

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1259

2005 HOUSE JUDICIARY

HB 1259

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1259

House Judiciary Committee

☐ Conference Committee

Hearing Date 1/19/05

Tape Number	Side A	Side B	Meter #
1		xx	41.5-end
2	xx		0-35.4
2		xx	7.8-16

Committee Clerk Signature 

Minutes: 14 members present.

Chairman DeKrey: We will open the hearing on HB 1259.

RaeAnn Kelsch: Explained the bill and introduced Chuck Keller (see written testimony).

Chairman DeKrey: Thank you. Further testimony in support of HB 1259.

Chuck Keller, Director, Lottery Division, Office of AG: (see written testimony and amendments and amendment from Dept. of Human Services).

Chairman DeKrey: Have you given any thought that the amendment should go with the technical corrections act, which is over in the Senate.

Chuck Keller: I did speak with Vonette Richter, LC, she consulted with John Walsted, and they both recommend that we amend the lottery bill with these amendments instead.

Chairman DeKrey: Thank you. I also want to commend you for doing a good job.

Representative Klemin: There have been a lot of stories regarding people winning lotteries and having their houses broken into or where they had to hire bodyguards, fear of kidnapping or

a family member kidnapped, all because everybody know who won the big one. We put in the provision in the ND statute to maintain confidentiality of that person, unless that person agreed it wouldn't be confidential. Now what you've done here in the bill is gone around that completely, by saying that it is not confidential if more than \$100,000, the lottery may release the amount won, and player's name, city and state of residence, without his consent. In other words, it seems to me from what you've said, that you want to hold that person up as an example of a winner, use that person, invade their privacy and use him as an example. I can see a jackpot winner's face on the billboard outside town that might happen to win a big jackpot; and all in the name of promoting the lottery. It seems to me that there is a more compelling need here and that is to protect the privacy of those persons who do not want to have themselves or families' privacy invaded. You can certainly say that someone has won without saying who it was, unless they consent. Why is it you want to do this.

Chuck Keller: I do remember that this was your amendment on HB 1243 last session. What we are proposing is the release of this information, classifying it as public information, just as about 40 other state lotteries are doing. We are the only state that is not disclosing jackpot winner information. In my discussions with other state lotteries, it adds a lot of credibility to a lottery, to show the public that there are, in fact, winners of their lottery games in that state.

Representative Klemin: You can't do that without specifically identifying that person.

Chuck Keller: By name, it's pretty difficult. In regards to whether the lottery posts a picture of player on a billboard, that would not fall under this particular provision. It would be the release of a player's name, city and state of residence and the prize amount. If the player declined to

have the player's picture taken, that is the player's prerogative. We have many players that have released to us their authorization. (Showed an ad with player's pictures for the lottery).

Representative Klemin: This is done with their consent.

Chuck Keller: Yes.

Representative Klemin: What you are proposing is to do it without their consent.

Chuck Keller: Only for those players that have won an amount that exceeds \$100,000.

Representative Koppelman: I understand where you are coming from a promotional perspective. I have been in the advertising profession for over 20 years. However, in terms of privacy, it seems to me that to say that we should be doing this just because everybody else is doing it, may not be a compelling reason. Why could ND not advertise the fact that we are the only state among those 40, that release your information. Come to ND, play the lottery, if you win, we'll respect your privacy. If you want to be known, you can be.

Chuck Keller: We can certainly do that, but I don't believe that would be in the best interests of the ND lottery. It would be in the best interests of the players, not the lottery.

Representative Koppelman: You don't think it would be an effective marketing technique.

Chuck Keller: No.

Representative Kretschmar: Do other states, members of the partnership, have hard data as to how much their sales are increasing by publicizing the names of the winners.

Chuck Keller: I don't have any solid statistics on that. Winner awareness is a very critical aspect of our marketing plan. We plan on having a players' awareness campaign, you will hear the winners giving their testimonies about their experience in winning a lottery prize in ND. I don't know of any other state lottery that started out not disclosing this type of information. I'm

not sure if there can be a benchmark established; before and after disclosure. We started out prohibiting the disclosure.

Representative Kretschmar: Of the number who have won over \$100,000 in ND, have they allowed their name to be published, or have they remained confidential.

Chuck Keller: We have not had any winners that have won prizes over \$100,000. We had three winners that won \$100,000 and if they would have played the power play option, they would have won \$1.4 million, so they left \$1.1 million on the table on not spending the extra \$1.

Representative Koppelman: You were talking earlier about commissioners and that this will change the length of their term. What is the process now for selecting commissioners and what is their compensation.

Chuck Keller: There are 5 commissioners. Three are appointed by the chairman of LC and two are appointed by AG. The terms are three year terms and compensation is \$75/day for each activity engaged in on behalf of the lottery. So if they meet once a quarter, in a quarterly meeting, for that one day meeting, they will receive \$75, plus the standard per diem that is paid to regular state employees.

Representative Koppelman: Activity though could mean what.

Chuck Keller: They could participate in a lottery advisory commission teleconference, in a meeting, they could participate in the launch of a game, etc.

Representative Koppelman: The exemption you started talking about from certain requirements of administrative rule making and you were talking about an economic impact statement, which is commonly required of any agency making rules, and you've offered some justification. I would think that any agency in the government could probably offer what it felt

were good reasons why it ought to be exempt from rulemaking requirements. I really am nervous about starting to chip away at our administrative rules process by saying we'll exempt this agency for this and that agency for that. Is this really such a big issue for you.

Chuck Keller: That's why I handed out the copy of the Regulatory Analysis and Economic Impact Statement that I wrote for the lottery when I wrote the administrative rules and went through the promulgation process. I think if you were to read that analysis, it would give you a greater perspective on where I am coming from and recommending that the lottery be exempt from this requirement.

Representative Koppelman: Borrowing from the Bank of ND; I guess I understand as a practical matter why your example fits and why you think it is necessary. But it makes me nervous, as public policy to borrow money to cover gambling debts.

Chuck Keller: There is a 2 week delay in the transfer of funds from a state lottery to the multi-state lottery association and then to the state that had the grand prize or the jackpot winner. Should ND have a \$100,000 powerball winner, with a player multiplier 5, \$500,000. We have that on Saturday night, and let's say on Friday night we transfer almost all of our funds to the state general fund, we would not have \$500,000 in the bank account Monday morning when the player comes in. We would not have that \$500,000 (\$400,000 would be coming to us from the multi-state lottery association from other states) until two weeks from Monday.

Representative Koppelman: But we are the only state in the union with a state-owned bank, how do other multi-state lottery members handle that.

Chuck Keller: We are very unique. Other state lotteries have, for example, they all have instant tickets. They all have their own state lottery; we don't. We are restricted only to multi-state

on-line games, and therefore we can enjoy only the games that the multi-state lottery association sponsors.

Representative Zaiser: I heard that the earnings or revenue achieved is basically doubled what was anticipated. Is that pretty accurate.

Chuck Keller: Two years ago we projected that our total gross sales would be \$11 million for the biennium. Our actual revenue projection will more than double by June 30. We projected that the lottery would make \$1.431 million in net proceeds. We made that amount in less than 3 months. In July, we changed our revenue forecast to \$17.4 million for the biennium, we changed our forecast of net proceeds to \$4.5 million. This week, probably both those projections will be exceeded. We will be doing new revenue projections for the rest of this biennium and new revenue projections for the 05-07 biennium.

Representative Zaiser: I guess that by any estimate or determination, you would be deemed a huge success, the lottery. In your questioning people to see if they would be willing to share their name, etc. have you been turned down at all for that.

Chuck Keller: Certainly players have declined authorizing us to release their information. I don't know what the percentage is. Probably about 1/2.

Representative Zaiser: I guess the lottery is a good thing, and it's been a big success, but I think that going back to Rep. Klemin's comment, I believe that consent is an issue that concerns North Dakotans. I think we also have to benefit the lottery, we also have to look at the safety and the security of North Dakotans. I guess even though we do require consent now, it is still successful. How successful would it be if we published the information. I question the value of opening it up without the consent.

Chuck Keller: I believe that winner awareness is going to be critical to the future success of the lottery. Players want to know who is winning the lottery prizes and, from our perspective, players are interested in the real life stories of those players. And players are hearing of other players winning, would be more apt to continue playing and hopefully winning a major lottery prize. I believe it is very important to the lottery.

Representative Boehning: I also have concerns about releasing the names. Chuck, would you be opposed if a time frame was put in there, like we can't release the name for 6 months, while these people get their finances in order and get some personal things taken care of.

Chuck Keller: As a compromise, I would certainly look at it, but I think we need to understand that if someone wins a big amount, that everybody is going to know about it.

Representative Boehning: Some people need time to adjust.

Representative Klemin: The only reason to publicize the people's information is to enhance the credibility of the lottery, which is already a huge success. I think there are some other interests that are maybe more important. One other question, is to look at page 2, line 16 on subscription play. It is my understanding now that you can buy more than one draw at a time. How does this differ from what we are doing now.

Chuck Keller: A player may buy a lottery ticket now for the present, the next draw and for 8 subsequent draws; subscription play is designed for those people that don't make it to their C-store or gas station very often, forget or travel south to AZ for the winter. It gives the players an opportunity to buy lottery tickets, or subscribe to buy lottery tickets well in advance. My mother plays the lottery, she went to AZ the first of November, she would have loved to

subscribe to buy lottery tickets for November, December, January, February, March and April (6 months in our state). However, now she's buying lottery tickets in AZ.

Representative Klemin: So would she buy all those upfront now before she went to AZ.

Chuck Keller: That is correct. The player determines how many plays they want to participate in for each draw.

Representative Klemin: So you get different numbers or the same numbers.

Chuck Keller: It would depend on the player. The player could pick their own numbers or do a quick pick.

Representative Klemin: So you would get the same number for each time.

Chuck Keller: Correct.

Representative Klemin: So how is that different from allowing it for 8 weeks now, we're just adding to make it longer.

Chuck Keller: That is correct.

Representative Boehning: On page 8, lines 1-9; who would authorize you to sell tickets to your mother, since you are the lottery director.

Chuck Keller: The lottery itself doesn't sell tickets. The players would need to pick up subscription forms from their favorite lottery retailers. Those retailers would then receive the credit or commission on the sale of those lottery tickets.

Representative Boehning: Pertaining to sales prohibited.

Representative Maragos: How can your mother, as a parent, buy a ticket, Chuck under this.

Chuck Keller: Any immediate family members of me, can buy lottery tickets provided that they are not common household members of me. If my daughters were living with me, they could not buy lottery tickets.

Representative Maragos: Have you ever authorized, in writing, someone to play because of this exemption.

Chuck Keller: I've authorized the five lottery commissioners' immediate family members can buy lottery tickets; however, the lottery commissioners themselves are prohibited.

