of court in the district in which an action pertaining to the contested amount is pending or with a court-authorized depository. Upon making the deposit, the state and its officials and employees are discharged and relieved from further liability to any person or agency on account of the prize payment or award.

**SECTION 4. AMENDMENT.** Subsection 2 of section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. The Except for the annual audit of the North Dakota lottery required by section 53-12-07, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and non-general fund moneys. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

**SECTION 5.** A new subsection to section 57-38-57 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner, upon written request from the director of the North Dakota lottery, may provide a written statement to the director, employees, or agents of the North Dakota lottery, in which the tax commissioner is limited to stating that the lottery retailer applicant has complied or not complied with the requirements of this chapter. The information obtained under this subsection is confidential and may be used for the sole purpose of determining whether the applicant meets the requirements of subdivision d of subsection 1 of section 53-12-13 and subdivision d of subsection 1 of section 53-12-14."

Page 14, after line 15, insert:

**SECTION 7.** A new subsection to section 57-39.2-23 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner, upon written request from the director of the North Dakota lottery, may provide a written statement to the director, employees, or agents of the North Dakota lottery, in which the tax commissioner is limited to stating that the lottery retailer applicant has complied or not complied with the requirements of this chapter. The information obtained under this subsection is confidential and may be used for the sole purpose of determining whether the applicant meets the requirements of subdivision d of subsection 1 of section 53-12-13 and subdivision d of subsection 1 of section 53-12-14."

Renumber accordingly

**2003 HOUSE APPROPRIATIONS**

**HB 1243**

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Deanna Hallmark  
Operator's Signature

10/2/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Appropriations Committee

☐ Conference Committee

Hearing Date 02-13-03

Tape Number	Side A	Side B	Meter #
Committee Clerk Signature <i>Chris S. Nylund</i>			

Minutes:

**Chairman Svedjan** Opened HB 1243 for discussion.

**Rep. Dekrey** the Attorney General's office's intent is for powerball. It would be 1.6 million dollars for the 03-05 biennium.

**Rep. Glassheim** Do we have to do anything with this at all?

**Chairman Svedjan** Yes, due to the fiscal impact that is greater than \$50,000.

**Rep. Glassheim** The fiscal impact is in the Attorney General's budget.

**Rep. Glassheim** I move a Do Pass. 2nd by Rep. Martinson. Motion Carries 15-1-7. Rep.

**Dekrey** will carry this bill to the floor.

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*Doreen Hall*  
Operator's Signature

*10/2/03*  
Date

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2003 3:47 p.m.

**Module No: HR-28-2643**  
**Carrier: DeKrey**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**  
**HB 1243, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)**  
**recommends DO PASS (15 YEAS, 1 NAY, 7 ABSENT AND NOT VOTING).**  
**Engrossed HB 1243 was placed on the Eleventh order on the calendar.**

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*Donna G. Hall*  
Operator's Signature

*10/2/03*  
Date

2003 SENATE JUDICIARY

HB 1243

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Deanna Bell  
Operator's Signature

10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/04/03

Tape Number	Side A	Side B	Meter #
1	X		0.0 - End
2	X		0.0 - 43
Committee Clerk Signature <i>Maria L. Dolbey</i>			

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and not all committee members present. Sen. Traynor requested meeting starts with testimony on the bill:

**Testimony Support of HB 1243**

Rep Maragos - Introduced bill (meter 0.3) Read Testimony Attachment #1

Sen. Traynor asked if tickets can be sold on reservations. Rep discussed that the Department of interiors must first approve. We are only providing the wording if the do. Would it require an amendment to the State? Yes. Can clubs that already provide gambling sell lotto tickets? Yes. We have no restrictions, anyone may apply.

**Testimony Neutral to HB 1243**

Wayne Stenehiem, Attorney General (meter 13.5) Testimony - We are obligated to do this bill the constitution of ND states requires this we are to provide in participation in a multi-state

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*Dorinda Hall*  
Operator's Signature

*10/2/03*  
Date



Page 2  
Senate Judiciary Committee  
Bill/Resolution Number HB 1243  
Hearing Date 03/04/03

lottery. We worked with Rep Maragos and the committee that worked on the bill after the last election. I am here along with Keith Lawer and Chuck Keller to provide tech advice only.

Sen. Trenbeath Question sec. 6 - tax exception, are there other states to your knowledge that do tax? No, this is standard language.

53-12-10 line 15 page 6 Reapply for a license

53-12-14 line 17 page 7 - may not be licensed. Are these two in conflict? No

Senator Carolyn Nelson asked (meter 16.3) why "lottery" was not defined discussion on where this appears.

Sen. Dever discussed (meter 17.7) Did the people vote for a several lotteries or only one?

Discussion of what other states do.

#### Testimony Support of HB 1243

Tom Woodmansee - President of ND Groc. Association in support (meter 19)

Russ Hanson - ND Petroleum Marketers Association (meter 19.3) My Association is in support.

Sen. Dever asked how many outlets will be allowed to sell? I am not sure out of 880 retail outlet gas stations. Not all will choose to offer it and some are pleased to. It is a choice for them.

Kyle Richardson - South Fargo Resident, Director of Public Relations, H2M - Read Testimony (meter 19.8) Attachment #2

Sen. Dever discussed (meter 33) how the people spoke with the vote, we have no choice we have to have a lottery. It seems to me that people asked for a restricted to one lottery game. You are suggesting that we do not limit and I do not think that we have the mandate to do that. Mr Richardson recommended that we do not limit. By limiting, it hurts your potential revenue.

With the economic condition of the state and several bordering states, it would be misguided to

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Dan Hall  
Operator's Signature

10/2/03  
Date

Page 3  
Senate Judiciary Committee  
Bill/Resolution Number HB 1243  
Hearing Date 03/04/03

put in limitations at this point when there could be grater potential down the road. The other concern I have is by limiting it at this point it will put a cap on projected revenue that you can make leaning toward the lottery not being a success initially. Discussion of compulsive gambling as an addiction is biological and psychological. Many things can be addicting whether it be black jack, in a casino, pull tabs in a bar, or bingo. To say other things can be addicting is not revenant in this case.

Lorral Thorson - West Fargo, ND (meter 35) I am an average person who plays the lottery.

Many nice normal people play it. I do not have an addiction to it, yet i enjoy the process and the socialization of this. I cross the boarder to MN and play it.

Pat Crotty - (meter 37.4) I used to disagree with the lottery. After living in a state that has a successful lottery, I have seen it pay for schools, the disabled and other state run programs. Let's do it right! This is like driving. Driving is a privilege. There is always someone who abuses that privilege and we have rules to deal with them but we do not permit anyone to drive because someone is going to kill someone in there car or drive intoxicated.

**Testimony in opposition of HB 1243**

Warren DeKrey, Chairmen of ND Council on Gambling Problems (meter 42) Read Testimony -

Attachment 3a, Submitted three amendm-nts; Attachment 3b, Attachment 3c, Attachment 3d

Senator Thomas L. Trenbeath asked (meter 48.4) How many other states do not sell to minors? I do not know.

Sen. Traynor discussed if there was a party and a parent bought a ticket who do you police this?

Deanna G. Ball  
Operator's Signature

10/2/03  
Date

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Senate Judiciary Committee  
Bill/Resolution Number HB 1243  
Hearing Date 03/04/03

Former Gov. Link - (meter 50.6) I appear in opposition. Our amendments are to improve your bill. No lottery ticket to Minors. We would like to change this to 21. this is how it appeared on the original bill.

Steve Wistoff - ND Council on Gambling Problems (meter 57.2) Read Testimony - Attachment #4.

Bruce Brooks - Minot Resident (Tape 2, side 1, meter 0.0) Submitted Testimony - Attachment 5a Submitted Amendments - Attachment 5b.

Senator Carolyn Nelson (meter 6.6) discussed amendment on "cash pay only" How if you pay for your gas with a credit card would you have to do a second transaction for the \$1 lottery ticket?  
Yes.

Andrew Varvel - Bismarck Resident (meter 7.8) Read Testimony - Attachment #6

Lisa Vig - Addiction Councilor Lutheran Social Services of ND (meter 9.5) Read Testimony - Attachment #7

Senator Thomas L. Trenbeath Discussed percent allocations of different states to gambling addiction services. (meter 11.7) spoke of 3-5% and "caps" on money received.

Discussion of scratch off tickets as being the most addictive

Sen. Dever asked what other funds are available in the state to support this group. (meter 13.3)

United way, State of ND General Fund, Indian Gaming Assoc.- for American Indians only, and they use a sliding fee schedule.

Testimony Neutral to HB 1243

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10/2/03  
Date

Page 5  
Senate Judiciary Committee  
Bill/Resolution Number HB 1243  
Hearing Date 03/04/03

Al Stenejem - Executive Director of Mental Health Association (meter 14.7) I am oppose to this bill, I support the vote of the people. Related a story from a help line Discussed lack of funding and no insurance coverage. Success rates for gambling problems are very high.

Senator Thomas L. Trenbeath question if 5% and a \$200,000 cap.

Sen. Dever asked who administers how the dollars are spent. The Department of Human Services they award the grant to Social Services and some is put into education for the awareness that the programs are available. Discussion of five tribes.

**Testimony in opposition of HB 1243**

Rev Warren Wenzel - Pastor Linton United Methodist Church (meter 21.9) Read Testimony - Attachment #8a. Submitted Chart and misc. attachments - Attachment 8b.

Rep Maragos Closed with discussion of how the voters told us to join a multi-state lottery. That is our responsibility. A bill that gives us the best chance to do what the voters told us we have to do. There has been many amendment offered. I do not oppose to the 5%. We have put the best bill in to allow us the maximum potential to be accepted by the 23 states that are in power ball. We need a majority of votes. They need to know that we are willing to do what the other states do in marketing their game. We should not put restrictions on that would Senator Dick Dever the message to them that we are not committed to being a full participant in that activity. I hope that this committee would not reject all of the amendment that have to do with changing the bill and leave it consistent with the states around us.

We need a majority of the states in the lottery to enter and if they do not allow us to enter do to restrictions we have put on a bill, then we have failed the people of North Dakota who voted for

Deanna Hallenbach  
Operator's Signature

10/2/03  
Date

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Senate Judiciary Committee  
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Hearing Date 03/04/03

this. I am not against Jack McDonalds amendments-that is a policy change. When you effect the context of the bill then you jeopardize the vote of the people and our acceptance into the lottery.

Senator John T. Traynor, Chairman questioned the percentage of 1% of gross profits generated from the sale of lottery tickets. (meter 30.5) Of every dollar sold .50 cents goes in prize fund and .50 goes to the state. This goes to pay expenses. The net or rest goes to the General Fund. The 1% is out of the original .50 cents.

Christina Kindal, ND Family of Alliances (meter 37.8)

Jack McDonald- Submitted Testimony and an amendment. Attachment #9.

Discussion of the sale of a ticking being a contract. Yes it is but for an underage child it is a voidable contract.

Senator John T. Traynor, Chairman closed the hearing

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10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

Senate Judiciary Committee

☐ Conference Committee

Hearing Date 03/05/03

Tape Number	Side A	Side B	Meter #
4	X		0.0 - 19.0

Committee Clerk Signature

Minutes: Senator John T. Traynor, Chairman, called the meeting to order. Roll call was taken and all committee members present. Sen. Traynor requested meeting starts with committee work on the bill:

Motion Made to DO PASS Amendment titled 30219.0401a submitted by Warren DeKrey (not amendment submitted by legislative council) on HB 1243 by Senator Carolyn Nelson and seconded by Senator Thomas L. Trenbeath

Discussion by Senator Carolyn Nelson of a parents roll in a child's life. What the enforcement of the amendment would be (meter 3.5)

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

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10/2/03

Page 2  
Senate Judiciary Committee  
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Hearing Date 03/05/03

**Motion Made to DO PASS Amendment 30219.042 prepared by Legislative Council staff on  
HB 1243 Sen. Dever and seconded by Sen. Trenbeath**

Sen. Dever discussed the word "one" (meter 5.2) did the people vote on the word "one" or is  
"one" terminology meaning plural form also. Discussion of what other states do.

**Roll Call Vote: 3 Yes. 2 No. 1 Absent**

**Motion Passed**

**Motion Made to DO PASS Amendment three changing 1% to 5% page 26, line 10 on HB  
1243 by Senator Carolyn Nelson and seconded by Senator Thomas L. Trenbeath**

Discussion (meter 11) Lisa Vig's amend- ND gross profit would be just under 2%, MN allocates  
1.9% of gross profit that comes to 3% net proceeds less then 7/10 of 1% of gross proceeds with  
no cap. if you change 1% to 5% gross profit would go from \$51,000 to \$255,000 if cap is  
removed.

**Roll Call Vote: 4 Yes. 1 No. 1 Absent**

**Motion Passed**

**Motion Made to DO PASS Amendment submitted by Jack McDonald on HB 1243 by  
Senator Thomas L. Trenbeath and seconded by Sen. Dever**

**Roll Call Vote: 5 Yes. 0 No. 1 Absent**

**Motion Passed**

Page 3  
Senate Judiciary Committee  
Bill/Resolution Number HB 1243  
Hearing Date 03/05/03

Motion Made to DO PASS HB 1243 four (4) times amended Senator Stanley W. Lyson,  
Vice Chairman and seconded by Sen. Dever

Roll Call Vote: 5 Yes. 0 No. 1 Absent

Motion Passed

Floor Assignment: Senator John T. Traynor, Chairman

Senator John T. Traynor, Chairman closed the hearing

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Deanna Hall  
Operator's Signature

10/2/03  
Date



Date: March 5, 2003  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1243**

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS AMENDMENT Titled 30219.0401a submitted and created by  
Warren DeKrey

Motion Made By Sen. Nelson Seconded By Sen. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Dennis Bercier  
Operator's Signature

10/2/03  
Date

Date: March 5, 2003  
Roll Call Vote #: 2

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1243**

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS - Amend 30219.0402

Motion Made By Sen. Dever Seconded By Sen. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman		X	Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair		X	Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) THREE (3) No TWO (2)

Absent ONE (1)

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Dennis Bercier  
Operator's Signature

10/2/03  
Date

Date: March 5, 2003  
Roll Call Vote #: 3

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1243**

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS - Amend 1% TO 5% page 10, line 26

Motion Made By Sen. Dever Seconded By Sen. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair		X	Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FOUR (4) No ONE (1)

Absent ONE (1)

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Dennis Bercier 10/2/03  
Operator's Signature Date

Date: March 5, 2003  
Roll Call Vote #: 4

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1243

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO PASS - Amend page 12 line 18 (McDonald)

Motion Made By Sen. Dever Seconded By Sen. Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Dennis Bercier  
Operator's Signature

10/2/03  
Date

30219.0403  
Title.0500

Adopted by the Judiciary Committee  
March 6, 2003

JB  
3.1.3

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1243

Page 5, line 3, replace "a" with "one" and after "joint" insert "on-line"

Page 9, line 13, replace "finding" with "grounds"

Page 10, line 26, replace "One" with "five"

Page 11, line 12, remove "- Gift of ticket to minor"

Page 11, line 13, remove "permitted - Prize paid to parent or guardian or deposited in court"

Page 11, line 14, after "sold" insert "or given"

Page 11, line 15, after "sell" insert "or give"

Page 11, line 16, remove "A lottery ticket may be"

Page 11, remove lines 17 through 20

Page 12, line 7, remove "- Disposition of unclaimed prize"

Page 12, line 18, replace "Information" with "The following information" and remove ", including"

Renumber accordingly

Date: March 5, 2003  
Roll Call Vote #: 5

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1243**

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30219.0403

Action Taken DO PASS as four (4) Times Amended

Motion Made By Sen. Lyson Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley. Lyson - Vice Chair	X		Sen. Carolyn Nelson	X	
Sen. Dick Dever	X				
Sen. Thomas L. Trenbeath	X				

Total (Yes) FIVE (5) No ZERO (0)

Absent ONE (1)

Floor Assignment Senator John T. Traynor, Chairman

If the vote is on an amendment, briefly indicate intent:

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Dennis Bercier  
Operator's Signature

10/2/03  
Date

Date: March 6, 2003  
Roll Call Vote #: 6

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1243**

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken MOTION TO RECONSIDER

Motion Made By Sen. Lyson Seconded By Sen. Dever

Senators	Yes	No	Senators	Yes	No
Sen. John T. Traynor - Chairman	X		Sen. Dennis Bercier	A	A
Sen. Stanley Lyson - Vice Chair	X		Sen. Carolyn Nelson		X
Sen. Dick Dever		X			
Sen. Thomas L. Trenbeath		X			

Total (Yes) TWO (2) No THREE (3)

Absent ONE (1)

Floor Assignment MOTION FAILS

If the vote is on an amendment, briefly indicate intent:

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Dennis Hall  
Operator's Signature

10/2/03  
Date

REPORT OF STANDING COMMITTEE (410)  
March 7, 2003 10:08 a.m.

Module No: SR-41-4193  
Carrier: Traynor  
Insert LC: 30219.0403 Title: .0500

**REPORT OF STANDING COMMITTEE**

HB 1243, as engrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REFERRED** to the Appropriations Committee (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed HB 1243 was placed on the Sixth order on the calendar.

Page 5, line 3, replace "a" with "one" and after "joint" insert "on-line"

Page 9, line 13, replace "finding" with "grounds"

Page 10, line 26, replace "One" with "Five"

Page 11, line 12, remove "- Gift of ticket to minor"

Page 11, line 13, remove "permitted - Prize paid to parent or guardian or deposited in court"

Page 11, line 14, after "sold" insert "or given"

Page 11, line 15, after "sell" insert "or give"

Page 11, line 16, remove "A lottery ticket may be"

Page 11, remove lines 17 through 20

Page 12, line 7, remove "- Disposition of unclaimed prize"

Page 12, line 18, replace "Information" with "The following information" and remove ", including"

Renumber accordingly



2003 SENATE APPROPRIATIONS

HB 1243

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Deanna Hallmark  
Operator's Signature

10/2/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

Senate Appropriations Committee

☐ Conference Committee

Hearing Date 3-17-03

Tape Number	Side A	Side B	Meter #
1		X	2389-5970
Committee Clerk Signature <i>Sandra Davison</i>			

Minutes: CHAIRMAN HOLMBERG opened the hearing to HB 1243. A bill relating to compulsive gambling prevention and treatment, the establishment of the ND lottery, an to an exemption for sales tax; relating to lottery offenses; to provide a penalty; to provide a continuing appropriation; declare an emergency. CHAIRMAN HOLMBERG explained the history of the bill which has been through the Judiciary committee and the Senate amended the bill. Instructed the committee to look only at the fiscal aspect of the bill not the issues of the number of games. (Meter 2500) SANDI TABOR, Deputy Attorney General testified in support of HB 1243. She gave the background on the amendment. One of the concerns was the cost of the start up of the lottery - where is \$400,000 to be found? Her department reviewed their budget and had an idea with the exception of the cost incurred from now until the end of the biennium, their authorization within their general fund appropriation is probably big enough that they could float themselves along from July 1 through the start up date of the actual lottery date. And then just be reimbursed from the lottery proceeds. The issue at hand is what is to be done now, there are staff

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*Dennis G. Ball*  
Operator's Signature

*10/2/03*  
Date

Page 2

Senate Appropriations Committee

Bill/Resolution Number HB 1243

Hearing Date 3-17-02 3

working now on now on pulling rules from different states, talking to others and we are incurring costs. This amendment will allow them to float a loan to cover the costs of the start up and reimbursed.