Representative Bernstein: Rep. Kelsch gave a glowing report of the lottery, and she used the figure \$17 million, of that \$17 million, how much went to the general fund.

Chuck Keller: The \$17 million in sales is probably through this week. We have only completed financial statements through the end of the fiscal year, June 30 and in that quarter we generated general fund revenue of \$1.431 million. We estimate between 27.5 to 32 cents on the dollar will end of going to the general fund.

Representative Bernstein: How much is paid out in prizes.

Chuck Keller: Through September, \$2.9 million paid to multi-state lottery and \$2.4 million paid to people in our state, just over \$4 million dollars.

Representative Kretschmar: Just a clarification, under that first section of the bill, the exemption for the economic impact statement.

Chuck Keller: Correct.

Representative Kretschmar: But you would still be under the other provisions of the Administrative Practice Act. You would publish your rules, etc.

Chuck Keller: Yes.

Chairman DeKrey: Thank you. Further testimony in support of HB 1259. Opposition to HB 1259. We will close the hearing.

(Reopened in the afternoon session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1259.

Representative Kretschmar: I would like to keep the privacy that we currently have in the law. I move the amendment.

Representative Koppelman: I second the motion.

Chairman DeKrey: It has been moved and seconded that we retain the privacy portion of ND's law as it is now. Strike lines 12-14 on page 10. Motion carried.

Representative Delmore: I move the Department of Human Services amendments.

Representative Meyer: Second.

Chairman DeKrey: It has been moved and seconded that we move the Department of Human Services amendments. Motion carried.

Representative Delmore: I move the Chuck Keller's amendments.

Representative Meyer: Second.

Chairman DeKrey: It has been moved and seconded that we move the Chuck Keller's amendments. Motion carried. We now have the bill before us as amended.

Representative Kretschmar: I move a Do Pass as amended.

Representative Delmore: Second.

10 YES 3 NO 1 ABSENT DO PASS AS AMENDED CARRIER: Rep. Kretschmar

FISCAL NOTE

Requested by Legislative Council
04/19/2005

Amendment to: Reengrossed
HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$10,000,000	\$400,000	\$10,000,000	\$400,000
Expenditures	\$0	\$0	\$0	\$3,620,171	\$0	\$3,729,091
Appropriations	\$0	\$0	\$0	\$3,620,171	\$0	\$3,729,091

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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 replaces the present Lottery law with a new law that is clear, concise, technically correct, and matches the business model of the North Dakota Lottery. The bill continues an appropriation for the Lottery of \$3,620,171 for the 2005-07 biennium, a contingent appropriation of \$279,020, along with 2 additional FTE's and \$400,000 for compulsive gambling prevention and treatment services. It defines the responsibilities of the director, and provides for a continuing appropriation for retailer commissions, prizes, game group dues, and vendor costs, restricted short-term line of credit, Lottery Advisory Commission, eligibility criteria and licensing of retailers, annual audit, transfers of net proceeds, confidentiality of records, and debt setoffs of certain prizes to satisfy debts 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.*

The Executive Recommendation includes general fund revenues of \$10 million for the 2005-07 biennium from the North Dakota Lottery. The revenue projection is net of prizes and administrative and operating expenses, including salaries, contracted services, retailer commissions, game group dues, marketing and advertising, and transfers of net proceeds (profit) to the compulsive gambling prevention and treatment fund (\$400,000) and to the multistate lottery association for prize reserve pools (\$717,000).

For the 2005-07 biennium, total lottery operating revenue is estimated to be \$38.4 million and net proceeds (profit) will be \$11,117,000 (before the \$1,117,000 transfers to the compulsive gambling prevention and treatment fund and prize reserve pools).

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.*

The expenditures include estimated amounts for 9 FTE's and associated operating expenses.

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.

The appropriations are the estimated amounts needed to continue operation of the Lottery.

Name: Chuck Keller / Kathy Roll
Phone Number: 328-1579 328-3622

Agency: Office of Attorney General
Date Prepared: 04/19/2005

FISCAL NOTE

Requested by Legislative Council
03/14/2005

Amendment to: Reengrossed
HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$10,000,000	\$400,000	\$10,000,000	\$400,000
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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 replaces the present Lottery law with a new law that is clear, concise, technically correct, and matches the business model of the North Dakota Lottery. The bill continues an appropriation of \$400,000 for compulsive gambling prevention and treatment services, defines the responsibilities of the director, and provides for a continuing appropriation, restricted short-term line of credit, Lottery Advisory Commission, eligibility criteria and licensing of retailers, annual audit, transfers of net proceeds, confidentiality of records, and debt setoffs of certain prizes to satisfy debts 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.*

The Executive Recommendation includes general fund revenues of \$10 million for the 2005-07 biennium from the North Dakota Lottery. The revenue projection is net of prizes and administrative and operating expenses, including salaries, contracted services, retailer commissions, game group dues, marketing and advertising, and transfers of net proceeds (profit) to the compulsive gambling prevention and treatment fund (\$400,000) and to the multistate lottery association for prize reserve pools (\$717,000).

For the 2005-07 biennium, total lottery operating revenue is estimated to be \$36 million and net proceeds (profit) will be \$11,117,000 (before the \$1,117,000 transfers to the compulsive gambling prevention and treatment fund and prize reserve pools).

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.*

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.

Name: Chuck Keller/Kathy Roll
Phone Number: 328-1579 / 328-3622

Agency: Office of Attorney General
Date Prepared: 03/15/2005

FISCAL NOTE

Requested by Legislative Council
03/03/2005

REVISION

Amendment to: Engrossed
 HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$10,000,000	\$400,000	\$10,000,000	\$400,000
Expenditures	\$0	\$0	\$0	\$4,498,000	\$0	\$4,673,000
Appropriations	\$0	\$0	\$0	\$4,498,000	\$0	\$4,673,000

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

This bill would replace the present Lottery law with a new law that is clear and concise. As amended, the bill would restrict the Lottery to a legislative appropriation, rather than a continuing appropriation, for payment of all administrative and operating expenses except for payment of prizes and online gaming system vendor fees.

The bill provides a short-term line of credit as necessary, continues to designate \$400,000 for compulsive gambling prevention and treatment services, provides for a Lottery advisory commission, selection and licensing of retailers, annual audit, and debt setoffs of certain prize amounts to satisfy debts owed to or collected through state agencies.

The bill does not provide for payment of retailers' commissions and game group dues as part of a continuing appropriation. Since these expenses are directly related to gross sales of lottery tickets, it is unclear what will happen in the event actual lottery ticket sales exceed estimated sales.

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.*

The Executive Recommendation includes general fund revenues of \$10 million for the 2005-07 biennium from lottery ticket sales. The revenue projection is net of prizes; administrative and operating expenses, retailer commissions, game group dues, and transfers of net proceeds (profit) to the compulsive gambling prevention and treatment fund (\$400,000) and to the multistate lottery association for prize reserve pools (\$717,000).

Based on the Executive Recommendation general fund revenue estimate from lottery sales for the 2005-07 biennium, total lottery revenue is estimated to be \$36,008,000 and net proceeds (profit) will be \$11,117,000 (prior to prize reserve pools payments and the \$400,000 transfer to the compulsive gambling prevention and treatment fund).

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.*

Estimated expenditures for administrative and operating expenses, retailer commissions, and game group dues are \$4.498 million for the 2005-07 biennium. This amount excludes prizes and the online gaming system vendor fee, which are paid from the continuing appropriation.

Since retailer commissions and game group dues expenditures are directly related to gross sales of lottery tickets, it is unclear what will happen in the event actual lottery ticket sales exceed estimated sales.

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.*

The estimated appropriation of \$4.498 million from the Lottery Operating fund for the 2005-07 biennium is equal to estimated expenditures for the same period. No appropriation is included, either in this bill or the Office of Attorney General's appropriation bill, to pay the estimated \$4.498 million in expenditures.

Name: Chuck Keller Kathy Roll
Phone Number: 328-1579 328-3622

Agency: Attorney General
Date Prepared: 03/03/2005

FISCAL NOTE
Requested by Legislative Council
02/17/2005

Amendment to: Engrossed
 HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$10,000,000	\$400,000	\$10,000,000	\$400,000
Expenditures	\$0	\$0	\$4,498,000	\$0	\$4,673,000	\$0
Appropriations	\$0	\$0	\$4,498,000	\$0	\$4,673,000	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

This bill would replace the present Lottery law with a new law that is clear and concise. As amended, the bill would restrict the Lottery to a legislative appropriation, rather than a continuing appropriation, for payment of all administrative and operating expenses except for payment of prizes and online gaming system vendor fees.

The bill provides a short-term line of credit as necessary, continues to designate \$400,000 for compulsive gambling prevention and treatment services, provides for a Lottery advisory commission, selection and licensing of retailers, annual audit, and debt setoffs of certain prize amounts to satisfy debts owed to or collected through state agencies.

The bill does not provide for payment of retailers' commissions and game group dues as part of a continuing appropriation. Since these expenses are directly related to gross sales of lottery tickets, it is unclear what will happen in the event actual lottery ticket sales exceed estimated sales.

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.*

The Executive Recommendation includes general fund revenues of \$10 million for the 2005-07 biennium from lottery ticket sales. The revenue projection is net of prizes, administrative and operating expenses, retailer commissions, game group dues, and transfers of net proceeds (profit) to the compulsive gambling prevention and treatment fund (\$400,000) and to the multistate lottery association for prize reserve pools (\$717,000).

Based on the Executive Recommendation general fund revenue estimate from lottery sales for the 2005-07 biennium, total lottery revenue is estimated to be \$36,008,000 and net proceeds (profit) will be \$11,117,000 (prior to prize reserve pools payments and the \$400,000 transfer to the compulsive gambling prevention and treatment fund).

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.*

Estimated expenditures for administrative and operating expenses, retailer commissions, and game group dues are

\$4.498 million for the 2005-07 biennium. This amount excludes prizes and the online gaming system vendor fee, which are paid from the continuing appropriation.

Since retailer commissions and game group dues expenditures are directly related to gross sales of lottery tickets, it is unclear what will happen in the event actual lottery ticket sales exceed estimated sales.

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.*

The estimated appropriation of \$4.498 million from the Lottery Operating fund for the 2005-07 biennium is equal to estimated expenditures for the same period. No appropriation is included, either in this bill or the Office of Attorney General's appropriation bill, to pay the estimated \$4.498 million in expenditures.

Name: Chuck Keller Kathy Roll
Phone Number: 328-1579 328-3622

Agency: Attorney General
Date Prepared: 02/17/2005

FISCAL NOTE
Requested by Legislative Council
01/26/2005

REVISION

Amendment to: HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

This bill replaces the present Lottery law with a new law that is clear, concise, technically correct, and synchronized with how the North Dakota Lottery's operation has been structured. The bill appropriates \$400,000 for compulsive gambling prevention and treatment services (which is the current amount provided for the transfer), and provides for a continuing appropriation, line of credit, Lottery advisory commission, licensing of retailers, annual audit, annual transfers of funds to the state general fund, and debt setoffs of certain prize amounts to satisfy debts 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.*

Not Applicable

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.*

Not Applicable

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.*

Not Applicable

Name: Chuck Keller/Kathy Roll
Phone Number: 328-1579 328-3622

Agency: Office of Attorney General
Date Prepared: 01/24/2005

FISCAL NOTE
Requested by Legislative Council
01/24/2005

Amendment to: HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

This bill replaces the present Lottery law with a new law that is clear, concise, technically correct, and synchronized with how the North Dakota Lottery's operation has been structured. The bill appropriates \$400,000 for compulsive gambling prevention and treatment services (which is the current amount provided for the transfer), and provides for a continuing appropriation, line of credit, Lottery advisory commission, licensing of retailers, annual audit, annual transfers of funds to the state general fund, release of certain player information on prizes that exceed \$100,000, and debt setoffs of certain prize amounts to satisfy debts 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.*

Not Applicable

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.*

Not Applicable

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.*

Not Applicable

Name: Chuck Keller/Kathy Roll
Phone Number: 328-1579 328-3622

Agency: Office of Attorney General
Date Prepared: 01/24/2005

FISCAL NOTE
Requested by Legislative Council
01/12/2005

Bill/Resolution No.: HB 1259

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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 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.*

This bill replaces the present Lottery law with a new law that is clear, concise, technically correct, and synchronized with how the North Dakota Lottery's operation has been structured. The bill appropriates \$400,000 for compulsive gambling prevention and treatment services (which is the current amount provided for the transfer), and provides for a continuing appropriation, line of credit, Lottery advisory commission, licensing of retailers, annual audit, annual transfers of funds to the state general fund, release of certain player information on prizes that exceed \$100,000, and debt setoffs of certain prize amounts to satisfy debts 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.*

Not Applicable

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.*

Not Applicable

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.*

Not Applicable

Name: Chuck Keller/Kathy Roll
Phone Number: 328-1579/328-3622

Agency: Attorney General
Date Prepared: 01/12/2005

✓ 12
1/20/05
1082

HOUSE AMENDMENTS TO HOUSE BILL NO. 1259 1-21-05 JUD

Page 1, line 2, after "28-32-08.1" insert ", section 50-06-22, subsection 2 of section 50-09-14, subsection 2 of section 54-10-01, subsection 7 of section 57-38-57, subsection 47 of section 57-39.2-04, and subsection 7 of section 57-39.2-23"

Page 1, line 3, after "statements" insert ", the compulsive gambling prevention and treatment fund, child support setoff, annual audits, compliance with tax reporting requirements, and sales tax exemptions"

HOUSE AMENDMENTS TO HB 1259 1-21-05
Page 2, after line 4, insert:

"SECTION 2. AMENDMENT. Section 50-06-22 of the North Dakota Century Code is amended and reenacted as follows:

50-06-22. Compulsive gambling prevention and treatment fund - Continuing appropriation. Funds deposited in the compulsive gambling prevention and treatment fund under section ~~53-12-21~~ 53-12.1-09 are appropriated to the department on a continuing basis for the purpose of providing the services under section 50-06-21.

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, chapter 35-34, this chapter, or by the North Dakota lottery director under chapter ~~53-12~~ 53-12.1 to establish or enforce a child support order may seek review of the action in the court of this state 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 by the North Dakota lottery director under chapter ~~53-12~~ 53-12.1 to enforce that order may seek review of the action 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 in a proceeding under chapter 28-32."

HOUSE AMENDMENTS TO HB 1259 JUD 1-21-05
Page 10, line 12, remove ". However, if the amount of a prize is more"

Page 10, remove line 13

Page 10, line 14, remove "and player's name, city, and state of residence"

HOUSE AMENDMENTS TO HB 1259 JUD 1-21-05

Page 11, line 16, after "valid" insert ", unless a review by a court is authorized under section 50-09-14"

Page 12, after line 24, insert:

"SECTION 5. 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. Except for the annual audit of the North Dakota lottery required by section ~~53-12-07~~ 53-12.1-03, 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 6. AMENDMENT. Subsection 7 of section 57-38-57 of the North Dakota Century Code is amended and reenacted as follows:

7. 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 subsections 3, 4, and 5 of section 53 12 13 and subdivision d of subsection 1 of section 53 12 14 53-12.1-07.

SECTION 7. AMENDMENT. Subsection 47 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

47. Gross receipts from the sale of lottery tickets under chapter ~~53-12~~ 53-12.1.

SECTION 8. AMENDMENT. Subsection 7 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

7. 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 subsections 3, 4, and 5 of section ~~53-12-13~~ and subdivision d of subsection 1 of section 53 12 14 53-12.1-07."

Renumber accordingly

Date: 1/19/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1259

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Pass as Amended*

Motion Made By *Rep. Kretschmar* Seconded By *Rep. Delmore*

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Representative Delmore	✓	
Representative Maragos	A		Representative Meyer	✓	
Representative Bernstein		✓	Representative Onstad	✓	
Representative Boehning	✓		Representative Zaiser	✓	
Representative Charging	✓				
Representative Galvin	✓				
Representative Kingsbury		✓			
Representative Klemin	✓				
Representative Koppelman		✓			
Representative Kretschmar	✓				

Total (Yes) 10 No 3

Absent 1

Floor Assignment *Rep. Kretschmar*

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

REPORT OF STANDING COMMITTEE

HB 1259: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1259 was placed on the Sixth order on the calendar.

Page 1, line 2, after "28-32-08.1" insert ", section 50-06-22, subsection 2 of section 50-09-14, subsection 2 of section 54-10-01, subsection 7 of section 57-38-57, subsection 47 of section 57-39.2-04, and subsection 7 of section 57-39.2-23"

Page 1, line 3, after "statements" insert ", the compulsive gambling prevention and treatment fund, child support setoff, annual audits, compliance with tax reporting requirements, and sales tax exemptions"

Page 2, after line 4, insert:

"SECTION 2. AMENDMENT. Section 50-06-22 of the North Dakota Century Code is amended and reenacted as follows:

50-06-22. Compulsive gambling prevention and treatment fund - Continuing appropriation. Funds deposited in the compulsive gambling prevention and treatment fund under section ~~53-12-21~~53-12.1-09 are appropriated to the department on a continuing basis for the purpose of providing the services under section 50-06-21.

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, chapter 35-34, this chapter, or by the North Dakota lottery director under chapter~~53-12~~ 53-12.1 to establish or enforce a child support order may seek review of the action in the court of this state 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 by the North Dakota lottery director under chapter~~53-12~~ 53-12.1 to enforce that order may seek review of the action 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 in a proceeding under chapter 28-32."

Page 10, line 12, remove ". However, if the amount of a prize is more"

Page 10, remove line 13

Page 10, line 14, remove "and player's name, city, and state of residence"

Page 11, line 16, after "valid" insert ", unless a review by a court is authorized under section 50-09-14"

Page 12, after line 24, insert:

"SECTION 5. 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. Except for the annual audit of the North Dakota lottery required by section ~~53-12-07~~ 53-12.1-03, 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 6. AMENDMENT. Subsection 7 of section 57-38-57 of the North Dakota Century Code is amended and reenacted as follows:

7. 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 subsections 3, 4, and 5 of section ~~53-12-13~~ and subdivision d of subsection 1 of section ~~53-12-14~~ 53-12.1-07.

SECTION 7. AMENDMENT. Subsection 47 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

47. Gross receipts from the sale of lottery tickets under chapter ~~53-12~~ 53-12.1.

SECTION 8. AMENDMENT. Subsection 7 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

7. 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 subsections 3, 4, and 5 of section ~~53-12-13~~ and subdivision d of subsection 1 of section ~~53-12-14~~ 53-12.1-07."

Renumber accordingly

2005 HOUSE APPROPRIATIONS

HB 1259

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1259

House Appropriations Committee
Human Resources Division

Hearing Date: 2-7-05 Monday a.m.

Tape Number	Side A	Side B	Meter #
I	X		0. - 33.3

Committee Clerk Signature



Minutes: **Chairman Delzer** called the meeting to order at 8:35 a.m. All members present.

Chuck Keller, Director of the North Dakota Lottery: This bill replaces the present lottery law with key revisions to sections one and four (see three-page Testimony on Engrossed House Bill No. 1259 handout for specifics). The appropriation for a fixed amount of administrative costs would hinder furthering the lottery operation. The continuing appropriation is needed still for marketing after ten months. For example, a seventh FTE or customer relations person is needed immediately to help with critical links to 400 retailers. In a normal lottery, field representatives visit each retailer every two months. We have visited retailers only once. The ratio of net proceeds is 33.1% compared to South Dakota's 28.3%. We are doing 50% better in generating state fund revenues than South Dakota, Montana and Vermont; \$6.23 million this biennium and \$10 million projected for next biennium.

Don Wright, Assistant Director of Mental Health and Substance Abuse for the Department of Human Services, commented on the \$400,000 compulsive gambling fund.

Chairman Delzer: Is leaving a \$50,000 float and \$50,000 quarterly sufficient?

Wright: Depends on the contract in place. It is not the intent to do a continuous media campaign.

Chairman Delzer: On the continuing appropriation, Rep. Kelsch will comment.

Rep. RaeAnn Kelsch, District 34: The lottery is still in its infancy and the continuing appropriation is vital. Chuck is very conservative and runs a lean ship. Plus we can take a look at it every biennium to see if it is necessary. We can check more data to see lottery go forward.

Chairman Delzer: Continuing appropriations never come before the Legislature. The annual free reign of total growth still should have to be sunset before the next biennium. The way it is written, all of the money would be available to the commission.

Rep. Kelsch: Once all of the obligations are met, the rest is available, right.

Chairman Delzer asked for a breakdown of expenses and **Keller** cited June 30 quarter end figures. Roughly 47-55 cents of every dollar are for prizes and 5% goes for retailer commissions. The net proceeds takes into account salaries before the lottery was launched.

Chairman Delzer: Maybe a continuing appropriation with a sunset is needed for reporting. The whole legislature should know it beforehand, rather than after the fact. The Legislature should approve the direction of the lottery. Right now a flat appropriation means the Legislature approves ahead of having the facts. There is concern by a number of people about the loose control.

Keller: I am very alarmed to change the appropriation on the bill before the lottery matures.

Page 3

Human Resources Division

Bill/Resolution Number 1259

Hearing Date: 2-7-05

Chairman Delzer: I am alarmed with wide open growth of the lottery before the Legislature knows. You are welcome to let us know what direction you think it needs to go.