(Meter 2700) CHAIRMAN HOLMBERG asked the other fiscal impact that this bill will have and what is the latest estimate provide for by the Governor's budget? SANDI TABOR referred the question to Chuck Keller.

(Meter 2763) SENATOR BOWMAN asked if employees are working on this project already part time, they are employed by the state and SANDI TABOR answered yes. He then stated his concern of being reimbursed for work that is already being paid to do. He wants to know where the extra costs occurred whether they are working on this project or another? SANDI TABOR explained that many of the things that are worked on in that office are special funded. This work is actually dedicated with the lottery, they weren't sure why they should direct them into doing this lottery work when they could be doing other projects. Special funds for special projects for the lottery division not the gaming division.

(Meter 2869) SENATOR ANDRIST wanted to know if the start up cost were other than salaries? SANDI TABOR answered that it may included travel expenditures too.

(Meter 2940) CHUCK KELLER, Chief Auditor of the Gaming Division of the Office of Attorney General testified in support of HB 1243. He addressed the question on the ND lottery based on the fiscal note. For the 2003-05 biennium, about 1.486 million dollars will be generated for the general fund. That amount is after the allocation of two hundred thousand dollars for problem gaming related services.

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*Dan Hall*  
Operator's Signature

10/2/03  
Date

Page 3  
Senate Appropriations Committee  
Bill/Resolution Number HB 1243  
Hearing Date 3-17-03

(Meter 3100) SENATOR MATHERN asked if the fiscal note does that take into account the Senate action in terms of his many be more than one game or this is assuming one game. How does this fiscal note apply? CHUCK KELLER stated that the Office of the AG is forecasting that in the 2003-05 biennium, the ND lottery will be operating one game and that will be Powerball. The Senate's rejection of Division A of the amendments, will enable the ND lottery to consider multilevel state games in the future.

(Meter 3250) DAWN CRONIN, Gaming counselor for Gamblers Choice of Lutheran Social Services/ND in Fargo testified in support of Division B of the proposed amendments that deals with taking off the \$200,000 cap placed on the bill. See written testimony Exhibit 2.

(Meter 3421) SENATOR MATHERN asked DAWN what in her opinion is an adequate amount to address this problem in our state? DAWN answered that it is a hard number to predict and when looking at a budget to provide the treatment in just the Fargo office, that budget is about \$200,000 with other sources of income. But at this point they are seeing a lot of other people coming from areas that currently do not have treatment available to them. The \$200,000 that is used is treating people from Devils Lake, Jamestown and if the moneys is to be spread out to other areas that could be feasible. An adequate treatment would be about \$50,000 but not all areas of the state need the same level of care in an outpatient program. Most larger areas of the state are in need of a counselor there on a part to full time position. Prevention has been very under funded over the years since the state has gambling. They spend about \$25,000 per year on prevention which is very minimal, it helps only a very small piece of what they do.

(Meter 3655) SENATOR TALLACKSON stated the state has had gambling for several years including casino gambling and he doesn't see where this bill will create that many more

Page 4  
Senate Appropriations Committee  
Bill/Resolution Number HB 1243  
Hearing Date 3-17-03

gamblers. He feels that it is generous of the lottery to contribute this \$200,000 for this effort that has been here for years. DAWN CRONIN did specify her gratitude for the contributions that the state has proved. The state started to contribute money starting in 1997 from the general fund for treatment. The state does contribute 1/4 or 1% of what the charitable gaming taxes are.

(Meter 3830) SENATOR TALLACKSON asked if they receive any moneys from the Casinos?

DAWN responded that yes, they do. The casino's contribute through the mental health association which in turn contracts with them. The casinos actually contribute more than the state does for the treatment of compulsive gamblers and they do it willingly, consistently for 6 years without being instructed too.

(Meter 3940) SENATOR THANE asked what type of gambling seems to have the highest addiction compulsion? Pulltabs? Slot machines? Poker? DAWN reported that the casino report that slot machines and pull tabs are primary two, followed by bingo. Hate to predict the exact game.

(Meter 4100) CHAIRMAN HOLMBERG asked for a motion on the amendment (30219.0406) he proposed from the Attorney General's office and Legislative Council fiscal staff. SENATOR GRINDBERG made a motion and was seconded by SENATOR ANDRIST. The amendment passed with a roll call vote of 13 yeas, 0 nays and 1 absent.

(Meter 4380) SENATOR KRAUTER stated on page 8, line 9 where it mentions the Lottery Advisory Commission, he offered an amendment where three of the five member, he would like to amend it to three be amended as such: two members of the majority party and one member from the minority party. SENATOR TALLACKSON seconded it. He explained his reasoning for this amendment. (Meter 4526) SENATOR GRINDBERG stated he understands the concept but

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Operator's Signature

10/2/03  
Date

Page 5  
Senate Appropriations Committee  
Bill/Resolution Number HB 1243  
Hearing Date 3-17-02

he feels this is a policy issue not a budget issue. (Meter 4806) SENATOR SCHOBINGER made an good point of the indifference of a legislative term verses the members being on the commission that may not coincide with the board term. The discussion continued on policy issues having action taken in the appropriations committee and if this was over looked by other committees. Discussion continued if the appropriations committee does not hear the whole story, it may not the best interest to make policy changes since the job of the appropriations is the fiscal note. First voice roll was taken and SENATOR KRAUTER request a recorded roll call. A roll call vote was taken and failed with 5 yeas, 8 nays and 1 absent. Motion failed.

(Meter 5459) Continued on the amendment proposed by SENATOR HOLMBERG (30219.0406) offered from AG's office and LC. Motion made by SENATOR GRINDBERG and seconded by SENATOR ANDRIST. A roll call vote passed by 13 yeas, 0 nays and 1 absent and not voting.

(Meter 5566) SENATOR MATHERN pointed out on Page 10, engrossed bill, line 27, he moves that they strike the word two and insert the word four. SENATOR ROBINSON seconded it.

Discussion was about the testimony revealing there is additional treatment and prevention work needed. The folks who provide this treatment are working for Lutheran Social Service with one office alone with a full time person costs about \$50,000. They have requested to take off the cap and he feels it is unfair to how much money that would raise. SENATOR MATHERN feels that \$400,000 would essentially provide for four full time offices in this state for each of the years of the biennium. He feels that \$200,000 for two years would not be enough. He believes that gambling prevention has been under funded and now is introduced another format. (meter 5866) CHAIRMAN HOLMBERG stated that the evidence that he has seen over the past over the weekend but the types of gaming of instant gratification verses the delayed gratification. He felt

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*Donna Hall*  
Operator's Signature

10/2/03  
Date

Page 6  
Senate Appropriations Committee  
Bill/Resolution Number HB 1243  
Hearing Date 3-17-02

that increasing this would undo what the other committee just put in place. It would be in direct confrontation to what the Senate has already said policy wise on this particular bill - that \$200,000 is the cap. SENATOR MATHERN stated that the Senate did not consider \$400,000 and that was not presented to the floor and there may be some chances there may be a future in the gambling process other than power ball or more than one game. The option is there and he feels they need to respond to it. (Meter 6199) SENATOR BOWMAN feels there is enough money set aside for gambling prevention and feels we probably won't see the total problem until the process is in place.

**Tape 2 Side A**

More discussion was heard. It was suggested that this amendment be brought up on the Senate floor. A roll call vote on amendment proposed by SENATOR MATHERN was taken. The vote was 7 yeas, 7 nays and 0 absent. The motion failed.

(Meter 180) There was a motion by SENATOR TALLACKSON and a second by SENATOR CHRISTMANN for a DO PASS AS AMENDED. It passed with a vote of 13 yeas, 1 nay, 0 absent. SENATOR HOLMBERG will carry the amendment and the bill will be carried by Judiciary committee SENATOR TRAYNOR.

CHAIRMAN HOLMBERG closed the hearing to HB 1243.

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*Dan Hall*  
Operator's Signature

10/2/03  
Date

*Failed  
(not drafted)  
proposed  
Amendment  
pg 8  
Sen. Krauter*

Date: 3-17-03  
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1243

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30219.0406

Action Taken \_\_\_\_\_

Motion Made By Krauter Seconded By Tallackson

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman		✓			
Senator Bowman, Vice Chair		✓			
Senator Grindberg, Vice Chair		✓			
Senator Andrist		✓			
Senator Christmann	✓				
Senator Kilzer	✓	✓			
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas		✓			
Senator Mathern	✓				
Senator Robinson					
Senator Schobinger		✓			
Senator Tallackson	✓				
Senator Thane		✓			

Total (Yes) 5 No 8

Absent 1

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

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Doreen Ballack  
Operator's Signature

10/2/03  
Date



30219.0406  
Title.

Prepared by the Legislative Council staff for  
Senator Holmberg  
March 14, 2003

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1243**

In addition to the amendments adopted by the Senate as printed on pages 711 and 712 of the Senate Journal, Engrossed House Bill No. 1243 is further amended as follows:

Page 1, line 9, after the semicolon insert "to provide for reimbursement of lottery expenses;"

Page 15, after line 21, insert:

**"SECTION 8. ATTORNEY GENERAL REIMBURSEMENT - STARTUP EXPENSES.** During the biennium beginning July 1, 2003, and ending June 30, 2005, the attorney general's operating fund must be reimbursed from lottery gross profits, in an amount not to exceed \$85,000, for expenses associated with the startup of the lottery which were incurred before July 1, 2003."

Renumber accordingly

Deanna Holmberg  
Operator's Signature

10/2/03  
Date

Amendment  
proposed by  
Sen. H

Date: 3-17-03  
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1243

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 36219.0404

Action Taken \_\_\_\_\_

Motion Made By Gund Seconded By Andrist

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair	✓				
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson					
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 13 No \_\_\_\_\_

Absent 1

Floor Assignment Amendment - Holmberg

If the vote is on an amendment, briefly indicate intent:

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Dan Holmberg  
Operator's Signature

10/2/03  
Date

*Filed Proposed Amend Mathern June 27 pg 10, 2-74 imposed bill*

Date: 3-17-03  
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1243

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

*not drafted printed*

Action Taken

Motion Made By

*Mathern*

Seconded By

*Robinson*

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Senator Bowman, Vice Chair	<input checked="" type="checkbox"/>				
Senator Grindberg, Vice Chair		<input checked="" type="checkbox"/>			
Senator Andrist		<input checked="" type="checkbox"/>			
Senator Christmann		<input checked="" type="checkbox"/>			
Senator Kilzer		<input checked="" type="checkbox"/>			
Senator Krauter	<input checked="" type="checkbox"/>				
Senator Kringstad		<input checked="" type="checkbox"/>			
Senator Lindaas	<input checked="" type="checkbox"/>				
Senator Mathern	<input checked="" type="checkbox"/>				
Senator Robinson	<input checked="" type="checkbox"/>				
Senator Schobinger	<input checked="" type="checkbox"/>				
Senator Tallackson	<input checked="" type="checkbox"/>				
Senator Thane		<input checked="" type="checkbox"/>			

Total (Yes)

7

No

7

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

*Danna Baller*

Date

10/2/03

Date: 3-17-03  
Roll Call Vote #: 4

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1243

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Tallackson Seconded By Christman

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman	✓				
Senator Bowman, Vice Chair		✓			
Senator Grindberg, Vice Chair	✓				
Senator Andrist	✓				
Senator Christmann	✓				
Senator Kilzer	✓				
Senator Krauter	✓				
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 13 No 1

Absent Holmberg Amend Gud - bill Traynor

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

*As engrossed  
further amended*

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Dorena Holmberg  
Operator's Signature

10/2/03  
Date

**REPORT OF STANDING COMMITTEE (410)**  
March 17, 2003 3:30 p.m.

Module No: SR-47-4958  
Carrier: Taylor  
Insert LC: 30219.0406 Title: .0700

**REPORT OF STANDING COMMITTEE**

HB 1243, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1243, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the Senate as printed on pages 711 and 712 of the Senate Journal, Engrossed House Bill No. 1243 is further amended as follows:

Page 1, line 9, after the semicolon insert "to provide for reimbursement of lottery expenses;"

Page 15, after line 21, insert:

**"SECTION 8. ATTORNEY GENERAL REIMBURSEMENT - STARTUP EXPENSES.** During the biennium beginning July 1, 2003, and ending June 30, 2005, the attorney general's operating fund must be reimbursed from lottery gross profits, in an amount not to exceed \$85,000, for expenses associated with the startup of the lottery which were incurred before July 1, 2003."

Renumber accordingly

2003 TESTIMONY

HB 1243

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Deanna Ballard  
Operator's Signature

10/2/03  
Date

## TESTIMONY ON PROPOSED AMENDMENTS TO HOUSE BILL NO. 1243

By Chuck Keller, Gaming Division, Office of Attorney General

House Judiciary Committee

January 29, 2003

My name is Chuck Keller. I am the chief auditor of the Gaming Division of the Attorney's General's Office. I will explain the relevant provisions of the proposed amendments to House Bill No. 1243. These amendments represent recommendations of the Multistate Lottery Association, South Dakota Lottery, North Dakota Tax Department, North Dakota State Auditor's Office, and Attorney General's Office, and will ensure a secure and effective North Dakota lottery.

General - Proposed amendments clarify the bill and make technical corrections.

Section 1 - Proposed amendments would delete section 1 (contained on pages 1, 2, and part of page 3) of the bill. Since a North Dakota lottery would be a legal lottery, the provisions in section 1 of the bill are not necessary.

Section 53-12-04 - A proposed amendment would provide the director of the lottery with authority to suspend, deny, or revoke a lottery retailer's license or impose a monetary fine, for violation of law or rule, by the retailer or any agent, employee, or volunteer of the retailer.

Sections 53-12-04 and 53-12-07 - Proposed amendments would clarify that the director must enter into a written agreement with a government-authorized lottery for the operation, marketing, and promotion of a joint lottery game. The Multistate Lottery Association (MUSL) has recommended that reference to "multistate" in the bill be deleted, lest it be interpreted literally, since members of MUSL presently include the District of Columbia and U.S. Virgin Islands which are not "states," and MUSL's forthcoming international lottery will include foreign countries.

Section 53-12-18 - A proposed amendment would enable the attorney general to adopt emergency rules, if necessary to avoid unnecessary delay in implementing a lottery, without the grounds of an imminent peril threatening public health, safety, or welfare or other factors otherwise required for promulgating emergency rules.

Section 53-12-26 - A proposed amendment would place unclaimed prize money in the general fund, rather than award it as prize money in subsequent lottery games.

Section 53-12-28 - Proposed amendments would specify that sales and income tax information, financial statements, and computerized files of persons owing a debt to the state or having a debt collected through a state agency are confidential records. A reference in subsection 4 to "tax returns of individual licensees" is unnecessary and would be deleted.

Sections 53-12-30 and 53-12-34 (new) - A proposed amendment would increase the amount of prize that would be subject to a debt setoff. It would change from an amount greater than \$100, to an amount equal to or greater than \$600. This would enable the North Dakota lottery to bypass being inundated with winning tickets to screen for debt setoff. Prize winning tickets of \$600 or more would need to be sent to the lottery for payoff since the lottery would need to issue IRS Form 1099-Gs to players.

Proposed amendments provide that if two or more persons (players) or state agencies make claim to a prize, the director of the lottery would deposit the contested amount of prize with the respective clerk of court or court-appointed depository for resolution. Members of the lottery would be relieved of any conflict resolution or liability to any person to account for the prize.

Section 3 (new) - A proposed amendment to the law related to powers and duties of the State Auditor would exempt the North Dakota lottery from an audit once every two years because the bill requires that there be an "annual" audit. It is a technical correction.



Sections 4 (new) and 6 (new) - Proposed amendments to the laws related to confidentiality of income and sales and use tax information would enable the tax commissioner, upon written request from the director of the lottery, to convey in writing to the director whether an applicant for a lottery retailer's license is current in payment of all taxes, interest, and penalties owed to the state, excluding items under formal dispute or appeal.

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Deanna Ballerich  
Operator's Signature

10/2/03  
Date

## HOUSE BILL #1243

To: Chairman Duane DeKrey, and Members of the House: Judiciary Committee:

Thank you for allowing me to testify on House Bill #1243 (the Lottery Bill). For the record my name is Kenny Koehn of Devils Lake.

I'm deeply concerned with several parts of this proposed legislation.

1. **First of all, I'm concerned that the state is positioning itself to be the hustler of its citizens to gamble, and in the process government, as well as its citizens, becomes addicted. I ask, should the state promote gambling through the media? I THINK NOT**

2. **Secondly, Lotteries Are the Entry Level Into Gambling Addiction.**

It is the piper of youth addiction. I certainly recommend we do everything possible to prevent youth gambling. As written, this legislation puts the state in the position of promoting and enticing our children to join the "so-called fun." We are telling them through the media that it's okay to gamble. Is this what we meant for our youth? I think not. We need to keep the state out of advertising a lottery or any other form of gambling.

3. **Set-aside for Treatment of Compulsive Gamblers.**

Dick Ellsion, a registered North Dakota addiction counselor, states that it costs \$100,000 to rehabilitate a male gambling addict, \$75,000 to rehabilitate a female gambling addict. He also notes that female addicts are usually single moms. He states that 50% of the men and 73% of the females file bankruptcy.