Keller: There needs to be an amendment to the compulsive gambling appropriation amount on page 10 line 15 of engrossed bill under subdivision A. Should this pass, replace "Fifty" with "starting July 1, 2005, fifty."

(See one-page Proposed Amendments to Engrossed House Bill No. 1259.)

Chairman Delzer closed the hearing on 1259.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1259

House Appropriations Committee
Human Resources Division

Hearing Date: 2-11-05 a.m.

Tape Number	Side A	Side B	Meter #
II	X		21.1 - 22.3

Committee Clerk Signature *Diane M. Aubrey*

Minutes:

Chairman Delzer: I am requesting that we just bring HB 1259 back over to full committee. We would probably not be doing anything except Do Not Pass here. I will offer the amendments over there.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259
Online Lottery

House Appropriations Full Committee

☐ Conference Committee

Hearing Date February 14, 2005

Tape Number	Side A	Side B	Meter #
1	X		#54.0 - #end
1		X	#0 - #17.0

Committee Clerk Signature



Minutes:

Rep. Ken Svedjan, Chairman opened the discussion on HB1259.

Rep. Jeff Delzer explained that the bill re-authorized the lottery commission and how the lottery is set up. It has a continuing appropriation it for all the income from the lottery. In section we did not look too much on the policy part of the lottery bill. \$50,000 a quarter will go to Human Services a quarter from the Lottery Commission and we will cap the spending of the Human Services at \$400,000. The section did not take a vote on this to recommend to this committee. The lottery commission said that they planned to introduce three new games and they wanted the continuing appropriation for this reason so that they could go out and hire people as needed for these new introductions. The amendment that was distributed was written by Rep Delzer alone and it takes out the continuing appropriation and says the lottery commission, with the exception of paying prizes, has to come through the appropriations process and tell us what they plan to spend and what they plan to spend it on.

Mr. Allen Knudson from Legislative Council explains that this amendment has two points: (1) to remove the continuing appropriation to the department of Human Services from the compulsive gambling prevention and treatment fund. Instead of the continuing appropriations, the money in this fund could be spent pursuant to legislative appropriations. (2) Moneys in the lottery operating fund may be appropriated by the legislative assembly for the administrative and operating cost of the lottery except for certain items that are listed, and during each session the Attorney General will report to the appropriations committee on the any moneys that they spend through continuing appropriations during the biennium. The administrative costs would be spent pursuant to legislative appropriation.

Rep. Ken Svedjan, Chairman clarifies that this amendment removes the continuing appropriation and requires an appropriation to be made for the allowable expenses to be used from that fund. Rep Svedjan asked then for explanation of how the \$50,000 going into compulsive gaming fund works.

Rep. Jeff Delzer explained that this goes to a fund in the state treasurer's office that the department of human services has appropriations authority out of in HB1012.

Rep. Ken Svedjan, Chairman commented that the effect of this is that there will be a total of \$400,000 available in the next biennium for compulsive gambling services in HB1012. (meter Tape #1, side B, #4.4)

Rep. Ron Carlisle commented that the Attorney General's budget is effected by #2 on the amendment

Rep. Jeff Delzer responded that this was correct and that the Senate would have to deal with this part when they get the budget if we pass this amendment.

Rep. Jeff Delzer moves to adopt amendment #0202 to HB1259.

Rep. Bob Skarphol seconded.

Rep. Jeff Delzer explained that continuing appropriations is something that is really scary and it is understandable why the lottery commission says they need it but it is scary that the commission can do what they want before there is any discussion with the legislature about what they want to do. The lottery commission will say that it is their job to do this and that is something that this committee will have to decide whether it is the job of the legislature or the lottery commission.

Rep. Ron Carlisle commented that information was given to the government performance committee some time ago on this very issue and it was my understanding that they were going to look at some of these continuing appropriations so I will oppose this amendment at this time.

Rep. Al Carlson commented that it is seldom that we allow in our whole process this little scrutiny by the legislative body that we get as far as gaming goes. Another issue is that they have 7 employees that are considered off budget employees but they are funded through the lottery proceeds yet they are considered state employees because they receive state employee benefits. We need to address the idea of who and how many are employees that we have out there. They are going to turn back to us more money than we ever anticipated at the end of this biennium and to have a separate budget for the lottery commission is not too much to ask. We can address the issue of them having a line of credit or something so they have enough money in the bank to pay off some prizes when we need to, but to leave it the way it stands is not right on our part. (meter Tape #1, side B, #5.9)

Rep. Jeff Delzer commented that HB1259 still allows for the line of credit for the lottery commission.

Mr. Allen Knudson from Legislative Council answered the continuing appropriation hasn't changed for the amount of appropriations that they pay out in prizes or what they need to pay the gaming system vendor. This is based on a percentage of sales and pursuant to legislative appropriations. This has not changed.

Rep. Jeff Delzer commented that operating is approximately 11 cents but without putting amendments on and passing HB1259 the way it stands we are estimating \$10 million to the general fund next time and that would all be subject to appropriations by the lottery division manager who answers to the Attorney General with the advice of the lottery commission.

Rep. Ken Svedjan, Chairman commented that an argument against the amendment is that we are in uncharted waters here since coming out of the last session we had some difficulty projecting what the revenues would be to the general fund from the lottery. Now where the lottery stands and the anticipated growth in that but with the addition of up to three new games which may require new FTEs, is this going to be the argument here.

Rep. Jeff Delzer commented that yes this is an argument. The committee would have to decide if it wants to have legislative oversight before things happen and if they want to make changes in the interim to come through the emergency commission and the budget section or if we want to give them free reign for two more years then we would need to have at least some reporting requirement and a sunset put on the continuing appropriation. But I would hope that the amendment would pass.

Rep. Ole Aarsvold asked about the marketing and promotion of lottery and how this is being handled.

Rep. Jeff Delzer answered that this was not discussed, but that this is done through the lottery division. 3-4 cents used for marketing, 3-4 cents for salaries and 3-4 cents for general operating. (meter Tape #1, side B, #9.3)

Rep. Ole Aarsvold commented that he was concerned with the marketing and promotion of the lottery being done under the letterhead of the Attorney General. This sends a message that we as a state do not want to send. It would be more comfortable to contract that service out on a contract or bid basis.

Rep. Ken Svedjan, Chairman commented that this amendment would take the continuing appropriation away and the Senate would have to make adjustments to the budget when they got it.

Rep. Jeff Delzer answered yes

Rep. Bob Skarphol commented that this was not effective until August and the next budget preparation.

Rep. Jeff Delzer commented that the continuing appropriation authority stops June 30 so they would have to have this in their budget.

Mr. Allen Knudson explained that there is an emergency clause in the bill so this would take effect July 1.

Rep. Bob Skarphol commented that he was concerned with the language on the bottom of page 10 in the engrossed bill in subsection B, dealing with the confidentiality of someone owing a debt to the state. He is not interested in doing anything with it here but making people aware of it in case anyone wants to follow through on it.

Rep. Al Carlson commented that there are six employee in the lottery system with a combined salary of \$660,000 per year. These are off budget employees. They are paid through the continuing appropriation of the lottery operating fund with the same benefits of other state employees. Though they are not on the 2005-07 budget. This is something we have to get a handle on this. If this is going to part of our revenue stream then they should be accountable just like every other agency.

Rep. Ken Svedjan, Chairman called for a voice vote to adopt amendment #0202 to HB1259.
Motion carried. (meter Tape #1, side B, #13.7)

Rep. Jeff Delzer spoke in support of the amendment but stated that he cannot support the bill.

Rep. Al Carlson moved a Do Pass As Amended motion to HB1259.

Rep. Chet Pollert seconded.

Rep. Ken Svedjan, Chairman called for a roll call vote on the Do Pass As Amended motion on HB1259. Motion carried with a vote of 19 yeas, 4 neas, and 0 absences. Rep Carlson will carry the bill to the house floor.

Rep. Ken Svedjan, Chairman closed discussion on HB1259.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1259

Page 2, line 11, overstrike "- Continuing"

Page 2, line 12, overstrike "appropriation"

Page 2, line 13, overstrike "are appropriated to the department on a continuing basis" and insert immediately thereafter "may be spent by the department pursuant to legislative appropriations"

Page 9, line 31, after "disbursements" insert "- Report"

Page 10, line 3, replace "All" with "Except for moneys in the lottery operating fund appropriated by the legislative assembly for administrative and operating costs of the lottery under section 53-12.1-10, all other"

Page 10, line 4, after the underscored period insert "During each regular session, the attorney general shall present a report to the appropriations committee of each house of the legislative assembly on the actual and estimated expenditures for the current biennium and projected expenditures for the subsequent biennium authorized by this section."

Page 10, line 10, remove "an expense, including" and replace ", supplies," with "expense"

Page 10, remove lines 11 and 12

Page 10, line 13, remove "agency"

Page 10, after line 21, insert:

"53-12.1-10. Administrative and other operating costs of the lottery - Lottery operating fund. Money in the lottery operating fund may be spent pursuant to legislative appropriation for costs of administering and operating the lottery, including costs relating to employees, supplies, surveys, advertising and marketing, printing, promotion, premium incentive items, a facility, and services provided by another state agency."

Page 10, line 22, replace "53-12.1-10" with "53-12.1-11"

Page 11, line 15, replace "53-12.1-11" with "53-12.1-12"

Page 12, line 30, replace "53-12.1-12" with "53-12.1-13"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment authorizes:

- The Department of Human Services to spend money from the compulsive gambling prevention and treatment fund pursuant to legislative appropriations rather than a continuing appropriation.
- The Attorney General to spend moneys from the lottery operating fund for prizes and for expenses of the gaming system and related services of the lottery pursuant to a continuing appropriation, the same as under current law.
- The Attorney General to spend moneys from the lottery operating fund for administrative and other operating costs of the lottery pursuant to legislative appropriations rather than a continuing appropriation.

Date: **February 14, 2005**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1259

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number **58262.0202**

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Carlson** Seconded By **Rep Pollert**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Gulleeson	X		Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf		X
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **19** No **4**

Absent **0**

Floor Assignment **Rep Carlson**

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

Date: **February 14, 2005**
Roll Call Vote #: **1**

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1259

House Appropriations - Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

58262.0202

Action Taken **DO PASS AS AMENDED**

Motion Made By **Rep Carlson**

Seconded By **Rep Pollert**

Representatives	Yes	No	Representatives	Yes	No
Rep. Ken Svedjan, Chairman	X		Rep. Bob Skarphol	X	
Rep. Mike Timm, Vice Chairman	X		Rep. David Monson	X	
Rep. Bob Martinson	X		Rep. Eliot Glassheim	X	
Rep. Tom Brusegaard	X		Rep. Jeff Delzer		X
Rep. Earl Rennerfeldt	X		Rep. Chet Pollert	X	
Rep. Francis J. Wald	X		Rep. Larry Bellew		X
Rep. Ole Aarsvold	X		Rep. Alon C. Wieland	X	
Rep. Pam Guleson	X		Rep. James Kerzman		X
Rep. Ron Carlisle	X		Rep. Ralph Metcalf		X
Rep. Keith Kempenich	X				
Rep. Blair Thoreson	X				
Rep. Joe Kroeber	X				
Rep. Clark Williams	X				
Rep. Al Carlson	X				

Total Yes **19** No **4**

Absent **0**

Floor Assignment **Rep Carlson**

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

REPORT OF STANDING COMMITTEE

HB 1259, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1259 was placed on the Sixth order on the calendar.

Page 2, line 11, overstrike "- Continuing"

Page 2, line 12, overstrike "appropriation"

Page 2, line 13, overstrike "are appropriated to the department on a continuing basis" and insert immediately thereafter "may be spent by the department pursuant to legislative appropriations".

Page 9, line 31, after "disbursements" insert "- Report"

Page 10, line 3, replace "All" with "Except for moneys in the lottery operating fund appropriated by the legislative assembly for administrative and operating costs of the lottery under section 53-12.1-10, all other"

Page 10, line 4, after the underscored period insert "During each regular session, the attorney general shall present a report to the appropriations committee of each house of the legislative assembly on the actual and estimated expenditures for the current biennium and projected expenditures for the subsequent biennium authorized by this section."

Page 10, line 10, remove "an expense, including" and replace ", supplies," with "expense"

Page 10, remove lines 11 and 12

Page 10, line 13, remove "agency"

Page 10, after line 21, insert:

"53-12.1-10. Administrative and other operating costs of the lottery - Lottery operating fund. Money in the lottery operating fund may be spent pursuant to legislative appropriation for costs of administering and operating the lottery, including costs relating to employees, supplies, surveys, advertising and marketing, printing, promotion, premium incentive items, a facility, and services provided by another state agency."

Page 10, line 22, replace "53-12.1-10" with "53-12.1-11"

Page 11, line 15, replace "53-12.1-11" with "53-12.1-12"

Page 12, line 30, replace "53-12.1-12" with "53-12.1-13"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment authorizes:

- The Department of Human Services to spend money from the compulsive gambling prevention and treatment fund pursuant to legislative appropriations rather than a continuing appropriation.

- The Attorney General to spend moneys from the lottery operating fund for prizes and for expenses of the gaming system and related services of the lottery pursuant to a continuing appropriation, the same as under current law.
- The Attorney General to spend moneys from the lottery operating fund for administrative and other operating costs of the lottery pursuant to legislative appropriations rather than a continuing appropriation.

2005 SENATE JUDICIARY

HB 1259

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		3800 - End 0.0 - 360

Committee Clerk Signature

Maria L Solberg

Minutes: Relating to a lottery/economic impact, compulsive gambling/child support.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following testimony:

Testimony In Support of the Bill:

Rep. Duane L. Dekrey, Dist. #14 Introduced the bill. The house changed the mechanism for the appropriation. On the floor of the House, they changed it. What they did was in error. After careful consideration and discussions with the Attorney Generals office and Chuck Keller we realize the houses amendment was wrong. Sited a situation were a winner came to the Attorney Generals Office for his prize and do to our electronic sweep the accounts their was not enough money to pay him at the time. This is why the appropriation is the way it is. I am in full support of the amendment that the AG's office and Rep. Kelsh has made. **Sen. Trenbeath** referred to the work the Judiciary did on the bill last session. **Senator Hacker** asked how much money is in the fund. The fund is currently very healthy but it has a trigger to deposit it into the Bank of ND.

Sen. Trenbeath asked if any of the money goes into education? No not directly if it does.

Senator Hacker asked if any of it goes into research? It is earmarked for gambling research in the Human Services Department.

Rep. Raeann Kelsch - Dist. #34 Chair of the Lottery Advisor Commission. (meter 4260) Gave Testimony - Att. #1 We have started a lottery. We have retailers who have never had a lottery in there business and we had one customer service specialist. One person to service 400 people. To the credit of Chuck, I have to say that he runs a very tight ship. This is a little to tight and we felt the need to hire another customer service specialist. Brought before the Lottery advisory commission is that the retailers have marketing questions. Some are innovated and some do not have as much experience/creativity and need the assistance. The advisory Commission is made up of three former and three current legislators.

Sen. Trenbeath question the "shift" in the compulsive gambling funds? Originally we talked about 5% maxing out a \$400,000. etc. Is it the intention of this legislation to cut it to \$50,000 and remove it from the continuing appropriations? No, it will be the same amount only distributed as \$50,000 quarterly for the ease of budgeting.

Mr. Chuck Keller, Director of ND Lottery (meter 5350) Gave Testimony - Att. #3

Sen. Trenbeath questioned that the new legislation for the funds would require Human Service to go to appropriations and request the funds from them? Does this make it any cleaner then making it a continuing appropriation? This was of great concern to us two years ago to provide not only adequate funds but actual problem gambling treatment. **Mr. Keller** responded that even though the lottery deposits the funds into the problem gambling purposes, they still need to get authority from appropriations With the provision unchanged the legislature could still restrict the

appropriations to the Human Services Dept. **Sen. Trenbeath** needed a definite answer and Mr. Keller said that he will find it out and get back to him.

Sen. Traynor asked if Human Services give you a report of the program. Mr. Keller is a member of the board and discussed it's activities (meter 48).

The amendment will reinstate the broad appropriation of lottery and correct a technical error but it not reverse the change of continuous appropriation for problem gambling to the transfer that is now embodied in the second engrossment.

Testimony in Opposition of the Bill:

none

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Motion made by **Sen. Nelson** to Do Pass Amend Att. #2 and seconded by **Sen. Trenbeath**. All members were in favor of the motion and it passes.

Senator John (Jack) T. Traynor, Chairman closed the Hearing

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1259

Senate Judiciary Committee

☐ Conference Committee

Hearing Date March 9, 2005

Tape Number	Side A	Side B	Meter #
2	X		3861 - 5100

Committee Clerk Signature

Minutes: Relating to a lottery/economic impact, compulsive gambling/child support.

Senator John (Jack) T. Traynor, Chairman called the Judiciary committee to order. All

Senators were present. The hearing opened with the following committee work:

Chuck Keller, Dir. ND memo - Att. #1 Discussion of who has the authority for the appropriation.

Sen. Trenbeath made the motion to amend the over struck language on line 11 and 12 to restore the language and delete may, seconded by **Sen. Nelson**. All members were in favor and motion passes

Sen. Trenbeath made the motion to Do Pass as two times amended and **Senator Triplett** seconded the motion. All members were in favor and motion passes.

Carrier: **Senator Hacker**

Senator John (Jack) T. Traynor, Chairman closed the Hearing

Date: 3/7/05

Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1259

Senate Judiciary

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass Amend Att # 2

Motion Made By Senator Nelson Seconded By Senator Trenbeath

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment

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

Date: 3/9/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1259

Senate Judiciary

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Amend^{to} delete overstrikes 11+12 restore^{are...} 13 end
Motion Made By Senator Trenbeath Seconded By Senator Nelson
*delete language may...
line 14th May - App.*

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen Hacker

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

Date: 3/9/05

Roll Call Vote #: 2

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1259

Senate Judiciary

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass As^{2x} Amended

Motion Made By Senator Trenbeath Seconded By Senator Triplett

Senators	Yes	No	Senators	Yes	No
Sen. Traynor	✓		Sen. Nelson	✓	
Senator Syverson	✓		Senator Triplett	✓	
Senator Hacker	✓				
Sen. Trenbeath	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment sen Hacker

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

REPORT OF STANDING COMMITTEE

HB 1259, as reengrossed: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Reengrossed HB 1259 was placed on the Sixth order on the calendar.

Page 2, line 11, remove the overstrike over " **Continuing**"

Page 2, line 12, remove the overstrike over "**appropriation**"

Page 2, line 13, remove the overstrike over "are appropriated to the department on a continuing basis"

Page 2, line 14, remove "may be spent by the department pursuant to legislative appropriations"

Page 10, line 2, remove "- Report"

Page 10, line 5, replace "Except for" with "All"

Page 10, remove line 6

Page 10, line 7, remove "and operating costs of the lottery under section 53-12.1-10, all other"

Page 10, line 8, remove "During each regular"

Page 10, remove lines 9 through 11

Page 10, line 17, after "of" insert "an expense, including" and replace "expense" with ", supplies, a survey, advertising and marketing, printing, promotion, a premium incentive item, and reimbursement of the cost of a facility or service provided by another state agency"

Page 10, line 19, replace "Fifty" with "Starting July 1, 2005, fifty"

Page 10, remove lines 26 through 30

Page 10, line 31, replace "53-12.1-11" with "53-12.1-10"

Page 11, line 24, replace "53-12.1-12" with "53-12.1-11"

Page 13, line 8, replace "53-12.1-13" with "53-12.1-12"

Renumber accordingly

2005 SENATE APPROPRIATIONS

HB 1259

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1259

Senate Appropriations Committee

☐ Conference Committee

Hearing Date March 17, 2005

Tape Number	Side A	Side B	Meter #
1		x	0

Committee Clerk Signature



Minutes:

Chairman Holmberg called the hearing to order on HB 1259.

Representative RaeAnn Kelsch, District 34, Mandan, Chairman, Lottery Advisory

Commission, distributed written testimony and testified in support of HB 1259, explaining the importance of the bill which replaces the current lottery law. She indicated the lottery is in its infancy and needs will be changing until the lottery matures.

Senator Bowman asked that of the \$23 million invested so far, how much has the state received so far. The answer was 20 percent stays in North Dakota.

Senator Bowman asked if we are losing more then we are gaining. The response was yes until ND wins in the big lottery.

Senator Christmann asked how people decide which game to play and do you envision more games. The response was new games are added that have better odds of winning and yes there will be new games added many states have 5-6 games.

Chuck Keller, Office of the Attorney General, Director, ND State Lottery, distributed testimony and testified in support of HB 1259 reviewing three other items in the bill referenced in Section I and Section 4 of the bill as described in his written testimony.

Senator Mathern referenced the line of credit limit of \$100,000 up to \$1 million and why that amount. The response was this is enough to payout the 2nd prize of Power ball.

Senator Mathern asked why not use the wording "aggregate" of \$1 million. The response was that the wording was selected because it would cover all winnings except the big jackpot.

Senator Holmberg asked isn't it true that when the ticket comes to you, you have to pay so you want access to the amount of the prize so you don't have to carry a large amount of cash on hand. The response was that for a large jackpot they would give a check for \$500,000 until the balance arrived from the other states.

There being no further testimony or questions,

Chairman Holmberg closed the hearing.

Senator Robinson moved for a DO PASS as amended, **Senator Andrist** seconded.