Page 11, lines 13-17, states that 1 percent (1%) of the net proceeds from the sale of lottery tickets, not to exceed \$200,000, shall go to treatment of compulsive gamblers. If it indeed costs \$100,000 per gambler for rehabilitation, then only 2 gambling addicts can be treated. I would recommend that at least 5 percent (5%) of the net proceeds be set aside for treatment of addictive gamblers.

4. **Is the Power Ball Lottery Profitable?**

In a study conducted by University of Illinois Professor John Klindt, he estimates that for every one dollar a state recovers in gambling revenue, it costs three dollars (\$3.00) to fund escalating costs of criminal justice and social welfare programs. Based on these figures, how can the state benefit by establishing a lottery?

NOTE: Handout "Stand Up for Kansas January 29, 2002"

NOTE: North Dakota is already one of the states with the highest number of pathological gamblers.

(Continued)

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(2)

**5. 15.5 Million Gambling Addicts in the United States:**

It is extremely alarming to know that half of the 15.5 million are teenagers. Do we realize that by setting the age limit at 18 and with already 14,000 addicts in North Dakota we could well have 50 percent of the addicts be teenagers? Within this legislation we must set the minimum age at 21 to prevent our teenagers from becoming addicted to gambling. Let's set a good example by not having our state encouraging our youth to gamble!

**6. Lottery Tickets As Gifts To Minors:**

On page 11, line 31, and page 12, lines 1-2, the language states: "A lottery ticket may be given as a gift to a minor. Any prize won by a minor from a ticket given as a gift must be paid to the minor's parents or legal guardian." I think this is a subtle way of teaching our youth to gamble. I would certainly recommend that the verbiage be changed so that no one under the age of 21 can receive a gift of a lottery ticket.

**7. Specifically Limit the Lottery To Power Ball Only:**

I'm deeply concerned that no other gambling forms be added to this proposed lottery bill. To add any other forms of gambling to House Bill #1243 would be contrary to what the voters were told they voted for -- the Power Ball Lottery only. We would be expanding gambling far beyond what was intended. Expansion of this magnitude would be creating a new level of gambling addicts. And how can we pay for the increased social costs that will be created by this expansion?

In closing, it is my hope and prayer that you as committee members will make the corrections to House Bill #1243 that will bring the least amount of negative impact on our citizens, and especially on our youth.

Thank you for allowing me to testify. I'll be glad to answer any questions this committee might have.

Kenny Koehn

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Danina H. Koehn  
Operator's Signature

10/2/03  
Date

# STAND UP FOR KANSAS

P.O. Box 780127 • Wichita, KS 67278 • (316) 634-2674

## Casino Alert

A Newsletter for Kansas Legislators

PLR. EARL GRINOLS — 217-333-4595

ILLINOIS ECONOMICS DEPT

DURAND JACOBS — Picked Picked

Lo Linda Collier

901-792-5350

January 29, 2002

## Pathological gambler cost society an average of \$13,586 annually

What is the cost of gambling addiction to society – families, friends, employers, taxpayers and government? Casino proponents promote the “benefits” of proposed casinos but seldom discuss the costs to society.

Last May, economics professors Earl Grinols of the Univ. of Illinois and David Mustard of the Univ. of Georgia published results of the most exhaustive study to date on the social costs of casinos.<sup>1</sup> Their report contains an in-depth analysis of eight original research studies published between 1981 and 1999 on the relationship between social costs and pathological gamblers. The studies were conducted for the states of Maryland (1981), Florida (1994), Wisconsin (1996), Connecticut (1998), South Dakota (1998-1999), Louisiana (1999), and South Carolina (1999), plus one study covering the United States prepared for the National Gambling Impact Study Commission (1999).

Grinols and Mustard determined the average cost to society to be \$13,586 per pathological gambler per year, broken down as follows:<sup>1</sup>

1. **Crime:** Costs for the apprehension, adjudication, incarceration, and rehabilitation of criminals; police costs resulting from the need for increased police presence.....\$3998 (29%)
2. **Business and Employment:** Costs of lost productivity, lost time and unemployment; sick days off for gambling, arriving late after gambling, extended lunch hours, and leaving early to gamble; hiring and training new employees after firing addicted employees for poor performance. ....\$3995 (29%)
3. **Abused dollars:** Money obtained from family, friends, and employers under false pretenses.....\$3834 (28%)
4. **Illness:** Treatment costs for gambling related sicknesses, such as depression, stress, chronic or severe headaches, anxiety, moodiness, irritability, intestinal disorders, asthma, and cardiovascular disorders.....\$700 (5%)
5. **Social services:** Government costs for therapy, treatment, unemployment and other social service costs, including welfare and food stamps.....\$631 (5%)
6. **Bankruptcy:** Lawsuits, legal costs, and bill collection.....\$316 (2%)
7. **Family costs:** Costs related to divorce, separation, spousal abuse and child neglect. ....\$111 (1%)

**“Free revenue” from legalized gambling is not free!**

<sup>1</sup> Earl L. Grinols and David B. Mustard, “Business Profitability versus Social Profitability: Evaluating Industries with Externalities, The Case of Casinos, Managerial and Decision Economics, Vol. 22, Nbr. 1-3, Jan.- May 2001, p. 143-162.

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WHEN THE CHIPS ARE DOWN  
TABLE 4.1. NORTH AMERICAN CURRENT PROBLEM AND PROBABLE PATHOLOGICAL GAMBLING PREVALENCE RATES AT BASELINE AND REPLICATION AFTER TWO, THREE, AND FOUR OR MORE YEARS, CONT.

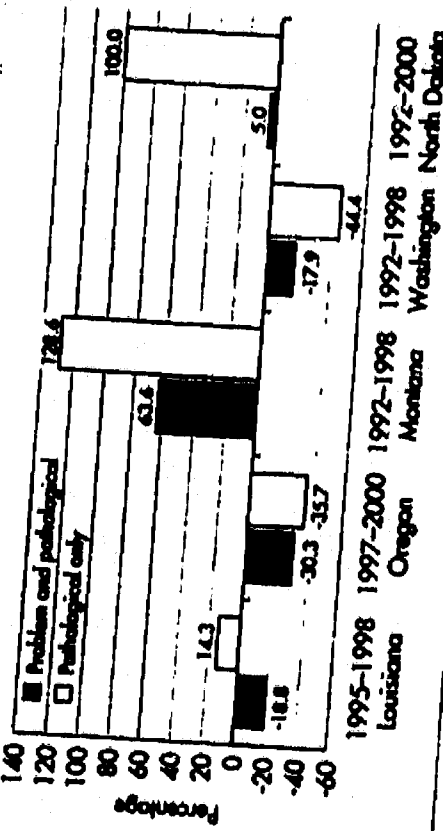
FOUR OR MORE YEARS	JURISDICTION	CURRENT		CURRENT PROBABLE		CURRENT TOTAL (%)
		PROBLEM (%)	PATHOLOGICAL (%)	PROBLEM (%)	PATHOLOGICAL (%)	
1992	Washington State	1.9	0.9	2.8		
1998	Washington State	1.8	0.5	2.3		
1992	North Dakota	1.3	0.7	2.0		
2000	North Dakota	0.7	1.4	2.1		

Sources: Max W. Abbott and Rachel A. Volberg, *Gambling and Problem Gambling in the Community: An International Overview and Critique* (Wellington: New Zealand Department of Internal Affairs, 1999); Rachel A. Volberg, *Gambling and Problem Gambling in North Dakota: A Replication Study, 1992 to 2000* (Bismarck, N.D.: Office of the Governor, 2001); Rachel A. Volberg, *Changes in Gambling and Problem Gambling in Oregon, 1997 to 2000*, report to the Oregon Gambling Addiction Treatment Foundation (Salem: Oregon Gambling and Problem Gambling Foundation, 2001); Rachel A. Volberg and Walter L. Moore, "Gambling in Louisiana: A Replication Study, 1995 to 1998," Appendix D, in Timothy P. Ryan and Janet E. Speyer, *Gambling in Louisiana: A Benefit/Cost Analysis*, report to the Louisiana Gaming Control Board (New Orleans: University of New Orleans, 1999).

Figure 4.1 shows that, while combined prevalence rates may not change appreciably in short periods of time, there can be substantial changes in the prevalence of probable pathological gambling over time and, therefore, in the proportion of individuals within the group of problem gamblers who are experiencing more severe difficulties. Similar changes have been identified in several Canadian provinces, including Alberta, Manitoba, and New Brunswick.<sup>26</sup>

If we accept a change in magnitude of 1.5 percent as significant,<sup>27</sup> Figure 4.1 shows that the combined current prevalence of problem and probable pathological gambling (as measured by the South Oaks Gambling Screen) declined in three of the five jurisdictions under consideration (Louisiana, Oregon, and Washington State), remained stable in North Dakota, and increased in Montana. In contrast, the current prevalence of probable pathological gambling alone—that is, the group of respondents at the most severe end of the problem gambling continuum—increased substantially in both Montana and North Dakota, remained stable in Louisiana, and declined in Oregon and Washington State.

WHAT IS THE EXTENT OF PROBLEM GAMBLING?  
FIGURE 4.1. CHANGES IN PROBLEM GAMBLING PREVALENCE ACROSS SELECTED U.S. JURISDICTIONS



Source: Rachel A. Volberg, *Changes in Gambling and Problem Gambling in Oregon, 1997 to 2000*, report to the Oregon Gambling Addiction Treatment Foundation (Salem: Oregon Gambling Addiction Treatment Foundation, 2001).

It is worth noting that in the two jurisdictions where prevalence rates declined—Oregon and Washington State—as well as in Louisiana, where the prevalence rate was stable, there were relatively strong problem gambling service systems in place during the period between the baseline and replication surveys. In contrast, in the North Dakota, there were almost no services available for problem gamblers and their families.

A degree of caution is necessary in interpreting these data due to the relatively small sample sizes and complex sampling designs used in all of these studies. However, the consistency of these changes over a considerable period of time as well as across a variety of jurisdictions suggests that these are reliable trends rather than the result of sampling error.

#### WHO IS AT RISK FOR PROBLEM GAMBLING?

In an extensive review of the problem gambling literature, the National Research Council concluded that, while past studies have provided a solid foundation, more and better research is needed on the specific risk factors that lead to either the initiation of gambling

Operator's Signature: *Donna Hall*

Date: 10/2/03

29 January 2003

Chairman DeKrey, Representatives, I welcome the opportunity to testify on the Lottery bill, HB 1243. I am Bruce Brooks, from Minot, and, although I have opposed the lottery as a private citizen for several years, I am now an unpaid lobbyist for the North Dakota Coalition on Gambling Problems.

My first remarks concerning HB1243, as introduced, have to do with its lack of recognition that the Legislature has a major role in determining the course of the lottery effort. In all of the other lottery legislation I researched (MT, IL, GA, CO, MI, ID, NY, and SD), these states' legislatures saw it as their duty to establish in law principles and regulations that would be followed by the organization that actually had the responsibility of running the enterprise. It is clear that these legislatures were striving to develop and establish the best, most complete and comprehensive laws that would govern their respective lotteries.

These legislatures set clear guidelines within which the lottery authority would be required to develop administrative rules and regulations. This was done to ensure that their citizens could have faith and trust in the endeavor.

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*Bruce Brooks*  
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10/2/03  
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The proposal that the legal age for purchasing lottery tickets be set at 21 is based on considerable research that supports the notion that young gamblers are more probably going to be adult problem gamblers and gambling addicts.

For example, a March 1998 survey by the New York Council on Problem Gambling of more than 1,100 teenagers found that 75 percent have gambled in the past year, with 15 percent participating on a weekly basis. Nearly one-third had purchased lottery tickets.

Dr. Michael Gordon, an Atlanta (GA) addiction expert, reported "Research shows that 90 percent of the nation's compulsive gamblers got started in adolescence."

"The sale of lottery games to minors is illegal in every state. However, by all measures, it is commonplace. A survey in Minnesota of 15 to 18 year olds found that 27 percent had purchased lottery tickets for themselves. Even higher levels were recorded in Louisiana, Texas, and Connecticut."

The Massachusetts Attorney General's office found that minors as young as 9 years old were able to purchase lottery tickets on 80 percent of their attempts... 75 percent of Massachusetts high school seniors report having played the lottery.

Reducing the age limit for purchase of lottery tickets at 18 will bring a previously untapped group of vulnerable high school students into the market. And it will compound the problems that society is already seeing, with young people burdened early on with debt caused by yet another bad choice placed within their grasp. And this bad choice will be sponsored by the state.

Regardless of the age limit set for our state, minors will find a way to purchase tickets. If the age is set at 21, our recommendation, youth in the border areas will still travel to our bordering states to buy tickets, just as they do now. But the youth in the 18 to 21 year group who don't live in the border areas probably won't.

Probably the major justification used by the proponents for the lottery was that the lottery would recover, for our state, the incidental purchases made by North Dakotans in the border states. No mention of age was offered during these arguments, and the age limit was not on the ballot last November. In none of the debates I experienced over the lottery was age an issue, and no talk radio callers ( a popular activity of many) mentioned age when they discussed the question.

I submit that young people account for a very small portion of those who currently visit border states to buy lottery tickets, and that their share of the "lost revenue from legal sales" is insignificant.

In short, setting the legal age for purchase at lower than 21 will introduce impressive young people to yet another temptation and bad choice as they progress to adulthood. And the most significant fact is that it is unfortunately sponsored by the state.

Journalist George Will calls gambling "debased speculation, a lust for sudden wealth that is not connected with the process of making society more productive of goods and services. Government support of gambling gives a legitimatizing imprimatur to the pursuit of wealth without work." "Similarly, offending officials at Enron took steps to satisfy their personal lust for wealth without doing anything to build the economy. I do not want to teach my children or my students that it is right to get something for nothing."



As to lottery proponent arguments that there is no proof that lottery is addictive, I offer this: "If those in dispute are still not satisfied, I hasten to add that 43 percent of those who called the national hotline (1-800-GAMBLER) has problems specifically with the lottery (Reno, 1998). I find it fascinating that gamblers themselves can identify the lottery as an addictive form of gambling, yet (proponents) can not. Further, in Texas, 34 percent of those attending publically funded alcohol and drug treatment centers cited the lottery as their "most problematic gambling activity" (Wallisch 1995) If the lottery is not a potentially additive form of gambling, then gambling addicts themselves have certainly been fooled." (Reno, Ronald, "Lottery Claims Bigger Slice of Poor's Income." Chicago Tribune, May 26, 1995.) (Wallisch, Lynn. "Gambling in Texas: 1995 Surveys of Adult and Adolescent Behaviour: Executive Summary." Texas commission on Alcohol and Drug Abuse.) (6-15-2002)

"Fourteen percent of the students questioned were at risk of becoming problem gamblers, and 24 percent were identified as already seriously addicted to gambling. Next to betting on games of personal skill and sports betting, the lottery was identified as the game most likely to turn adolescents into problem and pathological gamblers." (Rachel A Volberg, "Gambling and problem gambling among adolescents in New York" Report to the New York Council on Problem Gambling, Inc. (Northampton, MA: Gemini Research, March 1998)

Again I thank you for this opportunity. I would be happy to answer any questions you may have.

Bruce Brooks  
2600 SE22nd St  
Minot, ND 58701  
Tel: 701-839-7898

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Dennis Halbach  
Operator's Signature

10/2/03  
Date

January 29, 2003  
Testimony of Christina Kindel  
For North Dakota Family Alliance  
House Judiciary Committee  
H.B. 1243

Chairman DeKrey and Committee Members:

My name is Christina Kindel. I'm appearing today on behalf of the North Dakota Family Alliance. We wish to express our concerns regarding some of the content of H.B. 1243, and would like to encourage the committee to consider amendments that would address these concerns.

The North Dakota Family Alliance stands opposed to any gambling expansion in North Dakota. We believe that an increase in gambling increases the dangers families face. However, as the people of North Dakota have chosen to adopt a multi-state lottery, we understand that this legislative body has a responsibility to the people of the state to implement the lottery, making H.B. 1243 a matter of housekeeping. However, we are concerned about several questions that H.B. 1243 currently raises. I will only address our two greatest concerns here today.

The first major concern we have with the current bill is on page 11, in section 53-12-24. Beginning on line 31, H.B. 1243 would permit a lottery ticket be given to a minor as a gift, as long as any winnings are paid directly to a parent or guardian. The North Dakota Family Alliance firmly opposes any attempt to legislate the involvement of our state's minors in the multi-state lottery. This approach sends a clear message of invitation for the lottery to our young people, and should be opposed. It needs to be remembered that gambling of any sort, and in particular the lottery, carries not only a strong level of appeal, but also an actual risk of addiction for many people. State law should not be inviting our young people to participate in gambling at all, any more than it allows adults to purchase cigarettes and give them to minors.

In addition, we are also concerned about section 53-12-28 of the current bill, regarding the confidentiality of all lottery records. The North Dakota Family Alliance would like to ask, quite simply, what needs to be hidden? As North Dakotan citizens voted to approve a multi-state lottery for, I quote, "the benefit of the state," we firmly believe North Dakota citizens have a right to all lottery information as would be allowed under North Dakota's open-book statutes.

We strongly urge the members of this committee to carefully consider and approve amendments addressing these concerns in the current legislation.

Thank you for your time and consideration.

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Date

January 28, 2003

HOUSE JUDICIARY COMMITTEE  
HB 1243

CHAIRMAN DEKREY AND COMMITTEE MEMBERS:

My name is Courtney Koebele. I'm appearing here today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We oppose the bill in its current format and ask that you consider an amendment to §53-12-28 on page 13 regarding the confidentiality of lottery records.

We don't oppose protecting the business records and proprietary information of the businesses that will sell the lottery tickets and the marketing and similar business information of the lottery itself. We have always maintained that if there are to be exceptions to the open records laws, they should be stated clearly and specifically.

However, as it is now written, §53-12-28 makes ALL information and records of the lottery confidential, not just the items listed in subsections one through four in lines 10-17 on page 13. All decisions regarding the operation of the lottery, the organization of the lottery, personnel information, profits and losses, rules and regulations, etc., would all be closed to the public. And, it would be a felony to release any information whatsoever about the lottery.

We don't think this is in the best interests of the lottery or the general public. The best way to make sure the lottery succeeds is to gain public support, and the best way to gain public support is to let the public know what is going on.

We understand that several amendments are being proposed this morning, including amendments to §53-12-28. We would be happy to work with the bill's sponsors and the Attorney General's Office in preparing amendments that identify the specific records that need to be protected and to allow the other information to be available to the public. And, we do not oppose taking out Section One of this bill concerning advertising.