Discussion followed. **Senator Christmann** indicated that he didn't like involving the Bank of North Dakota for the line of credit. **A roll call vote was taken with a vote of 8 yes, 5 no and 2 absent. The bill will be carried by Senator Hacker.**

Date 3/17/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB

Senate SENATE APPROPRIATIONS

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Do Pass 1259

Action Taken

Motion Made By

Robinson

Seconded By

Andrist

Senators	Yes	No	Senators	Yes	No
CHAIRMAN HOLMBERG	✓		SENATOR KRAUTER		✓
VICE CHAIRMAN BOWMAN		✓	SENATOR LINDAAS		✓
VICE CHAIRMAN GRINDBERG	✓		SENATOR MATHERN		✓
SENATOR ANDRIST	✓		SENATOR ROBINSON	✓	
SENATOR CHRISTMANN		✓	SEN. TALLACKSON	✓	
SENATOR FISCHER					
SENATOR KILZER	✓				
SENATOR KRINGSTAD	✓				
SENATOR SCHOBINGER					
SENATOR THANE	✓				

Total (Yes)

8

No

5

Absent

2

Floor Assignment

paid

Hacker

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

REPORT OF STANDING COMMITTEE (410)
March 17, 2005 3:54 p.m.

Module No: SR-49-5351
Carrier: Hacker
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1259, as reengrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS** (8 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). Reengrossed HB 1259, as amended, was placed on the Fourteenth order on the calendar.

2005 HOUSE APPROPRIATIONS

CONFERENCE COMMITTEE

HB 1259

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259

House Government Performance Division

☒ Conference Committee

Hearing Date April 5, 2005

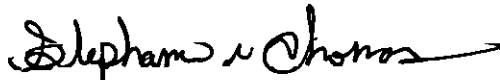
Tape Number
1

Side A
X

Side B

Meter #
2255-4691

Committee Clerk Signature



Minutes: **Chair Carlson** opened conference committee hearing on HB 1259.

Sen. Hacker: My first question would be which changes were bothersome.

Chair Carlson: All of them.

Sen. Hacker: Overview of amendment. (SEE AMENDMENT 58262.0301)

Sen. Hacker: One of the issues with the gambling prevention fund was that they weren't sure exactly how much money they were going to have, and the lottery went beyond the scope of what was projected. They finally have started taking bids for the use of that prevention fund money, which is now 2 years later. This provides flexibility for them to continue to do those things throughout the year.

Chair Carlson: What's the logic behind why you want the continuing appropriation in place?

Sen. Hacker: The continuing appropriation comes from the Lottery Commission at their request, because they are not able to project how many full time employees, etc., are needed at this time. The results have been much greater than what was projected, thus demanding more

need for the road person that goes around and trains these businesses. I'll give you an example. I was at home last weekend, and went to the local lottery establishment, it was a gas station, and I asked them how much training they had on this machine. The lady said the owner had about 45 minutes, and then they gave them a binder of information to read, and they'll do just fine on the machine. Mind you, if you screw up on those machines, and it's your fault you pay for those tickets. I also asked if they had been back, and the answer was no. The goal was to meet twice a year, and they are understaffed, so what they've done is put out an opening and will select another person to be their 7th employee, and another to help run the lottery. That's where the continuing appropriation came in.

Rep. Monson: That's part of the problem that we see with continuing appropriations. You just named that they hire more people, and we have no lid on that. They're state employees, we pay their health insurance, or it comes out of here, and we have no handle on it, and that's part of the problem with continuing appropriation. So, our appropriations committee has been very leery about giving continuing appropriations to any agencies for that reason. I see you took out the report on line 2, page 10, and to me if your going to have a continuing appropriation, why would you not want to at least have a report at the end so we know how many people are actually employed at the end of this time period, and how much was spent for each of these things? To me on line 2, the report is very important, and even more important with a continuing appropriation.

Chair Carlson: You have to understand that we spend our whole session appropriating money. The point is that we have worked really hard this biennium to try and eliminate two things, continuing appropriations, and the existence of off-budget FTE's. They have full benefits, they

are state employees, they get all the retirement benefits, but they are not counted in the count.

We don't think that's the proper way to account. There's 2.1 million dollars worth of off-budget FTE's kind of floating out there. I think we understand that this is a new entity, but we have mechanics in place where you can go to the Emergency Commission, you can go to the budget section, and make requests if things grow and need to be adjusted. A separate budget established for the lottery, we believe would not be to difficult a burden.

Sen. Traynor: Apparently there's a continuing appropriation for the operation of the Bank of ND, and the State Mill, and this is another business, the lottery business.

Chair Carlson: I would have to ask Legislative Council to help me as far as the bank being totally continuing appropriation, because I believe they supply a standard line item budget to us, and so does the mill, I believe.

Al Knudson, Legislative Council: The bank does have an appropriation for its biennial operating costs, however the loans that they give out, most of those are through continuing appropriations. The operating for the bank itself is not continuing.

Rep. Monson: As far as the Mill and Elevator goes, one of the things that they brought up to us was that they have a very seasonal employment. It's really difficult to know exactly how many people they're going to have in short months, or periods of time when they are busy or not busy. That's one of the reasons we've given then the exception to the continuing appropriation.

Sen. Hacker: Along the same lines, is why that continuing appropriation only proves the point of why this organization should have the continuing appropriation at this point in time. It's in its high growth stages, just as the Mill and Elevator goes through high growth and recessionary

stages throughout the year. We are in the high growth stages of when the flexibility is needed by the Lottery Commission.

Sen. Triplett: I heard you express some concern about these people being on our system, and having health insurance, and having access to retirement benefits, and that sort of thing, and I guess it sort of causes me to ask the question, what is it your afraid of with the continuing appropriation? If we end up having to many people employed, they would have to be laid off. It's not like they get 10 year like a university professor.

Rep. Monson: We never like to see anybody have to get laid off for whatever reason. The people at the Mill and Elevator, for instance, what they try to do is overtime pay, and not necessarily have extra people hired so much. We don't know, that's what we're getting at. With all the different agencies that have had continuing appropriations, we don't have a clue how many people we actually have on our state payroll, and they are state employees, and they are costing us money through all the other benefits. We're trying to get a handle on that and whittle down the number that are not reported in some way, shape, or form, so that when we talk about how much is the health insurance costing us, we know. If they're on a continuing appropriation, they're off-line budget, and we don't even know what they're costing us.

Sen. Triplett: We must have payroll clerks who have this stuff in their computer systems, who can tell us how many employees we have drawing on the health insurance system.

Chair Carlson: They can tell you that, but when you have an off-budget FTE, unless you actually track that individual, you're not going to see them in the reports. We had to have a special report provided to us to show us how many we had. We believe that this does not limit the growth of the lottery, it just makes that they create a budget, and that budget be presented.

They have full opportunity to go to the Emergency Commission to ask for more employees, and for the authority to spend more money. This is a highly visible thing to the public, and I think it should be a highly accountable thing.

Sen. Triplett: I think that we would agree with you that's probably an appropriate thing to do in a couple of years once they can get to a point of stability, but my best guess is if they put together a budget right now, appropriations would scrutinize the budget fairly closely to make sure that they were actually needing the people they were currently asking for. I think that the point here is that by putting a very specific budget that only reflects the current reality really limits the flexibility for going with the flow as things change. The Emergency Commission is certainly out there, if you can predict and have a reasonable expectation that you're going to be needing more people over the next couple of years, rather than say let's choose to rely on the Emergency Commission. This seems like it gives the Attorney General's office more flexibility, and obviously if they're asking for more flexibility, then I think they should be held to a higher standard of accountability to at the end. I'm OK with the report, but I do think the continuing appropriation is a reasonable request for a 2 year period.

Rep. Monson: I was thinking when we put in some of these restrictions, because they are new, because it is kind of a controversial thing. A lot of people don't like gambling, they don't like the lottery, there are a lot of people that don't trust it, so to be able to actually go back and say this is how much we are truly making in the end from the lottery is important as well. By having line items, by having a full budget that we can look at and say this is exactly what it's costing, this is exactly how many people are employed, this is exactly how much we spent in prize money, and on and on, people not in favor of gambling and the lottery will have less heartburn

with it. The more controls and the more reports, we can go and answer these people and say this is what it's costing, and this is what we actually made from it. I think that's important to.

Sen. Traynor: In the spirit of compromise, could I read from the report language 0300. During each regular session, the Attorney General shall present a report to the appropriations committee of each house of the legislative assembly on the actual and estimated expenditures for the current biennium and projected expenditures for the subsequent biennium authorized by this section. I wonder if we couldn't expand that and require a report to the interim budget committee, and then keep the continuing appropriation in there, but have that report cover the situation so there's legislative oversight on the use of the continuing appropriation.

Chair Carlson: If you want to prepare something to that effect, we'll take a look at it at our next meeting.

Rep. Monson: On page 10, line 19 where you added July 1, 2005, I think that's a good addition, because you've defined when it begins, and I kind of like that.

Adjourned Conference Committee Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259

House Government Performance Division

☒ Conference Committee

Hearing Date April 8, 2005

Tape Number

1

Side A

X

Side B

Meter #

1-1773

Committee Clerk Signature

Stephan N. Thomas

Minutes: **Chair Carlson** opened conference committee hearing on HB 1259.

Chair Carlson: I still have strong feelings about having there be a budget for the lottery, and I'd allow with your concurrence to have someone from the AG's office to talk about the reason why you would prefer not to have that, and to just have the continuing appropriation like they have now.

Chuck Keller, Director ND Lottery: I'd like to express several points as to why the lottery should continue to receive the present level of the continuing appropriation. Two years ago, the legislature exercised foresight in putting into HB 1243, a provision to enable the lottery to have a continuing appropriation, because it was unknown at that time what the financial human resource requirements with the lottery would be. That position hasn't changed. Two years ago we had forecasts that the lottery would need 6 FTE, the lottery will probably need 8-10, or more. We forecast that the lottery would have 275 retailers, we presently have 400. We forecast that the lottery would have 1.4 million in net revenue to the state general fund, we were bringing more

than 6.2 million. We forecast that the lottery would have 6 million in gross sales for the entire biennium, it'll be more like 25 million, and we still are in the process of maturity. The lottery won't be fully matured, nor will we know precisely how many human resources we will need, nor the financial requirements to support the growth of the lottery until into 2007. If the legislature had not provided the lottery with the continuing appropriation 2 years ago, it is hard to imagine where we would have stopped in midstream in operating the lottery if we would have been restricted to X number of dollars for salaries and wages, fringe benefits, and certain operating expenses. Further this week Sen. Hacker eluded to the problems the lottery is experiencing in regarding our ability to service 400 lottery retailers. Normally, in a state lottery customer service specialists service the retailers once every 2 weeks, we have done it once a year. That is unacceptable to me, and to the retailers. We are already receiving negative feedback on problems with training, clerical errors, and the need for retailers to have us train them in terms of marketing promotions and sales strategies, and selling techniques. We are bringing on a second customer service specialist, but it is questionable in my opinion whether even 2 can do the job necessary. The lottery is our states newest business enterprise, and as a business enterprise it should be evaluated by the legislature as such. There's very little value in judging the lottery based on how the lotteries salaries and fringe benefits, or operating expenses compare to budgeted amounts, because to do that we would simply be going through the motion of comparing one number to another number without looking at the bottom line. Lotteries are evaluated based on their performance in terms of weekly per capita sales, business performance of total sales in relation to projected sales in terms of actual net proceeds to the state general fund in relation to what was projected, and in terms of the relationship of net proceeds to sales in

terms of dollars. Through the quarter ended December 31, 2004, we operated for just over one year. The relationship of our net proceeds to total sales is around 30% to 31%. That is 50% higher than the Montana, South Dakota, and Vermont lotteries in terms of their net proceeds to their sales. That means that we have developed a highly efficient business model to optimize state general fund revenue. We anticipate 27 cents on the dollar reaching the general fund. That's a remarkable achievement. At the previous conference committee hearing there was concern about accountability on the lottery. You may not be aware of it, but this bill does provide several areas of accountability. If you look on page 3 line 16-17, under the supervision of the Attorney General a director shall administer the lottery as provided in this chapter. I serve at the pleasure of the Attorney General. I am either debted or credited with the results, and I except that responsibility, but the accountability comes in on pages 4 and 5. If you look on page 4, lines 29-30, subdivision n, it says upon request report to the Legislative Council regarding the operation of the lottery. I would at any moment be prepared to provide any information whatsoever to the Legislative Council, or even to the budget section regarding the ND lottery. Also, on page 5, subdivisions o and p, I am already required to make quarterly and annual financial reports to the Governor, and Attorney General, and a biennial report to the Legislative Assembly. The lottery already had an annual audit that's conducted by the state auditor, and I am required to present this audit report to the Governor, the State Treasurer, and the Legislative Assembly, which I have. The lottery is required to have an annual audit rather than a biennial audit as most state agencies are required to have. I know that there are a lot of eyes watching the ND lottery. Our financial statements are prepared on a quarterly basis, our annual report is

public information, and it's hard for me to anticipate what our actual financial human resource needs will be in the next 2 years.

Sen. Traynor: What would the state of the lottery be today, if you had not had the continuing appropriation?

Chuck: We would have been forced to stop total operations long before now, because we were restricted in regards to certain line items of expenses.

Sen. Triplett: At our last meeting, Rep. Carlson suggested as an alternative to your continuing appropriation request to the notion of having you go to the Emergency Commission if things change. Can you describe, if you're familiar with the operations of the Emergency Commission, whether or not that would provide you with an adequate amount of flexibility?

Chuck: It certainly an option, however it's not the preferred option. I have gone through the Emergency Commission before, and I believe going through the motions, that would not be necessary with the foresight that the conference committee could provide the lottery. I would not know how many times I would need to go before the Emergency Commission, depending upon how frequent things came up.

Chair Carlson: When we look at the chain of who gets reported to, we're last, but we really should be first, because we are the appropriators, we are the policy makers. In this the audit goes to the Governor, the Treasurer, and then the Legislative Assembly. I still have some concerns, and you tell me who has the authority in the interim. Who has the authority to authorize new games?

Chuck: That authority rests with the Attorney General Stenehjem, and the lottery advisory Commission.

Chair Carlson: Who has the authority to add more FTE's?

Chuck: That authority rests with Attorney General Stenehjem, and based on a recommendation from the Lottery Advisory Commission.

Chair Carlson: Who has the authority to increase, decrease, or change the expenses of the lottery?

Chuck: The expenses that are incurred by the lottery are provided each time the Lottery Advisory Commission meets, and the Attorney General is kept apprised of the lottery activities.

Chair Carlson: Could you not tell me if you looked ahead 2 years, knowing what you know about the past history of the lottery and the expansion. On the other hand, you know that you'd like to have more people available to go out and check all these sights. I'm having a terrible time understanding why you couldn't tell me, and create a budget saying this is the growth we've seen in the first year, we anticipate this, because we appropriate up to a certain level in many cases. If you don't use it, you don't spend it. You also say that you anticipate needing because of the growth of this, 5 more people. Then we yes or no, looking at the revenue you're taking in, the revenue you anticipate to take in, and we say yes, you tell me that enforcement's important, we want to give you 5 more people, but right now we end up with not 7 but 12 potential FTE's that are off budget that we had absolutely no ability to review as a Legislative Assembly, and they are state employees with state employee benefits. That's where I'm struggling with the concept, because there are no checks and balances on our part. It rests with the Lottery Commission that's appointed, and the Attorney General. I don't believe that we have done our due diligence by saying we don't have any idea how big this thing is going to get, so just spend what you need. I'm not convinced yet.

Rep. Williams: We're in a scenario here where we are in a state of flux, because this has grown faster than we have anticipated. Would you feel more comfortable if we put a sunset clause on the appropriation?

Chair Carlson: This is a hard spot for me, because I think Mr. Keller has done a nice job of running the lottery. I commend you on what you've done, and the effort you've put forth. I struggle about the accountability back to the legislature, and how we're not involved in the process of expanding, and having no check and balance other than they're going to give me a biennial report.

Sen. Triplett: One of the checks obviously is that it has to be done within the confines of the amount of money that they're bringing in. If all of the people of ND woke up one day and realized that participating in the lottery was a stupid thing and quit buying tickets, Mr. Keller would have to lay people off. If the lottery goes south, the jobs will go away. I like the idea of putting the sunset on it, so that it is a requirement that we check back.

Chair Carlson: I'm not sure that I couldn't live with some flexibility. I don't know if it's halfway between a budget, and a continuing appropriation, but I'm not so sure I couldn't live with some inherent, built in guidelines that acquire for any additional FTE's to be added, that they have to be approved by the budget section, or the Emergency Commission, or whatever, where there would be a quarterly report required to the budget section. I will come back with a proposal next time if the committee is willing to do that.

Rep. Monson: I think it's good that we think about this.

Closed Conference Committee Hearing.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259

House Appropriations Committee
Government Performance Division

☒ Check here for Conference Committee

Hearing Date April 12, 2005

Tape Number

1

Side A

X

Side B

Meter #

0-15.6

Committee Clerk Signature *Robin Puroley for Steph Thomas*

Minutes: Chairman Carlson opened hearing on HB1259. Roll call was taken with all members present.

Chairman Carlson Only real part of the bill we are dealing with is the part that deals with the appropriation or the continuing or lack there of regular appropriation of the lottery. Still need to be convinced that a continuing appropriation and the ability to continue to hire people that are off budget is a good thing. I'm looking for options for that. Could accept the fact that we create a system with lots of flexibility but some limits as to what could be done without legislative approval. Right now, if the moneys there, there could be six to eight new FTEs added. Basically with the approval of the Attorney General and the Gaming Commission and they are state employees but they are not counted. I have a real hard time with that. We have worked hard to resolve that issue so we understand who is all working for us and what they are doing. It is hard to do this where it doesn't look like we are doubting the integrity of the lottery. That is not the

intent. I just want some guidelines on that. Looking to put some controls there that would be more reporting and more controls on who gets hired and when.

Sandy Tabor, Deputy Attorney General Talked about this internally and we appreciate your concerns about controls and we know you are not critical of the lottery and you have been very clear in that and supportive of Chuck. Even the Attorney General and I are concerned about how OMB counts FTEs, we like to know how many FTEs and like to keep track of them. If the concern is, Chuck will go out and hire 29 people, we don't expect that to happen, in fact the Attorney General expressed concern if he hires more than about six more people. There are lots of other implications of that other than the mere cost of the employees. One is, we don't have the room for many more people. If there is a way to tailor some language so we would have a cap before we have to the Emergency Commission for approval, say not to exceed four more FTEs during the biennium. We would be pretty comfortable with that. We know he is going to need some service people. Don't think the needs of the lottery will exceed that, four more people. With regard to reporting, we already report a lot. If the House would be more comfortable having the language that was removed, that is fine with us. The reporting aspect of this is not the issue, we already report a lot. We keep track of the financials every month.

Chairman Carlson Al, what have we projected in the next budget for the revenues from the lottery?

Alan (LC) \$10 million.

Chairman Carlson Where does that number come from?

Chuck The 2005-2007 biennium we are projecting net proceeds of \$11.1 million. Of that amount, \$400,000 goes to the Problem Gambling Prevention Fund, and \$717,000 is earmarked to

go to Multi-State Lottery Association to pay our prorated share of the prize reserve pool. The net amount is \$10 million. That's based on sales of about \$35.8 million.

Chairman Carlson You obviously have to have a budget, why can't we put that as a budget? All we are asking for is a budget and a counting of those FTEs become full time state employees and not off budget. Why can't we do that?

Chuck Many of our line items are very fluid. For example, the game product dues that we pay the Multi-State Association for each of our three games was based on our population, North Dakota's population to the total population. Since our per capita sales are about 20-30-40% than other states like North Dakota, our annual dues will be considerably higher than they were this past fiscal year.

Chairman Carlson Can you not estimate what those are going to be? If we gave you line item transferability within a budget, because the numbers are fluid - could we do that?

Chuck There are other factors as well. Depending on the line item, the item may not meet our budget expectations. Retailer commissions are based on a projected straight 5%, we plan on having incentive bonus with retailers based on certain promotions. If the Multi-State Association changes its board dues and assesses the state based on sales rather than population, that would also negatively affect the lottery. The lottery, only be around a year, has had a great honeymoon. However, the sales line is showing a gradual decline and will need to make a better effort to even sustain our present level of sales and to increase our rate of growth. In order to provide the general fund with what we have estimated we do need that flexibility.

Sen. Trenbeath Wondering when looked through this bill, with respect to page 4, 5 and Sub N, O & P. Those seem to speak towards some of the concerns the chairman has. Those requirements

are all subject to the policy of the Attorney General. I'm wondering if playing with the language a little bit and inserting a new section which would be mandatory on the part of the director or the part of the Attorney General through the director and relieving it of the policy of the Attorney General, that might bring us closer to a resolution. I think your point is valid, we need to have a hand in this. What we are doing here, is allow the Attorney General to operate a business for the benefit of North Dakota, we ought to give that office some latitude in doing that subject to some oversight by the legislature. If we make these mandatory we may accomplish that.

Chairman Carlson That's where my biggest struggle is, where the legislature fits in the food chain. In the process of appropriating, we are at the top of the food chain, not third and the way it is established now we are third in the food chain. Mr. Keller has done a fantastic job, I have no problem with what's been done - it's been a great thing for us. There's a way to find happy medium where we get our reporting and flexibility for them to do what they need to do to run the lottery and get us some accountability.