If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

## **Testimony of Andrew Varvel to the North Dakota House Judiciary Committee January 29, 2003**

***Mr. Chairman and members of the committee:***

Included is proposed language to improve HB 1243.

Here are my objections to the present language of HB 1243

1. Lottery tickets, like cigarettes and whisky, must be kept away from children. The most effective way to do that is to limit sales to merchants with experience in keeping children away -- retailers with licenses to sell alcoholic beverages.
2. As presently written HB 1243 specifically sanctions the gift to a minor of a lottery ticket. Talk about insidious! Would the State of North Dakota sanction the gift of cigarettes to a minor, but only allow a parent to smoke them? Would the State of North Dakota sanction the gift of alcohol to a minor, but only allow a parent to drink it?
3. Let's keep lottery advertising away from children. Don't advertise in schools, don't advertise on playgrounds, and don't advertise anywhere else where children can reasonably be expected to be found. A child must not be subjected to lottery advertising every time he or she buys candy.

It can be reasonably assumed that lottery advertising placed where children are present is aimed at children. If advertising is effective with adults, it often targets strong emotions in children. Remember Joe Camel? Let those who want to watch lottery propaganda see it where children aren't present.

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*Donna Hall*  
Operator's Signature

10/2/03  
Date

One of the reasons I like to live in North Dakota is because this is one place where a child can grow up without being bombarded with constant advertising. The State of North Dakota doesn't allow children to buy pornography, alcohol, or tobacco. We should not only shelter them from the lottery itself, but from lottery advertising that would be a modern day Pied Piper leading North Dakota's children into a future of compulsive gambling.

4. Some people may not want a lottery to operate in their community. If the State of North Dakota forces a community to participate in a lottery against its stated will, this would be an infringement on community standards. To protect community values, the question of whether a state lottery should be allowed to operate should be a local option.

5. Marry in haste, repent at leisure. There's no hurry to join a lottery. The State of North Dakota should conduct a careful comparison among various lotteries to make sure we make the best choice for the people of North Dakota.

We shouldn't limit our options. There may be two multi-state lotteries now, but any single state lottery would logically become a multi-state lottery once North Dakota joins. There are also many foreign lotteries. A lottery may be a business transaction between states and not a treaty, so North Dakota should consider the advantages of joining a foreign lottery. To ensure careful deliberation, this legislation shouldn't be treated as an emergency.

6. As presently written HB 1243 doesn't appear to give due process to retailers of lottery tickets. An appeal process with a public hearing is necessary to ensure public confidence in the integrity of the licensing process. Not only should the director's decision be neither arbitrary nor capricious, but the director's decisions must also have the appearance of propriety.

Dorena Holm  
Operator's Signature

10/2/03  
Date

## PROPOSED IMPROVEMENTS TO HOUSE BILL NO. 1243

### APPENDIX OF ANDREW VARVEL'S TESTIMONY TO THE NORTH DAKOTA HOUSE JUDICIARY COMMITTEE

Page 1, line 5, after "penalty;" add "and"

Page 1, line 8, remove "; and declare an emergency"

Page 4, line 17, remove "promotional services;"

Page 5, line 10, replace "maximization of net revenues to the state" with "minimization of compulsive gambling"

Page 6, lines 23 through 31 are replaced with "The director shall select persons with valid state and local licenses for the sale of alcoholic beverages. Unless the person is ineligible to sell lottery tickets according to section 53-12-14, the director shall give a person with valid state and local licenses for the sale of alcoholic beverages a license to sell lottery tickets."

Page 7, remove lines 1 through 5

Page 7, lines 6 through 12 are replaced with:

"53-12-10. Hearing process to appeal decision after denial or revocation.

If the director denies or revokes a retailer's license, the director shall state in writing the reasons why the director has made the decision. The retailer may appeal the decision to the advisory commission in a public hearing. The director shall be present to state the reasons for denial or revocation of the retailer's license at the public hearing."

Page 7, line 13, replace "Retailer's application fee - Annual renewal of contract - Contract not transferable or assignable." with "Retailer's application fee prohibited."

Page 7, line 14, replace "The director may charge an application fee to a person applying to become a retailer." with "The director shall not charge an application fee to a person applying to become a retailer."

Page 7, line 20, replace "tickets" with "alcoholic beverages"

Page 8, after line 2, insert:

"3. A retailer must have valid state and local licenses for the sale of alcoholic beverages."

Deanna Hallmark  
Operator's Signature

10/2/03  
Date

Page 8, after line 18, insert:

"5. Does not have valid state and local licenses to serve alcoholic beverages."

Page 8, line 19, replace "5." with "6."

Page 9, after line 19, insert:

"4. The advisory commission shall hold public hearings to determine whether the retailer is ineligible to sell lottery tickets."

Page 9, line 20, replace "4." with "5."

Page 9, line 26, after "lottery." insert "state employee, state officer."

Page 11, replace lines 27 through 31 with:

53-12-24. Sale of ticket to a person under twenty-one years of age prohibited - Penalty.

1. Any person who sells a lottery ticket to a person under twenty-one years of age is guilty of a Class A misdemeanor.

2. Any retailer or employee of a retailer who permits a person under twenty-one years of age to remain to the licensed premises while lottery tickets are being sold or displayed is guilty of a Class A misdemeanor.

3. Any person who uses a computer to sell a lottery ticket to a person under twenty-one years of age is guilty of a Class A misdemeanor.

4. Any person who advertises, promotes, and/or solicits for a lottery in a location where a person under twenty-one years of age is allowed to be present is guilty of a Class A misdemeanor.

5. Any person who solicits a person under twenty-one years of age with the intent to sell a lottery ticket is guilty of a Class A misdemeanor.

6. Any person who uses a computer to advertise, promote, and/or solicit for a lottery to a person under twenty-one years of age is guilty of a Class A misdemeanor.

7. Any person engaged in the retail sale of lottery tickets outside the area licensed for the sale of alcoholic beverages is guilty of a Class A misdemeanor.

Page 12, remove lines 1 and 2

Page 12, line 4, remove "Exceptions -"

Page 12, line 8, remove "unless authorized in writing by the director"

Page 12, line 11, remove "unless authorized in writing by the director"

Dorinda H. H. H.  
Operator's Signature

10/2/03  
Date

Page 12, after line 12, insert:

c. Any person under twenty-one years of age

Page 12, line 15, replace "class B misdemeanor" with "class A misdemeanor."

Page 12, remove lines 16 and 17

Page 13, replace lines 1 through 3 with:

53-12-27. Additional regulations.

1. Any person engaged in the retail sale of lottery tickets without first securing valid state and local licenses for the sale of alcoholic beverages is guilty of a Class A misdemeanor.

2. Any person engaged in the retail sale of a lottery ticket after one a.m. on Sundays, before twelve noon on Sundays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who sells a lottery ticket during a state holiday is guilty of a Class A misdemeanor.

3. Any person who uses a computer to sell a lottery ticket after one a.m. on Sundays, before twelve noon on Sundays, or between the hours of one a.m. and eight a.m. on all other days of the week, or who uses a computer to sell a lottery ticket during a state holiday is guilty of a Class A misdemeanor.

4. Any licensee engaged in the retail sale of a lottery ticket who accepts goods, chattels, or other tangible property, other than money, checks, legal tender, negotiable instruments, or other evidences of debt, in exchange for any lottery ticket is guilty of a Class B misdemeanor on the first offense and a class A misdemeanor on the second or subsequent offense.

5. The governor may negotiate with Indian tribes for the placement and distribution of lottery products where no person under twenty-one years of age is allowed to be present.

6. The local governing body by ordinance or resolution may regulate or restrict the sale of a lottery ticket.

Page 14, remove line 16

Doreen Hall  
Operator's Signature

10/2/03  
Date





COUNCIL ON COMPULSIVE GAMBLING OF NORTH DAKOTA

418 E. Rosser Avenue Suite C  
Bismarck, N. D. 58501  
(701) 258-7326

Testimony on HB 1243

Mr. chairman, and members of the Committee, I represent the Council on Compulsive Gambling of North Dakota, Inc. a non-profit 501 (c) (3) Corporation established in 1989 and granted a Charter in 1991.

The Council on Compulsive Gambling is neither for nor against legalized gambling. We do, however, advocate for problem gambling education, and prevention programs, and gambling addiction treatment services.

The Council first presented and supported an appropriation for funding to meet these objectives to the 48th Legislative session to no avail. We also presented requests for funding in 1985, 1987, 1989, 1991, 1993, and 1995, and went away empty handed after each legislative session.

We presented a bill requesting an appropriation of \$ 650,000 to the Fifty Fifth Annual Session in 1997. This was reduced to \$ 150,000 for biennium. A like sum was appropriated in 1999 and again in 2001. While these funds were welcomed, the dollar amount paled in light of the fact that Charitable Gaming revenue paid to the General Fund from 1991 to 2001 amounted to over 12 million dollars PER YEAR.

Our Council supports Section 53-12-21 on page no. 11 of this bill which establishes a continuing appropriation in an amount not to exceed \$ 500,000 per biennium.

We applaud Representative Maragos, Berg, Boucher, and Senators O'Connell and Stenehjem for establishing this permanent funding mechanism. We heartily endorse this section of HB 1243, and encourage you to give this a "Do Pass" recommendation.

Thank you Mr. Chairman and members of this committee for the opportunity to give this testimony.

*Herbert J. Wilson*

Herbert J. Wilson, MD  
Chair, Council on Compulsive Gambling

*29 January 2003*

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*Donna Hall*  
Operator's Signature

*10/2/03*  
Date

January 29, 2003

Chairman DeKrey and members of the committee  
My name is Warren DeKrey, Chrm. Of the ND Council on  
Gambling problems.

I appear before you in regard to HB 1243

I was a member of "CALL" Citizens Against Legalizing the  
Lottery, a group that opposed the ND Measure No. 2 which  
provided for a State lottery.

The measure passed last November and directed the State of ND to  
join a multi-state lottery and enter into the lottery or gambling  
business.

We have attended the Task Force meetings leading up to HB 1243,  
which is now before us. This is a major change in gambling in  
ND. The State will be involved in gambling and will encourage  
people to participate. Lottery tickets will be sold in convenience  
stores, grocery stores etc. After carefully reviewing HB 1243 we  
feel compelled to offer the following amendments:

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Warren DeKrey  
Operator's Signature

1/29/03  
Date

Proposed Amendment to House Bill No. 1243

On page 1, line 6, delete: "; and to declare an emergency"

On page 3, line 24, after the period insert: "Instant play or instant pay games in any form or by any means are excluded."

On page 4, line 2, delete the word "games" and substitute "the lottery"

On page 4, line 11, after the word "Subject" insert: "to law and"

On page 5, after line 6, insert:

"11. Shall develop and specify physical security requirements for retailers.

12. Shall make a continuous study and investigation of:

- a. The operation of similar lottery statutes which may be in effect in other states;
- b. Any literature on lotteries, their operation, impact, costs and associated topics, that from time to time may be published or available; and
- c. Any federal statutes or regulations which may effect the operation of the lottery.

And shall report any findings, concerns, and recommendations as a result of this study and investigation to the advisory commission."

On page 6, after line 15, insert:

"10. Include on each brochure, pamphlet, booklet, or other similar material the director publishes to promote or explain the lottery game, a prominent and clear statement of the approximate odds of winning each prize offered in that lottery game.

On page 6, line 21, after the period insert: "Funds received to defray lottery startup costs will be repaid from lottery net proceeds beginning at the end of the first accounting year of lottery operation, and will have priority over all other demands on net proceeds, except for that amount transferred pursuant to section 53-12-21."

On page 7, after line 5 add:

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Donna Baller  
Operator's Signature

10/2/03  
Date

"3. The director shall not license a retailer who or which is or will be solely in the business of selling lottery tickets.

4. Multiple retail outlets owned or controlled by one person or entity shall be treated as separate entities and shall be licensed separately.

5. Political subdivision ordinances concerning retailers and gambling will be considered and respected during the evaluation of applications for, and consideration of issuance of, retailer licenses."

On page 7, line 24, delete the word "eighteen" and substitute "twenty-one"

On page 10, after line 14 insert:

"9. Requiring each lottery retailer to prominently post at or near the point of ticket sale a notice or notices printed and provided by the director of the approximate odds of winning each prize in the game for which the lottery retailer sells tickets."

On page 10, line 15, delete "9" and insert "10"

On page 11, line 9, delete the word "games" and substitute "powerball tickets"

On page 11, line 13, delete the word "One" and substitute "Ten"

On page 11, line 14, delete ", not to exceed two hundred thousand dollars per biennium."

On page 11, line 27, after the second word "minor" insert the word "not"

On page 11, line 28, delete "- Priz. paid to parent or guardian"

On page 11, line 28, delete "a minor" and insert "anyone under age 21"

On page 11, line 30, delete "a minor" and insert "anyone under age 21"

On page 11, line 31, delete "A lottery ticket may be given as a gift to a"

On page 12, delete lines 1 and 2

On page 12, line 8, delete ", unless authorized in writing by the director"

On page 12, line 11, delete "unless authorized in writing by the" and substitute a period

On page 12, delete line 12

On page 13, line 4, delete "Confidentiality of lottery" and substitute "Lottery" and in the same line after the word "records" insert "open - Confidentiality of certain lottery records" and continuing in the same line delete "Information" and substitute "Except as provided in this section, information"

On page 13, delete lines 5 through 8

On page 13, line 9, delete "the information or records" and substitute "Dakota lottery are open records subject to the open records statutes of the state"

On page 13, line 27, delete "an amount in excess of" and substitute "the amount of"

On page 13, line 28, after the word "dollars" insert "or more"

On page 14, after line 12 insert:

"53-12-34. Purchase of lottery tickets - Cash only. Lottery tickets must be purchased with United States currency. Checks, money orders, credit cards, promises to pay, or bartered items may not be used to purchase lottery tickets.

53-12-35 Inducements to purchase lottery tickets prohibited - Penalty. It is an infraction for a lottery retailer or employee of a lottery retailer to induce a purchaser of other products offered by that retail outlet to purchase lottery tickets as a means of completing the other transaction, or to suggest the purchasing of lottery tickets in conjunction with an inquiry concerning or sale of another item offered for sale by that retailer.

<sup>6</sup>  
53-12-36. Lottery advertising and promotion - Limitations.

"1. Advertising and promotional materials for the lottery adopted or published by the director, or pursuant to contract let by the director, must be consistent with the dignity of the state and may only:

a. Present information on how lottery games are played, prizes offered, where and how tickets may be purchased, when drawings are held, and odds on the game advertised;

b. Present the lottery as a form of entertainment; and

c. State the winning numbers or identity of winners of lottery prizes.

2. The director may not adopt or publish, or contract for the preparation and publication of, any advertising or promotional activity or material for the lottery which:

a. Presents directly or indirectly any lottery game as a potential means of relieving any person's financial difficulties;

b. Is specifically targeted with the intent to exploit a person, a specific group or economic class of people, or a religious holiday by use of a religious theme or symbol;

c. Presents the purchase of a lottery ticket as a financial investment or a way to achieve financial security;

d. Uses the name or picture of a current or previously elected state official to promote a lottery game;

e. Exhorts the public to bet by directly or indirectly misrepresenting a person's chance of winning a prize; or

f. Denigrates a person who does not buy a lottery ticket or unduly praises a person who does buy a ticket.

53-12-3<sup>7</sup>. Prizes – Installment payments – Notification. The director must include, in any publication or print advertising which refers to a prize which is or may be paid in installments, a statement to the effect that the prize will be or may be paid in installments.

53-12-3<sup>8</sup>. Claiming prizes – Limitations. The director, by rule, shall establish an appropriate period for the claiming of prizes for the lottery game authorized by this chapter. Each claim period shall be stated in game rules and written play instructions issued by the director. Written play instructions shall be made available to all players through lottery retailers licensed to sell tickets. Lottery prizes which involve the purchase of a physical lottery ticket may be claimed only by presentation of a valid winning lottery ticket that matches validation records on file with the North Dakota lottery. No claim of a prize may be honored which is based on the assertion that the ticket was lost or stolen. No lottery ticket which has been altered, mutilated, or fails to pass validation tests shall be deemed to be a

winning ticket."

On page 14, delete line 16

And renumber accordingly.

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Deanna Bell  
Operator's Signature

10/2/03  
Date

## HG#1 Amendments

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1243

Page 1, line 1, after the comma insert "a new subsection to section 57-38-57," and remove the second "and"

Page 1, line 2, after "57-39.2-04" insert ", and a new subsection to section 57-39.2-23"

Page 1, line 3, after the second comma insert "disclosure of confidential income tax and sales and use tax information,"

Page 1, line 4, after "reenact" insert "subsection 2 of" and replace "12.1-28-02" with 54-10-01"

Page 1, line 5, replace "lottery offenses" with "powers and duties of state auditor"

Page 1, remove lines 8 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 and 2

Page 3, line 25, replace "contracted" with "licensed"

Page 4, line 14, remove "multistate"

Page 4, line 19, after "services" insert ", including services from financial institutions and other state agencies"

Page 4, line 21, replace "Contract with and license" with "License"

Page 5, line 4, remove "and"

Page 5, after line 4 insert:

"10. Based on reasonable ground or written complaint, suspend, deny, or revoke a lottery retailer's license or impose a monetary fine, or both, for violation, by the retailer or any agent, member, or employee of the retailer, of this chapter or any rule adopted under this chapter; and"

Page 5, line 5, replace "10" With "11"

Page 5, line 22, after "Enter" insert "into" and remove "multistate"



Page 5, line 24, after "lottery" insert "game"

Page 6, line 15, remove "and persons licensed pursuant to this chapter to the state general fund"

Page 7, line 13, replace "contract" with "license" and replace "Contract" with "License"

Page 7, line 15, replace "All" with "A" and replace "contracts" with "license" and replace "are" with "is"

Page 7, line 16, after "canceled" insert ", revoked," and replace "contract" with "license"

Page 7, line 18, replace "certificate" with "license"

Page 7, line 19, replace "certificate" with "license" and replace "certificate" with "license"

Page 7, line 21, replace "certificate" with "license"

Page 10, line 2, after the period insert "The attorney general may adopt emergency rules under this section without the finding otherwise required under section 28-32-03."

Page 11, line 16, after "tickets" insert ", subject to a holdback of any reserve funds the lottery director may need for continuing operations,"

Page 11, line 24, replace "authorized" with "licensed"

Page 12, line 21, after "person" insert "or persons"

Page 12, line 23, replace "duly appointed" with "lawful"

Page 12, line 25, remove "Unclaimed prize money must be retained for a period deemed"

Page 12, remove line 26

Page 12, line 27, remove "money must be added to the prize pools of subsequent lottery games."

Page 13, line 1, replace "governor may negotiate" with "North Dakota lottery may license a lottery retailer"

Page 13, line 2, remove "with Indian tribes for the placement and distribution of lottery products"

Page 13, line 3, after "reservations" insert "or on tribal trust land referenced by the tribal-state gaming compacts in effect"

Page 13, line 10, after the first comma insert "sales and income tax information, financial statements," and after "credit" insert "reports"

Page 13, line 11, after "lottery" insert "and computerized files of persons owing a debt to the state or having a debt collected through a state agency"

Page 13, line 14, after the semicolon insert "and"

Page 13, line 16, replace "and" with a period

Page 13, remove line 17

Page 13, line 25, remove "- Notice of right to appeal"

Page 13, line 27, replace "in excess of" with "equal to or greater than"

Page 13, line 28, replace "one" with "six"

Page 13, line 29, remove "person's right to appeal to the appropriate court or to"

Page 13, remove line 30

Page 13, line 31, remove "appeal within thirty days after the"

Page 14, line 1, remove "promptly"

Page 14, line 2, after "agency" insert "unless the person notifies the director, in writing, no later than thirty days after receiving the notice of the setoff that the person disputes all or a part of the debt owed or to be collected by the state agency"

Page 14, after line 12 insert:

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Deanna Shultz  
Operator's Signature

10/2/03  
Date

**"53-12-34. Voluntary deposit of adverse claims to prize payment or award.**  
**Notwithstanding sections 53-12-20, 53-12-24, 53-12-26, 53-12-30, and 53-12-32, if two or more persons or state agencies make adverse claims to all or a part of a prize payment or award, upon receipt of written notice from the claimants setting forth their respective claims, the director may deposit, in accordance with section 32-11-02, the contested amount of the prize payment or award with the clerk of the court in which an action pertaining to the contested amount is pending or with a court-authorized depository. Upon making the deposit, the state and its officials and employees, members of the advisory commission, and the North Dakota lottery and its director and employees are discharged and relieved from further liability to any person or agency on account of such prize payment or award.**

**SECTION 3. AMENDMENT.** Subsection 2 of Section 54-10-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Perform or provide for the audit of the general purpose financial statements and a review of the material included in the comprehensive annual financial report of the state and perform or provide for the audits and reviews of state agencies. ~~The~~ Except for the annual audit of the North Dakota lottery required by section 53-12-07, the state auditor shall audit or review each state agency once every two years. The state auditor shall determine the contents of the audits and reviews of state agencies. The state auditor may conduct any work required by the federal government. The state auditor shall charge an amount equal to the cost of the audit and other services rendered by the state auditor to all agencies that receive and expend moneys from other than the general fund. This charge may be reduced for any agency that receives and expends both general fund and non-general fund moneys. Audits and reviews may be conducted at more frequent intervals if requested by the governor or legislative audit and fiscal review committee.

**SECTION 4.** A new subsection to section 57-38-57 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner may, upon written request from the director of the North Dakota lottery, provide a written statement to the director, employees or agents of the North Dakota lottery, in which the tax commissioner is limited to stating that the lottery retailer applicant has complied or not complied with the requirements of this chapter. The information obtained under this subsection is confidential and may be used for the sole purpose of determining whether the applicant meets the requirements of subdivision d of subsection 1 of section 53-12-13 and section 53-12-14."

Page 14, after line 15 insert:

**"SECTION 6.** A new subsection to section 57-39.2-23 of the North Dakota Century Code is created and enacted as follows:

The tax commissioner may, upon written request from the director of the North Dakota lottery, provide a written statement to the director, employees or agents of the North Dakota lottery, in which the tax commissioner is limited to stating that the lottery retailer applicant has complied or not complied with the requirements of this chapter. The information obtained under this subsection is confidential and may be used for the sole purpose of determining whether the applicant meets the requirements of subdivision d of subsection 1 of section 53-12-13 and section 53-12-14."

Renumber accordingly

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Dan H. Ball  
Operator's Signature

10/2/03  
Date

AG #2 Amend.

**Proposed Amendments to House Bill 1243**

January 31, 2003

Presented by the Office of Attorney General

Page 3, line 14, insert a new subsection to read as follows:

3. Gross profits means on-line sales of lottery tickets less prize share payments, prizes claimed on redeemed winning tickets, and lottery retailer commissions.

Page 11, line 13, replace "net proceeds" with "gross profits generated"

Renumber accordingly

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Deanna Hall  
Operator's Signature

10/2/03  
Date

AG #3 Amend.

after  
Line 5

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1243

Page 6, after the period insert "The state auditor shall do the annual audit."

Renumber accordingly

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Deanna Ballantyne  
Operator's Signature

10/2/03  
Date

AG #4 Amend.

Prepared by the North Dakota  
Department of Human Services  
1/31/03

PROPOSED AMENDMENTS TO HOUSE BILL 1243

Page 1, line 5, after the first semicolon, insert "to amend and reenact subsection 2 of section 50-09-14 of the North Dakota Century Code, providing for review of setoffs of lottery prize payments for payment of child support;"

Page 3, after line 8, insert:

"SECTION 3. AMENDMENT. Subsection 2 of section 50-09-14 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person aggrieved by an action taken by the state agency or a child support agency under section 14-09-25, this chapter, or chapter 35-34, or by the North Dakota lottery director under chapter 53-12, to establish or enforce a child support order may seek review of the action ~~of the state agency or child support agency~~ in the court of this state that issued or considered the child support order. If an order for child support was issued by a court or administrative tribunal in another state, any person aggrieved by an action taken by the state agency or a child support agency under section 14-09-25, this chapter, or chapter 35-34, or by the North Dakota lottery director under chapter 53-12, to enforce that order may seek review of the action ~~of the state agency or child support agency~~ in any court of this state which has jurisdiction to enforce that order, or if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the necessary parties. Any review sought under this subsection must be commenced within thirty days after the date of action for which review is sought. A person who has a right of review under this subsection may not seek review of the actions ~~of the state agency or child support agency~~ in a proceeding under chapter 28-32."

Renumber accordingly

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Dan Hall  
Operator's Signature

10/2/03  
Date

AG #5 Amend.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1243

Page 13, line 5, replace "except for official purposes, and may not be disclosed except to" with "including:

1. Sales and income tax information, financial statements, and credit reports of lottery retailer applicants and persons seeking or doing business with the lottery, and application information other than an applicant's name and retail location;
2. Information related to persons owing a debt to the state or having a debt collected through a state agency made confidential by another state law or rule remains confidential under this section;
3. Internal control and security procedures and information on bids or contractual data, the disclosure of which is harmful to the efforts of the lottery to contract for goods and services on favorable terms;
4. Personal information on a winning player unless the player authorizes, in writing, release of the information; and
5. Sales data, the disclosure of which is harmful to the competitive position of the lottery, lottery retailers, or persons seeking or doing business with the lottery.

To be confidential, the information must be necessary to the security and integrity of the lottery. The information and records may be disclosed within the attorney general's office or to authorized persons in the proper administration of this chapter or lottery rule or in accordance with a judicial order. Criminal history record check information on a lottery retailer applicant or person seeking or doing business with the lottery may be disseminated only according to chapter 12-60."

Page 13, remove lines 6 through 17

Renumber accordingly

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Operator's Signature

Date

10/2/03



# Grande Amendment

## PROPOSED AMENDMENT TO HOUSE BILL NO. 1243

Page 9, line 19, after the period insert:

"For the initial selection of lottery retailers, the commission may recommend, for the director's consideration, lottery retailer applicants for licensure based on criteria prescribed by section 53-12-09."

Renumber accordingly

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Operator's Signature

*Dennis Hall*

10/2/03  
Date

## Klemin Amendment

Rep. Klemin  
February 4, 2003

### PROPOSED AMENDMENTS TO HOUSE BILL NO. 1243

Page 11, line 28, after "guardian" insert "or deposited in court"

Page 12, line 1, after "prize" insert "in the amount of five thousand dollars or less"

Page 12, line 2, after the period insert "Any prize in an amount more than five thousand dollars won by a minor must be deposited in court by the director for the benefit of the minor for further disposition pursuant to chapter 30.1-29."

Page 12, line 19, remove "Right to prize not assignable -"

Page 12, line 23, remove "The right of a person to a prize"

Page 12, line 24, remove "drawn or awarded is not assignable."

Page 13, line 8, after the period insert "Information relating to the identity of winners is confidential unless a winner consents to the release of such information in writing."

Renumber accordingly

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10/2/03

#2  
**ESTIMATED COST OF COMPULSIVE GAMBLING AMENDMENT - 2003 HOUSE BILL NO. 1243**

**1% OF GROSS PROFITS UP TO \$5 MILLION, MAXIMUM TO COMPULSIVE GAMBLING OF \$200,000**

**GROSS PROFITS - ONLINE LOTTERY TICKET SALES LESS PRIZE SHARE PAYMENTS, PRIZES CLAIMED ON REDEEMED WINNING TICKETS, AND LOTTERY RETAILER COMMISSIONS**

	<b>2003-05</b>	<b>2005-07</b>
<b>PROJECTED SALES</b>	<b>11,010,000</b>	<b>14,680,000</b>
<b>LESS: PRIZES @ 50% OF SALES</b>	<b>5,505,000</b>	<b>7,048,400</b>
<b>LESS: RETAILER COMMISSION</b>	<b>551,000</b>	<b>734,000</b>
<b>ADD: 2% UNCLAIMED PRIZES</b>	<b>146,000</b>	<b>294,000</b>
<b>GROSS LOTTERY PROFITS</b>	<b>5,100,000</b>	<b>7,193,600</b>
 <b>1% OF GROSS PROFITS - COMPULSIVE GAMBLING</b>	 <b>51,000</b>	 <b>71,936</b>
 <b>ORIGINAL BILL</b>	 <b>18,000</b>	 <b>26,000</b>
 <b>INCREASE FROM AMENDMENT</b>	 <b>33,000</b>	 <b>45,936</b>

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Deanna Bell  
Operator's Signature

10/2/03  
Date

Att #1

Office of Attorney General - *Marago's*

**SUMMARY OF ENGROSSED HOUSE BILL NO. 1243**  
February 12, 2003

Section 1 – Provides that funds deposited in the compulsive gambling prevention and treatment fund are a continuing appropriation for providing services.

Section 2 – Provides that if the lottery director applies a player's prize toward a child support order, any review sought by the player must follow present prescribed procedures.

Section 3 – Creates a new chapter to the N. D. Century Code - establishment of a lottery.

- 53-12-01 – Contains important definitions.
- 53-12-02 – Establishes a "North Dakota Lottery" division in the Attorney General's office. A director, under supervision of the Attorney General, will operate the lottery.
- 53-12-03 – Authorizes the Attorney General to appoint a director who may employ necessary personnel.
- 53-12-04 – Describes the functions of the director, including contracting for promotional, data processing, and other services, licensing lottery retailers, and securing facilities to house the North Dakota lottery.
- 53-12-05 – Requires the director to use a competitive bid process for contracts.
- 53-12-06 – Requires a thorough background investigation of a vendor.
- 53-12-07 – Describes additional functions of the director, including entering into a written agreement with other government-authorized lotteries for the operation, marketing, and promotion of a joint lottery game, maintaining accurate books and records, providing quarterly and annual financial reports, having an annual audit conducted by the state auditor, and operating the lottery so it is self-sustaining and self-funded.
- 53-12-08 – Provides that all expenses and payments of prizes be paid from the lottery operating fund, and except for the initial startup funds to the lottery, general funds of the state may not be used to pay expenses or prizes of the lottery.
- 53-12-09 – Contains factors the director must use to select lottery retailers, including an applicant's financial responsibility, security and public accessibility of the business, integrity, reputation, sufficiency of existing lottery retailers to service the public convenience, and volume of expected sales.
- 53-12-10 – Requires a one-year waiting period before an applicant for a retailer's license may reapply for a license that has been denied or revoked and a three-year

*Domena Bell*  
Operator's Signature

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waiting period for a license that has been denied or revoked a second time. It provides that the director's decision to deny or revoke a license is not reviewable.

- 53-12-11 – Provides that the director may charge an application fee, and that a retailer contract is renewable annually and is not transferable or assignable.
- 53-12-12 – Requires a retailer to display its license where the retailer sells tickets.
- 53-12-13 – Provides for the qualifications of a retailer, including that the retailer must be at least 18 years of age, be current in taxes, interest, and penalties owed to the state, and prohibits the retailer from being a vendor or employee of a vendor.
- 53-12-14 – Prohibits individuals with certain backgrounds from being licensed as a retailer, including an individual who poses a threat to the security or integrity of the lottery or has a criminal background, or an employee or immediate family member of the North Dakota Lottery or the advisory commission.
- 53-12-15 – Authorizes a partnership to be selected as a retailer.
- 53-12-16 – Authorizes an organization to be selected as a retailer.
- 53-12-17 – Provides for the creation of a lottery advisory commission. The duties of the five-member commission include advising the director and Attorney General in the establishment and operation of the lottery and, for the initial selection of lottery retailers, recommending for the director's consideration, lottery retailers for licensure.
- 53-12-18 – Authorizes the Attorney General to adopt rules governing the establishment and operation of the lottery and, if necessary, to adopt emergency rules to avoid unnecessary delay in implementing the lottery.
- 53-12-19 – Establishes a lottery-operating fund and restricts disbursements from the fund for payment of prizes, expenses, and transfer of net proceeds. Establishes a "lottery prize payment fund" for the payment of prizes to winning players.
- 53-12-20 – Provides that nearly as practical, a minimum of 50% of the projected sales of lottery tickets be allocated for prizes.
- 53-12-21 – Provides that 1% of the gross profit, up to \$200,000 per biennium, be transferred to the compulsive gambling prevention and treatment fund, and the remaining net proceeds, less any reserve funds the director needs for continuing operations, be transferred on at least an annual basis to the general fund.
- 53-12-22 – Provides that counterfeiting a lottery ticket is a class C felony.
- 53-12-23 – Provides that no person may sell a lottery ticket at a price greater than the price fixed by rule and that only a licensed retailer may sell lottery tickets.

- 53-12-24 – Prohibits the sale of a lottery ticket to a minor but provides that a minor may receive a lottery ticket as a gift. Provides that any prize of \$5,000 or less won by a minor must be paid to the minor's parent or legal guardian and any prize greater than \$5,000 won by a minor must be deposited in court for the benefit of the minor for further disposition.
- 53-12-25 – Prohibits the purchase of a lottery ticket or winning of a prize by a member of the advisory commission, an employee of the lottery, the vendor of the lottery, or any immediate family member of any of the individuals who are prohibited from purchasing a ticket. A retailer or a retailer's employee is not prohibited from purchasing a ticket or from being paid a prize on a winning ticket.
- 53-12-26 – Provides that a prize of a deceased winning player be paid to the estate of the winner, and that all prizes are subject to state and federal income tax laws.
- 53-12-27 – Authorizes the North Dakota lottery to license lottery retailers on Indian reservations and tribal trust land in the state.
- 53-12-28 – Provides that information and records of the lottery are confidential, including sales and income tax information, financial statements, credit reports of retailer applicants, internal control and security procedures, and personal information on a winning player unless the player authorizes release of the information.
- 53-12-29 through 53-12-34 – Establishes a lottery setoff program in which state agencies may provide the director a list of individuals owing a debt to or collected through a state agency. A prize equal to or greater than \$600 would be applied to the debt. A setoff to the department of human services for child support payments has priority over all other debt setoffs. Provides that if two or more persons or state agencies make claim to a prize, the director of the lottery must deposit the amount of the prize with the clerk of court or court-appointed depository for resolution.

Section 4 – Amends the powers and duties of the State Auditor to exempt the North Dakota lottery from an audit once every two years since the bill requires an annual audit.

Section 5 – Provides that the tax commissioner may, on written request from the lottery director, convey whether a lottery retailer applicant has complied or has not complied with the income tax requirements of the state.

Section 6 – Exempts the sale of lottery tickets from sales tax.

Section 7 – Provides that the tax commissioner may, on written request from the lottery director, convey whether a lottery retailer applicant has complied or has not complied with the sales tax requirements of the state.

Section 8 – Provides for an emergency clause.

AH #2

Testimony Before the Senate Judiciary Committee re: HB 1243  
Tuesday, March 4, 2003  
9am in the Fort Lincoln Room

Senators, thank you for the forum this morning to testify on behalf of House Bill 1243.

First, let me introduce myself and my background. My name is Kyle Richardson and I am a resident of South Fargo, where I live with my wife of four-and-a-half years and our one-year-old daughter. I am a native of Kansas City, Missouri, and have bachelor degrees in Journalism and Sociology from the University of Missouri-Columbia. I first moved to North Dakota in the summer of 1993 to work in radio sales, from where I went on to spend five years in media relations and marketing for minor league baseball teams in Fargo and Wichita, Kansas. I am currently the director of public relations for H2Mpr, a public relations firm that began doing business under the umbrella of H2M, a full-service communications company, in the fall of 2002. Having been with H2M since Labor Day, 2000, I have worked on several public relations campaigns, and count the North Dakota Department of Transportation, Cass County and the City of Fargo as current and past public relations clients.

I am testifying today because as a public relations expert I see an inordinate amount of negative publicity aimed at the creation of the North Dakota Lottery, much of which comes almost in a doomsday form from its opponents. In my testimony today I will attempt to shed light on their arguments, separating the facts from the myths, while arguing a strong case as to how the lottery can benefit all citizens of North Dakota by becoming a profitable entity in our current time of financial concern.

To begin, I would like to call the committee's attention to the support the lottery received in the state's vote last November. The state's populace supported the formation of the North Dakota Lottery by a larger percentage than the state's 2000 gubernatorial election, the state's last three congressional elections and 46 of this past November's 52 state congressional races—two of which featured unopposed candidates. Obviously, the people of this state overwhelmingly want to see the creation of a lottery. It is now in the state's hands to create a lottery that will meet the expectations of its citizens.

The citizens of North Dakota are convinced that it is time to ebb the flow of our citizens' money going to lotteries across our state borders. In 2002, four of the top five Minnesota lottery retailers were in Moorhead or East Grand Forks, including the top Minnesota retailer, M & H Gas in Moorhead, only five blocks from the North Dakota border. All in all, five of Minnesota's top eight retailers are from North Dakota border towns, and our lack of a lottery is keeping our merchants from selling more products and costing us additional tax revenues. The "Powerball jackpot roll" that began October 30, 2002, and ended with the largest Powerball payout in history on December 25 generated the following numbers for the state of Minnesota:

- \$31.3 million in sales, which generated more than \$10 million in profits
- 876,871 tickets were purchased in Minnesota, winning more than \$6 million in prizes
- Seventeen winners of \$100,000 were included among the \$6.1 million in prizes
- Minnesota Lottery retailers earned an estimated \$455,000 in commission on Powerball sales (plus cashing bonuses) during the "jackpot roll"

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During the final days of that jackpot roll, Missouri's advertising was limited to fifteen-second commercials asking all players to play within their means instead of fanning the flames of the media frenzy that was producing record-numbers across the nation.

Next, I would briefly like to touch on the economic impact other states have felt from lotteries. Annual profits in 2001 for lotteries in the United States exceeded \$12.4 billion, with that number growing to more than \$13.7 billion in 2002. The smallest state profit in 2002 was \$7.47 million in Montana, with Vermont's \$17.2 millions second to last. Even bringing up the rear, the North Dakota lottery could meet the Governor's budgetary expectations for this two-year budget in one year. In its first week of operation in 1992, the Texas Lottery generated \$102.3 million in sales, paying back its start-up fees in its first four hours of operation. Now, while I wouldn't suggest North Dakota can equal Texas' sales with its lottery, there is no reason we can't establish a lottery in North Dakota to match its success. For more information on 2001 and 2002 lottery sales and profits, go to [www.naspl.org/sales&profits.html](http://www.naspl.org/sales&profits.html). NASPL stands for North American Association of State and Provincial Lotteries, an organization started in 1971 and whose website is an outstanding reference for lottery facts.

When looking at the thirty-nine other lotteries currently operating in North America (of which I've provided a list in Appendix 1), there is no reason North Dakota cannot learn from the successes and failures of lotteries in other states. I would highly encourage the group that is formed to run the North Dakota Lottery research other states to create a lottery with the greatest chance to succeed and to maximize revenue for the state's citizens from its inception. It would do the state's citizens a disservice to limit our lottery to only a multi-state lottery. For example, our neighbors to the east in Minnesota currently generate a majority of their profits from scratch-off tickets, while South Dakota generates the majority of its profits from video lottery. In fact, South Dakota's annual per capita sales are \$829 per person, third-highest in the nation and well above the national average of \$168. Again, to limit the games available to the state's citizens only limits our opportunities to maximize revenue at a time the state needs every available revenue stream flowing at full potential.

In addition to learning from other states, the North Dakota lottery should learn from the North Dakota businesses that are currently retailers for lotteries in other states. For example, two of the top Moorhead retailers that are in Minnesota's top eight also operate locations in North Dakota. Those retailers should be treated as a valuable resource and their experience should be used to help create a strong North Dakota Lottery from the very beginning.

Regarding the lottery's opponents wishing to place restrictions on the North Dakota Lottery, all of the requests would do more to cripple the lottery than to maximize its revenue. First, to set a "buying age" of 21 would be a smack in the face to everyone under 18 who had the opportunity to vote on the lottery coming to fruition. To tell an 18-year-old he or she has to sign up with Selective Service and become eligible for the draft, but can't drop a buck to buy a lottery ticket is an insult to everyone over the age of 18. Caps on marketing dollars, restrictions on on-site lottery advertising and allocating ten-percent of revenues to help gambling addicts are all things that should be decided on with the help of research from other states and should not be allowed to be dictated by the lottery's opponents. In 1996, national advertising expenditures accounted for 1.17-percent of total national revenue, compared with 3.2-percent for restaurant owners and 12.7-percent for candy makers. Good marketing would indicate the North Dakota Lottery begin with a healthy marketing budget to establish itself, before pulling back the reins after it is established and started meeting its goals.



When looking at profits from the North Dakota Lottery, I would highly encourage the state explore alternatives to the general fund for all of the lottery's profits. The two lotteries I am most familiar with, Missouri and Texas, each began with lottery profits being funneled into the general fund before eventually earmarking all profits for education. New computers, additional teachers and upgraded buildings are easier to quantify for the populace than moneys coming out of the general fund, while money currently allocated for education can be placed back into the general fund to help prevent other vital state functions from being cut or eliminated.

While looking at the North Dakota Lottery, I would recommend that the state do everything possible to keep its expenses in the state. The research, development and production of all lottery resources should be handled by North Dakota companies, along with using North Dakota companies for all advertising and marketing of the lottery. There are many talented companies within our borders that can produce quality work that will help generate sales. To look beyond our borders for any help that can be handled internally would be a disservice to our state and its professionals. With this philosophy, the state can implement a program like "When you play, your money stays in North Dakota" that promotes the state's growth to its citizens.

A couple of other quick lottery notes before moving on to some popular lottery myths, many of which are currently being perpetuated by the lottery's opposition.

- The North Dakota Lottery would be one of the few state agencies that generates revenue instead of only spending state funds. Almost from the moment of its inception, the lottery should be able to join agencies like the Bank of North Dakota and the North Dakota Mill as revenue producers for the North Dakota budget.
- Playing the lottery should be looked at as another form of entertainment, not as another form of gambling. Many states have done research on a lottery's connection to problem gambling by monitoring phone calls to gambling addiction hotlines and its gambling treatment centers, and lottery play factors in to only a tiny percentage of cases. In fact, bingo and casinos are a much larger concern than playing the lottery, and an Iowa State University study found that having more than one marriage, frequently changing addresses, being a member of a minority group and serving in the armed forces had higher correlations with problem gambling than did playing the lottery.
- On average, lotteries account for one-half of one percent of a state's budget, and voluntary, non-tax revenue sources are far more popular than taxes, and probably always will be.

Finally, I want to address some of the myths that have been thrown out as fact by some of the lottery's opponents:

Myth #1:

**Lottery is a form of taxation, especially one that preys on the poor.**

Both parts of this myth are untrue. First, a tax is a compulsory payment to support government without providing citizens an option to contribute. There is nothing whatsoever compulsory to a lottery. Second, a 1997 poll conducted by the Washington Post found that middle income Americans were the most likely group to play the lottery, with the wealthiest and poorest the least likely to play. A more recent poll by Gallup indicated that people with incomes of more than \$75,000 spend about three times as much on lotteries as those with incomes below \$25,000.

*Dan Hall*  
Operator's Signature

10/2/03  
Date

Overall, lotteries are played by every people of every income level, with no studies proving that lower-income people spend more than any other income level.

**Myth #2:**

**Lotteries target market toward those who can least afford to play.**

It would be bad economics and horrible marketing to market to the people who can least afford to play. They provide the smallest opportunity for success and have the highest attrition rate of potential lottery players.

**Myth #3:**

**Lotteries contribute to the growing number of compulsive gamblers in the United States.**

First, compulsive gambling is an addicting behavior involving biological and psychological factors that predispose an individual to the behavior. Providing a substance does not create an addict. Second, North Dakota already provides numerous outlets for people with gambling problems—charitable gaming, native American casinos, bingo and playing lotteries in other states being the first four that come to most people's mind. In addition, anyone with a credit card can now get on the Internet and gamble anytime of the day or night. It's safe to say North Dakota already provides plenty of options for compulsive gamblers to meet their needs without the lottery.

**Myth #4:**

**Nobody ever wins anyway.**

Statistics from NASPL indicate that in 1996 1,136 people won a million dollars or more, with an additional 4,520 winning \$100,000 or more by playing North American lotteries. By contrast, 91 people were killed by lightning in 1996.

In conclusion, the citizens of North Dakota overwhelmingly voted to create a lottery. It is up to the state to ignore the false claims of a few and act strongly to create a lottery that will help the state generate revenue in a time of economic concern across the state. As the father of a one-year-old daughter, I am concerned about her future. While I will never claim that a lottery is THE answer, it can be a significant piece of the economic puzzle. To limit its potential from its inception is mistake and an insult to the majority of citizens that want to have the opportunity to play the lottery without having to leave the state's borders.

Ultimately, it's not just the ticket buyer that can win with the lottery—we ALL win with the lottery!

Thank you for your time. Any questions?

Kyle Richardson  
Director of Public Relations, H2Mpr  
1621 36½ Avenue South  
Fargo, North Dakota 58104  
701-293-4805  
kdrich17@hotmail.com

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APPENDIX #1:

List of 39 United States lotteries currently operating

Arizona Lottery  
California Lottery  
Colorado Lottery  
Connecticut Lottery  
Delaware Lottery  
Florida Lottery  
Georgia Lottery  
Idaho Lottery  
Illinois Lottery  
Indiana (Hoosier) Lottery  
Iowa Lottery  
Kansas Lottery  
Kentucky Lottery  
Louisiana Lottery  
Maine Lottery  
Maryland Lottery  
Massachusetts State Lottery  
Michigan Lottery  
Minnesota State Lottery  
Missouri Lottery  
Montana Lottery  
Nebraska Lottery  
New Hampshire Lottery  
New Jersey Lottery  
New Mexico Lottery  
New York Lottery  
Ohio Lottery  
Oregon Lottery  
Pennsylvania Lottery  
Puerto Rico  
Rhode Island Lottery  
South Dakota Lottery  
Texas Lottery  
Tri-State Lottery  
Vermont Lottery  
Virginia Lottery  
Washington State Lottery  
West Virginia Lottery  
Wisconsin Lottery

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*Dennis Ball*  
Operator's Signature

10/2/03  
Date

Att # 3a

March 4, 2003

**Chairman Traynor and members of the Judiciary Committee  
My name is Warren DeKrey, Chrm. Of the ND Council on  
Gambling Problems**

**I appear before you in regard to HB 1243**

**This is a complex bill in which the State will establish a State  
operated lottery. After careful review of the bill we find two  
areas for which we wish to make amendments.**

**The first area is in regard to defining one game, such as power  
ball. The promoters of the lottery stressed that it would be  
only the Power Ball. The public voted on it as being only the  
Power Ball and the Task Force Committee agreed that the  
lottery should be only the Power Ball.**

**As written, the bill allows three on line games, Power Ball, Hot  
Lotto and Wild Card 2.**

**The amendment before you defines the lottery as only one, on-  
line game. This is consistent with the way the lottery  
constitutional amendment was presented to the voters.**

**I present this amendment for your consideration and  
incorporation into HB 1243.**

**The second area is 53-12-24 regarding sale of lottery tickets to  
minors.**

**As written, this section prohibits sale of lottery tickets to  
minors but allows lottery tickets to be given as gifts to minors.  
The reality of this is that allowing lottery tickets to be given as  
gifts to minors negates the prohibition on selling tickets to  
them. All a minor has to do is give money to an adult and ask  
that they buy lottery tickets for them. This will be perfectly**

legal as the bill is presently written. This will encourage youth, of any age to become involved in gambling.

This second amendment corrects this problem. I present this amendment for your consideration and incorporation into HB 1243

There will be others who will wish to testify on this bill.

Are there any questions?

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Operator's Signature

10/2/03  
Date

30219.0402  
Title.

Att # 36  
Prepared by the Legislative Council staff for  
Senator Dever  
March 4, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1243

Page 5, line 3, replace "a" with "one" and after "joint" insert "on-line"

Renumber accordingly

Page No. 1

30219.0402

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Operator's Signature

10/2/03  
Date

MT # 3c

**53-12-24 Sale of ticket to minor prohibited - violation - ~~Gift of ticket to minor permitted - prize paid to parent or guardian or deposited in court~~**

No lottery ticket may be sold or given to a minor. Any retailer, employee of a retailer, or any other person who knowingly sells or offers to sell or give a lottery ticket to a minor is guilty of a class B misdemeanor on the first offense and a class A misdemeanor on the second or subsequent offense.

~~A lottery ticket may be given as a gift to a minor. Any prize of five thousand dollars or less won by a minor from a ticket given as a gift must be paid to the minor's parent or legal guardian. Any prize of more than five thousand dollars won by a minor must be deposited in court by the director for the benefit of the minor for further disposition pursuant to chapter 30.1-29-~~

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Operator's Signature

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AH #3d

30219.0401

Submitted by Warren DeKrey

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1243**

Page 11, line 12, remove "Gift of ticket to minor"

Page 11, line 12, remove "permitted - Prize paid to parent or guardian or deposited in court"

Page 11, line 14, after "sold" insert "or given"

Page 11, line 15, after "sell" insert "or give"

Page 11, line 16, remove "A lottery ticket may be"

Page 11, remove lines 16-20

Renumber accordingly.

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Operator's Signature

10/2/03  
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HH #4

## Suggested Amendments to HB 1243

To the honorable members of the Senate

The November election issued a mandate to the North Dakota Legislature that a lottery shall be established for the benefit of the state. Although many of us who oppose gambling in general fought to defeat the measure, we are very aware that North Dakotans have made their choice. The recommended amendments to HB1243 are in no way an attempt to roadblock the bill or slow down the process of establishing a lottery.

The members of North Dakota Council on Gambling Problems are concerned that the lottery bill be:

- A. Clean and workable.
- B. In accordance with the gaming laws of other states
- C. In accordance with the existing laws of North Dakota
- D. Minimal in negative impact to our state.

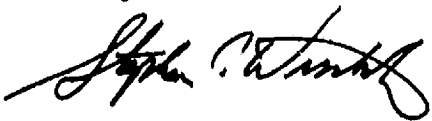
The current bill passed by the House is flawed on two very key points, both relating to the age of the players. First, the bill allows 18 year olds to purchase a lottery ticket which would include persons as young as 12<sup>th</sup> graders. Secondly, the bill allows minors to receive a lottery ticket as a gift. With good intentions, the House Bill makes it illegal for a minor to purchase a ticket. However, this law is essentially nullified by an allowance making it legal for a purchaser of a ticket to give it as a gift to a minor – and the minor winner can keep winnings up to \$5000.

A scenario that would not be so unlikely is as follows. A thirteen year-old boy mows lawns and run errands for neighbors to earn money. He is not even old enough to obtain a work permit to work at fast food businesses. But from his earnings, he hands his eighteen year-old brother a dollar bill or two to buy lottery tickets. It is illegal for the younger brother to purchase it, it's even illegal for him to work certain jobs because of child labor laws, but he can have his lottery ticket and even reap the winnings if he were so lucky as to win. Like buying baseball cards or collecting Star Wars figures, little brother can get as many lottery tickets as he wants.

The way this law is now written is as if there is no age prohibition at all. I encourage you to amend this bill and prohibit minors from receiving lottery tickets in any manner.

North Dakota should have a clean, safe, and secure lottery.

Sincerely,



Steve Wisthoff  
North Dakota Council on Gambling Problems  
Lobby #501

10/2/03

Att #5a

4 March 2003

Chairman Traynor, senators, I welcome the opportunity to testify today on HB 1243, the measure that will put our state in the gambling business for the first time. This is a precedent setting occasion that no other legislators in the state have had in the past or will have in the future. You have been given this notable responsibility and I urge you to logically and unemotionally analyze the proposed legislation by first comparing it with the legislation permitting charitable gaming.

By permitting charitable gambling the state agreed that its responsibility was to regulate the enterprise, and crafted legislation to accomplish that end.

The lottery, though, will not be simply permitted - it will be a state run business from beginning to end.

Given the significance of this new business, I was surprised to learn that the legislation to enable the state's lottery business contains far less regulation and guidance than was established for charitable gaming.

The first contrast is that the governor and the senate have no role in appointing the Lottery Advisory Commission. The governor appoints the Charitable Gaming Commission with the consent of the senate. For the Lottery, the commission will be appointed by the attorney general and the legislative council. Since the lottery will be a proactive activity, a business competing directly with other North Dakota business for retail dollars, I believe that the governor and senate should have direct responsibility.

Only licensing and regulatory functions of charitable gambling reside in the office of the attorney general. Under the provisions of HB 1243, ALL functions of the lottery reside with the attorney general; rule making, daily operation, advertising, financial accounting, and enforcement in the same office. This can only lead to at least the perception of conflict of interest. The attorney general apparently recognized this when he recommended to the Lottery Task Force that licensing and enforcement could be handled by his office, but that other responsibilities should be done somewhere else. The proposed legislation, though, does not consider this recommendation. I believe that it should.

In the words of one member of the Lottery Task Force, "the lottery has to be squeaky clean". The Multistate Lottery Association itself stresses that lottery must be able to withstand criticism in order to gain the support and confidence of the public. Vesting complete control in one organization, with no independent outside, uninterested, unprejudiced oversight does not meet either of these tests. And it especially does not meet the test since the governor and senate have no responsibility in selecting the group that guides the business.

Charitable gaming law allows local control for permits and site location. Although licensing for lottery sales is a state level responsibility, since the business is run by the state, the counties and cities should retain control of where it will be conducted, and whether or not the business is wanted in their jurisdiction. Requiring potential lottery retailers to have agreement from their county or city administration as part of the state's licensing requirements will remedy this omission.

Charitable gaming law also recognizes that the counties and cities will lose sales tax revenue because of the exemption from sales tax, and replaces part of it. The lottery will also be tax exempt, but HB 1243 does not replace any of the sales tax that will be lost to counties and cities. The Fiscal Note to HB 1243 does not reflect this loss.

The bill ignores the considerable experience of states with lottery by generally abrogating the Legislature's responsibility for making laws to guide development of Administrative rules. The vast majority of law that other states with lottery found necessary and appropriate will be relegated, in North Dakota, to the Administrative Rule process. Details of this new state business may be appropriate for development by rule, but there are virtually no laws for guiding this development. The legislation covering Charitable Gambling is more extensive than that in HB 1243.

Although the bill does require various periodic public reports for the governor, certain state agencies, and the legislature, all of these reports are on lottery internals. No evaluation of lottery effects on the state and its subdivisions is required. The request for emergency action on HB 1243 was justified, in part, by proponents desire to have the lottery start coincident with the start of the state's fiscal year so that an economic comparison could be made of economic effects before and after the lottery starts. There is, however, no requirement in HB 1243 for an evaluation of this sort to be made or reported.

For this reason I recommend adoption of the following amendment:

Proposed Amendment to Engrossed House Bill No. 1243

Page 4, after line 16 insert: "12. The tax commissioner shall conduct an

annual county by county study of retail sales and tax receipts using calendar year 2002 as the base year. The study shall be completed in January of each year. The study shall be reported as a comparison of pre-lottery retail sales and sales tax receipts with post-lottery retail sales and sales tax receipts in order to measure the economic benefit of the lottery to the state. The annual report shall be presented to the governor and the legislative assembly."

In regard to the transfer from lottery gross proceeds for deposit in the compulsive gambling prevention and treatment fund (SECTION 53-12-21) the proposed amount is no more than a brief nod in the direction of state commitment to treating this problem. Since the state has long recognized the existence of gambling problems, this new source of revenue - coming, by the way, from one cause of the problem - could make a significant contribution to treatment of the problem. A contribution of 10% would be far more appropriate. The proposed cap of \$200,000 per biennium contained in HB 1243 is illusory. To reach this cap the lottery's gross profit per biennium would need to be \$20,000,000 representing approximately \$100,000,000 in lottery sales.

Setting the legal age for purchase at 18 puts the state in the position of promoting gambling to high school students. This is not a desirable precedent for our state.

I asked representatives of the Legislative Council and the Gaming Division of the AG for clarification on several parts of HB 1243. Specifically, what "services from financial institutions" (Section 52-12-04.3) and "share human and financial resources of other divisions within the office of attorney general" (Section 52-12-04.11) referred to, and what they meant in terms of financial responsibility. The answers I received were varied and vague. If these provisions are not well defined now, there can be no accountability later.

Regarding the emergency section, nothing in the bill falls within the requirements of CC 28-32-03, Emergency Rules.

I have two additional specific amendments that I propose for inclusion in HB 1243:

On Page 15, after line 21 insert:

"SECTION 8. Lottery ticket sales - Cash only. Lottery tickets may be sold for cash only."

"SECTION 9. Lottery tickets not to be used for promotional purposes or gifts. No lottery retailer or other person involved with the operation of the lottery may give lottery tickets as a gift or provide lottery tickets without payment as part of a promotion."

And renumber.

In summary, HB 1243 is in need of close attention by this committee and by the senate. Starting the state's lottery business is nowhere as simple as the proponents described or wish. Time is not of the essence regarding passage of the bill, but it is extremely essential that this bill be made more respectful of the needs of the state and its citizens within the time allowed by our state's laws. The Multistate Lottery Association emphasizes that each state's lottery business should be as clean and unassailable as possible. The other states having lottery have recognized this and addressed the question far more intensively than HB 1243 does. I urge this committee to apply its collective wisdom to make this measure more appropriate for our state.

Thank you,

Bruce Brooks  
2600 SE22nd ST.  
Minot, ND 58701  
Tel: 701-839-7898

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10/2/03

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Title.

56  
Prepared by the Legislative Council staff for  
Senator Tollefson  
March 3, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1243

Page 1, line 1, after the second comma insert "a new section to chapter 57-01,"

Page 1, line 4, after the second comma insert "a report of retail sales and tax receipts,"

Page 11, line 6, replace "Sales of tickets at price greater than that fixed by rules prohibited - Sale" with "Sales and promotion restrictions"

Page 11, line 7, remove "by authorized retailer only" and after the boldfaced underscored period insert:

"1."

Page 11, line 10, replace "section" with "subsection"

Page 11, after line 11, insert:

- "2. A lottery ticket may be purchased on a cash basis only. For purposes of this subsection, cash does not include a check or a debit card.
3. A lottery retailer or any other person involved with the operation of the lottery may not give a lottery ticket as a gift or provide a free lottery ticket as part of a promotion.

Page 14, after line 28, insert:

"SECTION 5. A new section to chapter 57-01 of the North Dakota Century Code is created and enacted as follows:

Annual report of retail sales and tax receipts. Using calendar year 2002 as the base year, the tax commissioner shall compile an annual county-by-county report of retail sales and tax receipts. The report must be completed in January of each year. To measure the economic benefit of the lottery to the state, the report must include a comparison of prelottery retail sales and sales tax receipts with postlottery retail sales and sales tax receipts. The tax commissioner shall present the annual report to the governor and the legislative assembly."

Renumber accordingly

AH #6

Andrew Varvel's Testimony to the  
North Dakota Senate Judiciary Committee  
March 4, 2003

*Mr. Chairman and members of the committee:*

My name is Andrew Varvel and I live in Bismarck.

What is the meaning of the word "yes"?

Last November, a majority of the voting public of North Dakota voted "Yes" on Measure #2. The question is -- what did the voters actually say?

I suggest to you that many North Dakota voters may have said "yes" to the language they saw on the ballot -- and no more than that. It means that the legislature shall authorize North Dakota to join what would become a multi-state lottery -- and no more than that.

The State of North Dakota should act according to two assumptions. One is that the lottery should be organized to receive revenues that would otherwise have gone to lotteries in other states. The other is that the lottery should not be looked upon as a source of revenue, but merely as a service to consenting adults who desire to purchase lottery tickets.

A "yes" vote doesn't necessarily mean an endorsement of the entire agenda of the gambling lobby. It doesn't necessarily mean that the voting public endorses advertising on radio and television or allowing lottery tickets to be purchased where children are present. I doubt that the majority of North Dakota voters would endorse giving lottery tickets to children.

Just as the State of North Dakota should not promote cigarette smoking or alcohol consumption as a means to increase tax revenues, the State of North Dakota should not promote the purchase of lottery tickets as a means to increase tax revenues.

In summary, one should not overstate the importance of the "yes" vote for Measure #2 last fall. Regulations for the lottery should be sufficiently restrictive in order to ensure that a majority of North Dakota voters would support it.

Thank you.

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*Dan Hall*  
Operator's Signature

10/2/03  
Date

offering rep....

March 4, 2003  
HB1243

**Lutheran  
Social Services  
of North Dakota**

1325 S. 11th St. ☐ Box 389  
Fargo, ND 58107 ☐ (701) 235-7341  
Fax (701) 235-7359

Rev. Keith D. Ingle, MSW  
President

Mr. Chairman and members of the Senate Judiciary Committee:

Gamblers Choice, a program of Lutheran Social Services/ND, is before you today to ask your consideration of making an adjustment to HB1243 concerning the percentage of funds allocated to the compulsive gambling prevention and treatment fund.

Section 53-12-21 currently states: One percent of the gross profits generated from the sale of lottery tickets, not to exceed two hundred thousand dollars per biennium, must be transferred to the state treasurer for deposit in the compulsive gambling prevention and treatment fund.

The Attorney General's office has estimated the one percent allocation would bring \$51,000 into the problem gambling fund in 2003-2005 and \$69,000 in 2005-2007. This amount is extremely inadequate to provide prevention and treatment on a statewide basis.

In 2002, Gamblers Choice treated 179 problem gamblers and 50 family members. It costs approximately \$1,000 to provide 16 weeks of outpatient gambling treatment for an individual with a gambling problem. This would mean that the estimated lottery proceeds (\$25,000) for the 2003-2005 biennium, for the compulsive gambling prevention and treatment fund would, at best, provide treatment for 25 additional individuals across the state. Out of the \$25,000, money is also to be spent on prevention. Both issues, prevention and treatment, are grossly under-funded.

Please consider a 5% allocation with a cap of \$200,000 to better address the treatment needs of the citizens of North Dakota and put prevention plans and efforts in place that will impact those citizens who might be at risk of developing a gambling problem. We can look to the state of Minnesota as a model of excellence in that they contribute \$4.3 million to prevention and treatment efforts from their lottery proceeds.

We owe the citizens of ND the opportunity to have affordable and accessible treatment available to them. Please support a change in this bill that speaks to the value of our residents that are impacted negatively from compulsive gambling.

Visit Our Website: [www.lsnd.org](http://www.lsnd.org) ☐ Remember Lutheran Social Services of North Dakota in your will.

MEMBER CHILD WELFARE LEAGUE OF AMERICA ☐ BISMARCK ☐ GRAND FORKS ☐ FARGO ☐ MINOT ☐ WILLISTON

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Deanna Hall  
Operator's Signature

10/2/03  
Date

HH #8a

March 4, 2003

North Dakota State Senate  
Engrossed House Bill No. 1243

Rev. Warren L. Wenzel, Pastor  
Linton United Methodist Church  
Linton, North Dakota  
701-254-0166

Chairman Traynor and members of the committee:

I am here representing myself and I ask you to defeat or change House Bill 1243. There are many reasons that this bill is a bad for North Dakota. The first is that it is another expansion of gambling. Dr. James Dobson, a member of the National Gambling Impact Study Commission, said, "Clearly, 'Gambling fever' has engulfed the nation." We see today that North Dakota is no exception. We are already one of the highest per capita gambling states in the nation. Gambling lives off the productive side of our economy. It does not produce anything and becomes a drain on the rest of the economy. It cannibalizes other businesses in that it takes consumer dollars away from other businesses. Its appetite never ends. It is an economic cancer. The United Methodist Church has a long standing tradition of being against gambling. Our Bishop has spoken out against this lottery. The North Dakota Conference of Churches has traditionally opposed gambling. The clergy of Emmons County have spoken out against this measure. We see this measure as a threat to the well-being of our communities. I have personally taken an interest in gambling problems for a number of years now. The more research I do the worse it looks. I have a chart that shows the costs of Drug abuse versus Gambling abuse in the United States. Drug Abuse costs our country \$70 billion per year and Gambling Abuse costs our country \$80 billion a year. There were 13.2 million Drug Abusers and 15.4 Gambling abusers in the U.S. population. These were figures from 1997. We all admit the problems drug abuse causes but gambling seems to be acceptable. The American Legion magazine of June 2002 has a good study entitled, "Gambling's Dark Side". A May 7, 2001, Business Week magazine, article quotes Kip Peterson, a consultant at Transnational Market Development Inc., describing the turning to more and different kind of games by the gambling industry as, "It's a self-destructive cycle."

Dick Elefson, addiction counselor from here in Bismarck, said, "Compulsive gambling is the fastest growing addiction in North Dakota, costing North Dakotans millions of dollars in taxes, lost income, increased bankruptcy and crime." We all bare the costs of the expansion of gambling. Lisa Vig, another North Dakota addiction counselor, said, "The thing we don't realize is that when the compulsive gambler embezzles, has a court appointed attorney, goes to jail, get out, has a probation officer, ...we as taxpayers pick up the tab. for that..." It has been well documented that society pays a high price for gambling problems and any increase in gambling opportunities increases the problems.

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*Donna Hallmark*  
Operator's Signature

10/2/03  
Date

House Bill No. 1243 provides for the establishment of a North Dakota Lottery. There are several things in this bill that should not be accepted.

During the campaign, preceding the election, the proponents of a state lottery said all they wanted was the opportunity to buy Power-ball Lottery tickets in North Dakota. This bill makes no reference to Power-ball and provides for other games. The bill should provide only for the Power-ball and no other games.

All other gambling in North Dakota is limited to persons 21 years of age or older. This bill allows 18 year olds to buy and sell tickets. Many of that age group are still in High School. The legal age for playing the lottery should be the same as all other form of gambling in North Dakota. Also this bill allows for minors, "a lottery ticket may be given as a gift to a minor..." to play the lottery as long as an adult (18 or above) buys the ticket for the minor. Just think of a High School senior buying lottery tickets for her/his first grade friends.

The bill dedicates only a small percentage of the profits to treatment of compulsive gamblers. It should be much greater.

This bill does not control the advertising of a lottery. The state will be spending money telling people buying lottery tickets is a good thing to do.

This bill has an emergency clause in it. There is no need to hurry this lottery bill through the legislature at the expense of a thorough study and deliberation. To do so makes it suspect. It does not need the emergency clause. We have survived without a state lottery almost since statehood when the leaders of our state saw the corrupting influence of a lottery. This clause will make it more difficult for those who will want to refer this measure to the people. The people were not informed about the nature of this lottery measure when it was voted on. Very few details were worked out. The promoters said trust us. They were not trust worthy from the start. They even said that the last session of this body gave their approval to a state lottery. The Senate in its last session soundly defeated a state lottery measure.

*House*

The Legislature now has the opportunity to put forth it's best effort to craft this venture in a manor acceptable to and for the benefit of the state. This bill needs allot of work yet. I ask you study it carefully and make changes so that if we are going to have a lottery it will be as limited as possible. Martin Dyckman said, "It is easier to excuse desperate people who bet money they don't have than to excuse public officials who seduce them."

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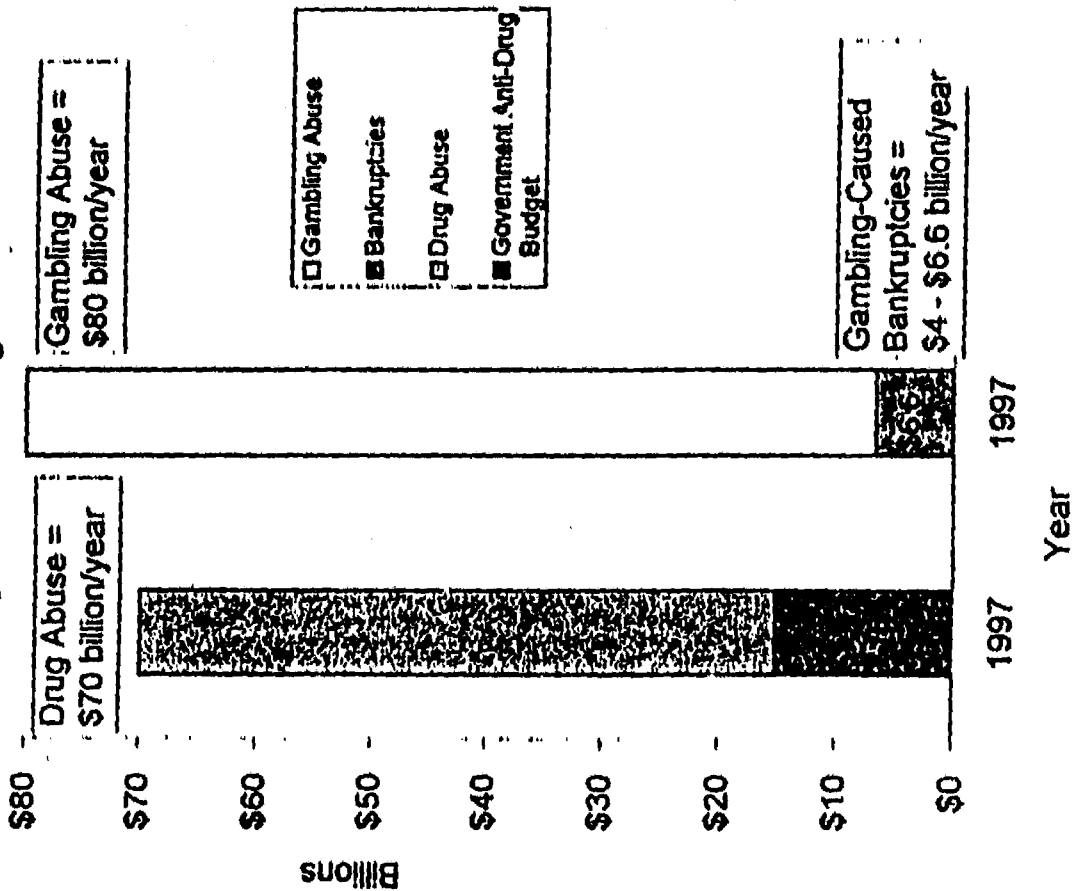
*Deanna Hallmark*  
Operator's Signature

*10/2/03*  
Date



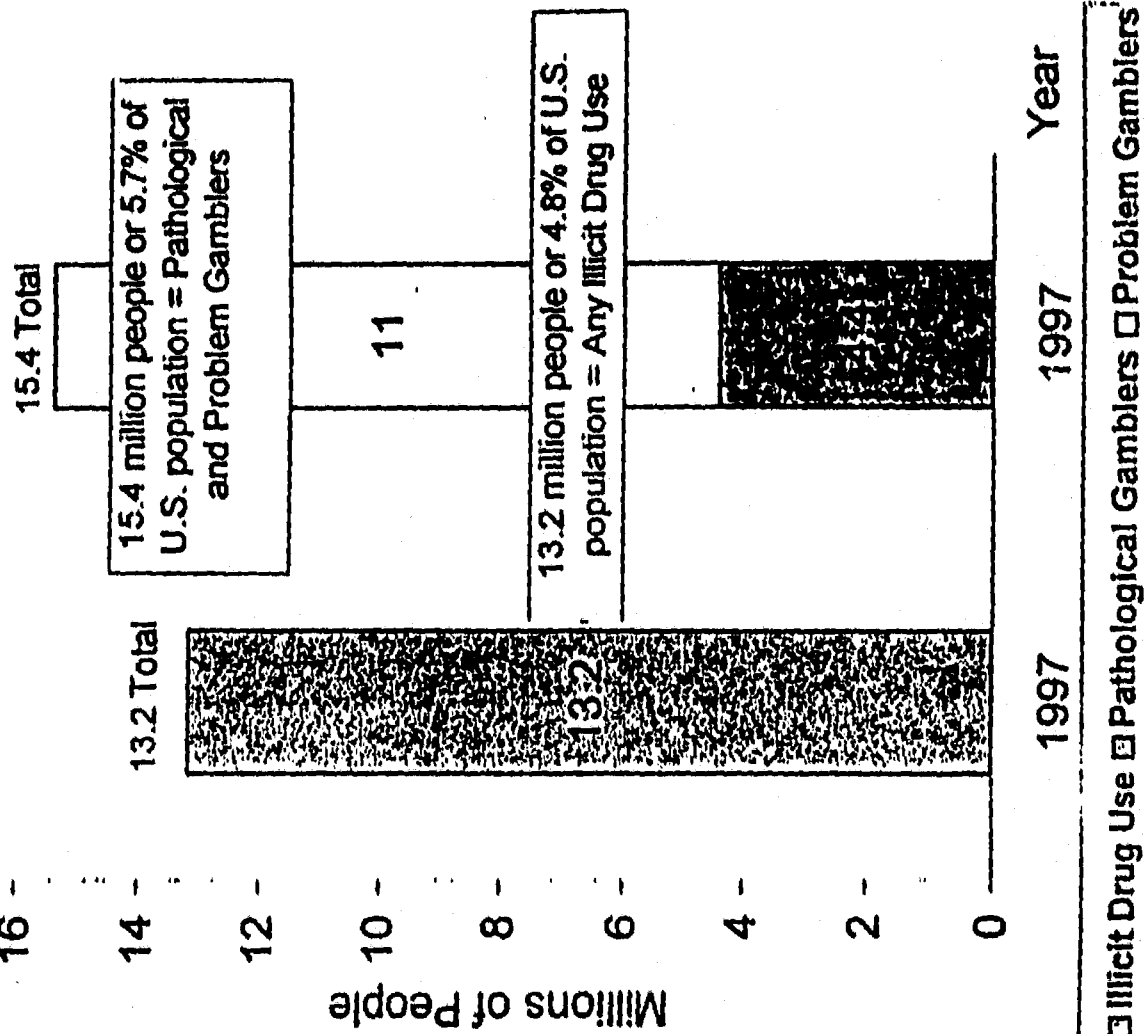
# U.S. Costs of Drug Abuse Versus Gambling Abuse Socio-Economic Costs, 1997

Drug Abuse = \$70 billion/year  
Gambling Abuse = \$80 billion/year



Gambling-Caused Bankruptcies = \$4 - \$6.6 billion/year

# Drug Abuse Versus Gambling Abuse Percentages and Numbers of U.S. Population, 1997



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Date

10/2/03

HH #9

March 4, 2003

SENATE JUDICIARY COMMITTEE  
HB 1243

SENATOR TRAYONOR AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association and the North Dakota Broadcasters Association. We oppose the portion of this bill dealing with the confidentiality of lottery records and ask that you consider an amendment to §53-12-28 on page 12.

We don't oppose protecting the business records and proprietary information of the businesses that will sell the lottery tickets and the marketing and similar business information of the lottery itself. We have always maintained that if there are to be exceptions to the open records laws, they should be stated clearly and specifically.

However, as it is now written, §53-12-28 makes ALL information and records of the lottery confidential, not just the items listed in subdivisions a. through e. at lines 19 - 31 on page 12. All decisions regarding the operation of the lottery, the organization of the lottery, personnel information, profits and losses, rules and regulations, etc., would all be closed to the public. And, it would be a felony to release any information whatsoever about the lottery.

We don't think this is in the best interests of the lottery or the general public. The best way to make sure the lottery succeeds is to gain public support, and the best way to gain public support is to let the public know what is going on.

Therefore, we propose the amendment below and ask your support. If you have any questions, I will be happy to try to answer them. THANK YOU FOR YOUR TIME AND CONSIDERATION.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL 1243

Page 12, line 18, delete "Information" and insert "The following information", and delete ", including"

Renumber accordingly

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10/2/03

Exhibit 2

March 17, 2003  
HB1243

Mr. Chairman and members of the Senate Appropriations Committee:

My name is Dawn Cronin and I am here today on behalf of Gamblers Choice, a program of Lutheran Social Services/ND. I am a gambling counselor at Gamblers Choice, an outpatient gambling treatment program serving compulsive gamblers and their families in Fargo, Grand Forks, Bismarck and Minot.

My testimony today relates to the four divisions of the proposed amendments to Engrossed HB1243, recommended by the Senate Judiciary Committee.

**Division A:** Gamblers Choice recommends ND participate in the one Powerball lottery game, which is what voters were told they were voting for in the November election. Two additional games are now being suggested. I would like to see the wording returned to, "promotion of one joint on-line lottery game" on page 5, line 3.

**Division B:** Page 10, line 26 and 27. Gamblers Choice supports five percent of gross profits going for treatment and prevention, but I ask you to remove the two hundred thousand dollar per biennium cap and go with a straight five percent with no cap. One hundred thousand dollars per year is extremely inadequate to provide prevention and treatment on a statewide basis. At best this would provide \$25,000 yearly to the four current locations in the state providing treatment. Expansion of services for treatment and prevention are needed in several areas of the state and this certainly would not happen with a \$200,000/biennium cap.

**Division C and D:** Gamblers Choice supports as currently written.

We owe the citizens of ND the opportunity to have affordable and accessible treatment available to them. Please support a change in this bill that speaks to the value of our residents that are impacted negatively from compulsive gambling.

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Date

# LOTTERIES DRIVING OUT THE WORST IN STATES

By MARTIN DYCKMAN

**TALLAHASSEE** — One of the nice things about passing time at our second home in Haywood County is to be free, if only for a little while, from the impulse to buy the winning Florida Lotto ticket before someone else does.

Someone else always does, by the way. The odds are brutal.

On that personal note, I hope North Carolina can find more dignified means to meet its needs. But it's your choice. If North Carolina is thinking seriously about a lottery — as it appears — please be informed by Florida's mistakes. Take care that it never gives your taxpayers cause to believe they have been deceived. Don't expect it to lay golden eggs forever.

Bear in mind that once you have a lottery, you'll never get rid of it. No state has.

Florida's came by way of an initiative proposed in 1986 by an outgoing education commissioner who feared the schools would suffer (as they have) from Florida's anemic tax structure. He sold it to the voters as a promise of "excellence" in education.

We're still waiting.

For technical legal reasons, the initiative had to leave to the Legislature the power to earmark the proceeds. They all went to education, of course. But the percentage of honest tax revenue that the Legislature devoted to education declined markedly. What went in one pocket drained out the other.

The voters thought they had been swindled and started rejecting local school bond issues that they had formerly passed with pride. Political scientists detected a poisonous, persistent, cynicism as a result of the perceived bait and switch.

So if you go for a lottery, make sure the money is budgeted to something you would never have done without it; be certain that it stays in a separate pot, and set a minimum threshold for general revenue to education. Georgia learned well from Florida, reserving its lottery money for college scholarships, pre-school education and technology.

Be careful about the scholarships, though, lest higher-achieving students who don't necessarily need the money crowd out poorer kids whose grades aren't quite as good but who would work as hard or harder.

Having belatedly followed Georgia's example, Florida legislators are in a stew because the scholarships earmark too much for attainment, not enough for need. They can't fix it without making a lot of parents mad.

The worst thing about our lottery, though, is the consequence to public morals.

I'm not talking about the people who buy more tickets than they can afford while their children go hungry and their rent goes unpaid, but about the shameful role of the state in tempting them. Our lottery advertises, big time, and it doesn't shrink from targeting the poor.

Some of the things our government has done would shame a carnival barker. As happened in every other lottery state, ticket sales began to flatten or even sag as the excitement wore off and it dawned on most people that they would probably never get back even what they played. If they still buy tickets, they may buy fewer.

No politician, no matter how sanctimoniously he may have preached about working rather than gambling for life's rewards, wants to be blamed for a "failing" lottery.

And so it happened that in the last year of the administration of the late Lawton Chiles, one of the Florida's most ethical governors, his lottery secretary hyped the Lotto by stretching the annuitized payout from 20 years to 30. This let her advertise larger jackpots on lower sales. The larger the jackpot, the more the sales even though the odds against winning on any one ticket stay the same.

Jeb Bush hadn't been in office a year when his lottery secretary cooked the books by increasing the Lotto field — the numbers from which to choose six — from 49 to 53. That nearly doubled the odds against a single ticket winning the jackpot.

Where there was roughly one

chance in 14 million before; it's one in 23 million now. And because this guaranteed that fewer people would win — which was the whole point of it, to advertise ever larger roll-over jackpots — they increased the number of Lotto drawings from once a week to twice. More action plus fewer winners equals larger jackpots — an intentionally vicious circle.

You've got to wonder what stunt they'll pull when that wears off.

In December 1999, the Palm Beach Post reported that lottery tickets were on sale at 161 payday lenders and other usury shops. One of the state's leading vendors, the newspaper said, was a Miami check cashing store that sold \$387,000 in lottery tickets in a neighborhood with an average per capita income of \$6,177.

It is easier to excuse desperate people who bet money they don't have than to excuse public officials who seduce them.

One more thing: Two national companies dominate the technology market on which on-line lotteries depend, and whichever doesn't get your contract will bedevil your lottery managers and your legislature with complaints and litigation. It's an ugly business.

The chief of staff to the education commissioner who sold the lottery to Florida voters became the chief lobbyist for the company that won the on-line contract. No grownups were surprised.

*Martin Dyckman is an editorial writer and columnist for the St. Petersburg Times, who writes from the state capital in Tallahassee.*

"To suppose that (newspapers) only serve to protect freedom would be to diminish their importance: They maintain civilization."

**Alexis de Tocqueville,**  
French historian, 1832

# BusinessWeek

## GOVERNMENT

### STATE LOTTERIES ARE COMING UP SNAKE EYES

Revenues are down just when they're most needed

**T**he cooling economy couldn't have come at a worse time for Ohio.

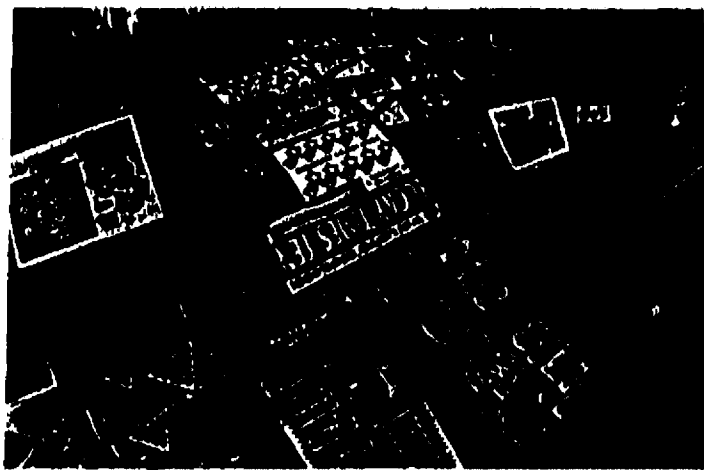
With tax revenues this fiscal year likely to hit just \$15.7 billion—\$304 million less than expected—the state is struggling to fund new education programs that could cost \$700 million annually. Why not turn to revenues from the state lottery, which are earmarked specially for education? If only Ohio could. Over the past three years, lottery proceeds have tumbled 8%, to \$686 million. “I think [the lottery] is faltering,” says state House Speaker Larry Householder.

Across the country, the story is much the same. Just a few years back, state after state bet that permitting a tepid form of legalized gambling would keep money rolling into state coffers. But despite their easy-money aura, lotteries haven't made the states rich. Lottery revenues are drying up as players grow more scarce and rival forms of gambling prosper. “The booming economy is not masking the long-term decline in lotteries anymore,” notes John W. Kindt, a commerce professor at the University of Illinois in Champaign.

Indeed, the number of states that are seeing a slide in lottery profits keeps growing. In the last fiscal year, profits from 20 of the nation's 37 state lotteries fell. That's up from just eight states five years ago. Last fiscal year, annual lot-

ttery profits in Wisconsin, for instance, dropped 19%, to \$110 million; in Texas they fell 8%, to \$890 million, while Connecticut profits dipped 6%, to \$264 million.

No one could have predicted this roll of the dice as states rushed to open lotteries in the 1980s and '90s. Legisla-



LOSING NUMBERS: Lotteries have too much competition

tures promised the lottery would be a growing source of revenue—and in many cases, the money was pledged to support popular programs. Today, 14 states direct all lottery proceeds toward education, while five more target a portion. In Texas and Ohio, for example, lotteries foot 8% to 10% of each state's education bill, respectively.

So why the decline in lottery proceeds? Just like any other industry, lotteries today face much greater competition. Eleven states now have general

casino or riverboat gambling, while Indian tribes have built casinos in 24 states since 1988. All are luring customers who once played the lottery. And that's not even counting the players lotteries have lost to online gambling—not to mention online stock trading.

**SEDUCTION.** But new rivals are only part of the problem. Many lottery games have done a poor job attracting younger people, so the pool of players is shrinking. To seduce more youthful consumers, states have tried new games: Illinois, Kansas, and Maine, for example, have launched scratch games featuring professional wrestlers. But so far, that hasn't been enough. And regardless of

age, most players eventually tire of losing and quit. Consequently, it takes ever-increasing jackpots—such as those of Powerball—to attract players, but these games are harder to win. “It's a self-destructive cycle,” says Kip Peterson, a consultant at Transnational Market Development Inc.

Moreover, bigger payouts translate into shrinking profits. Last year, for example, New York increased its payout per dollar of ticket sales to 65¢, from 55¢. So even though sales hit a record, the \$1.48 billion in profits was 7% less than what the lottery

brought in four years earlier.

Nor do the states have many other easy-money options. Interstate gambling laws prohibit states from selling lottery tickets over the Internet. And opposition to gambling has kept all but five states from installing popular video-lottery terminals. “The lottery is not what people made it out to be and never will be,” says Texas legislator Paul Sadler. For most, counting on lottery revenues looks increasingly like a sucker bet.

By Robert Berner in Chicago

**State Lotteries at the Turn of the Century:**

**Report to the National Gambling Impact Study Commission<sup>1</sup>**

**Charles T. Clotfelter, Philip J. Cook,  
Julie A. Edell and Marian Moore<sup>2</sup>**

**Duke University**

**April 23, 1999**

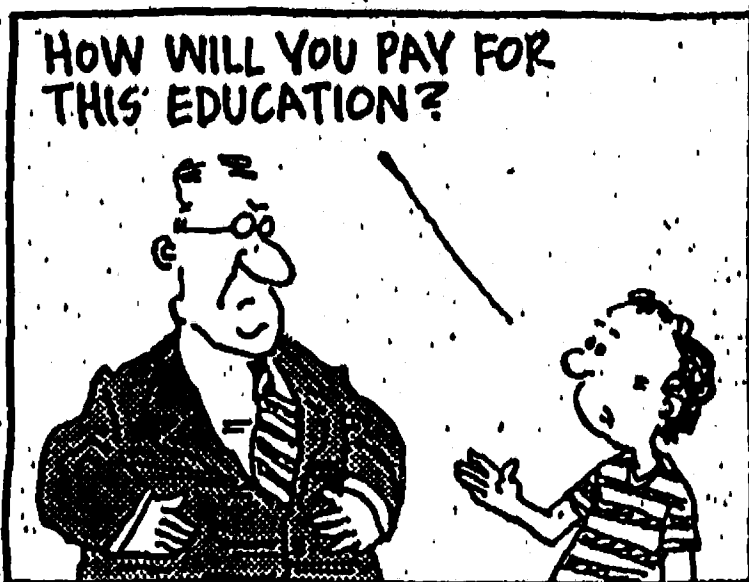
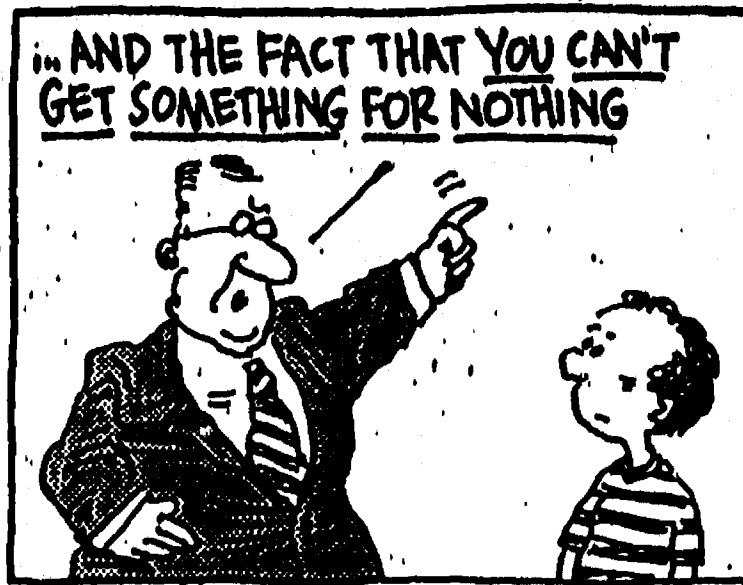
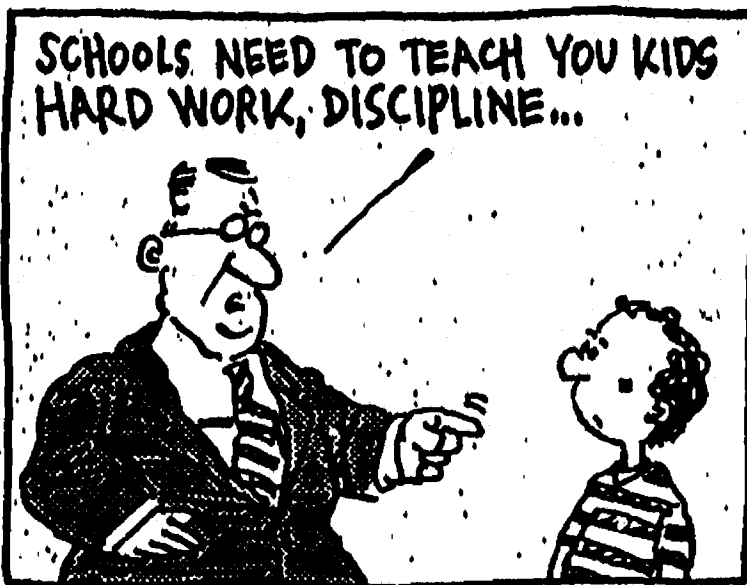
Lottery play is common -- about half the adult population play the lottery in any one year -- but the degree of involvement is highly heterogeneous. Among those who played in the last year, we find that the top 5 percent of players (who played \$3,870 or more) accounted for 54 percent of total sales, the top 10 percent (who played \$2,593 or more) accounted for 68 percent of total sales, and the top 20 percent (who played \$1,619 or more) accounted for fully 82 percent. The median player, who might be considered "typical," is in fact of little interest from the revenue perspective. To illustrate that point, consider what would happen if *all* players spent the same as this "typical" median player, \$75 a year. The answer is that sales would fall by 76 percent to \$7.7 billion. Clearly it is the relatively small group of atypically heavy players who cause average sales to be as large as they are.

Lottery play differs systematically among groups. To explore demographic patterns of play, we calculate the participation rates and adjusted average play by gender, race, marital status and age. These results are presented in Table 9 and also Figures 1-4. Overall we estimate that 51.5 percent of the adult public played in the previous year, and that their average expenditure was \$313. Multiplying these two statistics together provides the per capita play of \$162. It is interesting to note in reviewing the statistics in this table (and the subsequent table on socioeconomic characteristics) that the differences among groups are much greater with respect to amount played than with respect to participation rate. Indeed, with a few exceptions there is remarkable uniformity in participation.

Reviewing the demographic categories, we see first that men are a bit more likely to play,

13. 1993

# COMMENTARY



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*Deanna Hall*  
Operator's signature

10/2/03  
Date