Sen. Hacker Not tough to mandate report, just a language change.

Rep. Monson Possibility of a contingency appropriation rather than a continuing appropriation but where we leave it flexible enough to grow with but still have it in a budget and report back to us in a way we'd be comfortable with.

Sandy Tabor, Deputy Attorney General Legislative Council and Kathy would have to talk about that. The other thing, the Attorney General feels we need one more biennium under this. After that we should have a pretty good feel for what the lottery is going to look like and how it will run. We don't see continuing appropriations in the future forever, what we are asking for is some flexibility in the next two years.

Sen. Monson So if we were to put language in here, up to 5 FTEs, up to X number of dollars more than what you expect but at least we put it down as a solid number and if it goes over that number than you have to come to Emergency Commission of the Budget Section and we can give you the flexibility to move with in line item to line item, wouldn't that solve your problem?

Sandy Tabor, Deputy Attorney General Yes, I think so. I think that sounds right. Our concern is the Emergency Commission has certain limitations on what it can do and you really have to have an emergency. If we go to them every time they met, at some point they are going to look at us and say, what's your emergency?

Chairman Carlson What policies do you follow when you hire someone? What pay grade do they come in at, are you following all the HR guidelines?

Sandy Tabor, Deputy Attorney General Yes, we are. We have our own process with interviews, we follow every thing for the lottery just like we do for our agency.

Chairman Carlson Would like to spend a little time with Council to work this out. Meeting on HB1259 adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259

House Government Performance Division

☒ Conference Committee

Hearing Date April 13, 2005

Tape Number

1

Side A

X

Side B

Meter #

1-990

Committee Clerk Signature

Stephanie N Thomas

Minutes: **Chair Carlson** opened conference committee hearing on HB 1259.

Al Knudson, Legislative Council: Overview of amendment. (SEE AMENDMENT 58262.0302)

Chair Carlson: Where was that removing of those fees to Human Services? What part was that?

Al: That's on page 2 of the bill.

Chair Carlson: We did not adjust that at all?

Al: The Senate had changed that back to a continuing appropriation.

Chair Carlson: The \$400,000 comes from here and goes to there?

Al: Correct.

Rep. Monson: Section 10 gives them 8 FTE's, and section 11 an additional 5, so we're looking at 13 additonal FTE's here?

Al: They have 6, but they're adding 2 more this biennium for 8. I believe they are going to be asking for 3 additional beyond that.

Rep. Monson: Unless we give them authority to go up to 5 more. So, the reason we are adding potentially 5 more than what we gave them already solid, the section 10 we'd already given them the 2.

Al: Basically, yes. They're being hired this biennium.

Sandy Tabor: We have a vacancy, which would be 7, and then what we would like to propose is instead of 8 do 9, because we know that we're trying to hire 1 now, we'll have needs for 2 more. Then in section 11, cut the 5 to 2. That's all the more room we need.

Chair Carlson: Do you have a place to house all these people?

Sandy: Probably not for the extra 2. We may not hire them, we just want the authority.

Sen. Trenbeath: You've reviewed this obviously, I was wondering your comment regarding it.

Sandy: I think everybody knows that the Attorney General would much rather have the continuing appropriation, but in the spirit of compromise, we're happy.

Sen. Trenbeath: I have a real problem with shifting the \$400,000 for gambling treatment from a continuing appropriation status to a biennial appropriation. When we enacted the lottery, that was key in my mind. It doesn't look to me that in the grand scheme of things, that a \$400,000 continuing appropriation for these purposes would be particularly ownerous.

Chair Carlson: My understanding was it was still continuing?

Al: No, the continuing appropriation was removed, and it would be subject to the appropriation at the time.

Chair Carlson: Can we allow that gambling addiction money to be continuing, and then have the rest of it be the way we wanted it on this?

Sandy: Yes.

Sen. Hacker: Section 2, the concern comes from, and actually the continuing appropriation that's taken out as we provide for \$50,000 a quarter, then we take the continuing appropriation out. In essence, the goal behind this, to my knowledge, was to provide this on a continual basis in order for them to put RFP's out on time, and proposal for funds to operate this protection fund.

Chair Carlson: Where does it call out the 400,000 as being the magic number?

Al: That's on page 10, beginning on line 19.

Chair Carlson: In the spirit of cooperation, I would have no trouble with leaving that particular part of this continuing.

Sandy: So, you would reinsert section 2 from the Senate amendments.

Chair Carlson: I would not personally have a problem with that, because everything else that I have a major concern about is the fact that our FTE's are on budget, and we now have a budget that gives them flexibility to come back and get more or less. Whether we sell 10 million dollars worth of tickets, or 2 million dollars worth of tickets, there's still a gambling addiction.

Rep. Monson: In 3A, I'm seeing \$50,000 each quarter. We are talking 50,000 every quarter, so we are talking 400,000 dollars. That's a definite number, so what's the purpose of a continuing appropriation on a definite number?

Chair Carlson: People would have the concern that next time we decide it doesn't have to be 400,000, and it needs to be 200,000 or removed. That's there concern is that the money doesn't go away, I believe.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1259

House Government Performance Division

☒ Conference Committee

Hearing Date April 14, 2005

Tape Number

1

Side A

X

Side B

Meter #

1-689

Committee Clerk Signature

Stephanie N. Thomas

Minutes: **Chair Carlson** opened conference committee hearing on HB 1259.

Al Knudson, Legislative Council: Overview of amendment. (SEE AMENDMENT 58262.0303)

Chair Carlson: On the continuing appropriation side, we've added game group dues and retailer commissions the continuing appropriation, because those are kind of costs that have to be paid out no matter what you run the game. What we're controlling is the FTE's, and the day to day operations of the lottery within the AG's Office.

Rep. Monson: As I understand this now, it will have no impact on the general fund, because all these are special funds, correct?

Al: Correct. The revenue to the general fund is still estimated at 10 million.

Chuck Keller: Overview of handout. (SEE ND LOTTERY HANDOUT)

Chair Carlson: So, we're anticipating about 10 million dollars to the general fund in 05/07?

Chuck: Correct.

Chair Carlson: How many people do you have now?

Chuck: We have 6 staff on board. We have 1 vacancy. We know for certainty that we need 9 people.

Chair Carlson: So, then you'll have 2 to fill. When are you going to fill those?

Chuck: The 8th position should have actually been filled several months ago. We're behind schedule, and gearing and developing the architecture for this subscription program that we plan on putting in place on December 1.

Chair Carlson: So, you're going to fill all of them this biennium?

Chuck: The 9th position will be filled probably around July 1, or shortly thereafter.

Rep. Monson: I would move amendment 0303.

Sen. Trenbeath: Second.

Roll call vote on a do pass on 0303 to HB 1259. Motion passes.

Adjourned Conference Committee Hearing.

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1259

That the Senate recede from its amendments as printed on page 1192 of the House Journal and page 789 of the Senate Journal and that Reengrossed House Bill No. 1259 be amended as follows:

Page 1, line 9, after the semicolon insert "to provide an appropriation; to provide a contingent appropriation;"

Page 10, line 17, after "expense" insert ", game group dues, and retailer commissions"

Page 10, line 19, replace "Fifty" with "Starting July 1, 2005, fifty"

Page 15, after line 3, insert:

"SECTION 10. APPROPRIATION - ATTORNEY GENERAL - LOTTERY.

There is appropriated out of any moneys in the lottery operating fund in the state treasury, not otherwise appropriated, the sum of \$3,507,548, or so much of the sum as may be necessary, to the attorney general for the purpose of defraying the administrative and other operating costs of the North Dakota lottery, for the biennium beginning July 1, 2005, and ending June 30, 2007. The attorney general is authorized eight full-time equivalent positions for administering the lottery.

SECTION 11. CONTINGENT APPROPRIATION - ADDITIONAL LOTTERY FUNDING - BUDGET SECTION REPORT. There is appropriated out of any moneys in the lottery operating fund in the state treasury, not otherwise appropriated, the sum of \$712,082, or so much of the sum as may be necessary, to the attorney general for the purpose of defraying additional administrative and other operating costs of the North Dakota lottery if these costs exceed the funding appropriated in section 10 of this Act, for the biennium beginning July 1, 2005, and ending June 30, 2007. The attorney general is authorized to hire up to five additional full-time equivalent positions under this section. The attorney general shall report any expenditures made or employees hired pursuant to this section to the budget section. If the additional funding and full-time equivalent authorization provided by this section is not adequate, the attorney general may seek emergency commission approval for additional spending or full-time equivalent authority."

Renumber accordingly

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)

Bill Number 1259 (, as (re)engrossed):

Date: April 14, 2005

Your Conference Committee House Appropriations Government Performance

For the Senate:

YES / NO

For the House:

YES / NO

Sen. Hacker	X	Chairman Carlson	X
Sen. Trenbeth	X	Rep. Monson	X
Sen. Triplett	X	Rep. Williams	X

recommends that the (SENATE) (HOUSE) (ACCEDE to) (RECEDE) from)

the (Senate) (House) amendments on (SJ/HJ) page(s) 1192 --

____, and place _____ on the Seventh order.

X, adopt (further) amendments as follows, and place HB 1259 on the Seventh order:

____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) HB 1259 was placed on the Seventh order of business on the calendar.

DATE: April 14, 2005

CARRIER: Rep. Carlson

LC NO. 58262.0303 of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

MOTION MADE BY: Rep. Monson

SECONDED BY: Sen. Trenbeth

VOTE COUNT 6 YES 0 NO 0 ABSENT

Revised 4/1/05

REPORT OF CONFERENCE COMMITTEE

HB 1259, as reengrossed: Your conference committee (Sens. Hacker, Trenbeath, Triplett and Reps. Carlson, Monson, Williams) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1192, adopt amendments as follows, and place HB 1259 on the Seventh order:

That the Senate recede from its amendments as printed on page 1192 of the House Journal and page 789 of the Senate Journal and that Reengrossed House Bill No. 1259 be amended as follows:

Page 1, line 9, after the semicolon insert "to provide an appropriation; to provide a contingent appropriation;"

Page 2, line 11, remove the overstrike over " Continuing"

Page 2, line 12, remove the overstrike over "appropriation"

Page 2, line 13, remove the overstrike over "are appropriated to the department on a continuing basis"

Page 2, line 14, remove "may be spent by the department pursuant to legislative appropriations"

Page 10, line 17, after "expense" insert ", game group dues, and retailer commissions"

Page 10, line 19, replace "Fifty" with "Starting July 1, 2005, fifty"

Page 15, after line 3, insert:

"SECTION 10. APPROPRIATION - ATTORNEY GENERAL - LOTTERY.

There is appropriated out of any moneys in the lottery operating fund in the state treasury, not otherwise appropriated, the sum of \$3,620,171, or so much of the sum as may be necessary, to the attorney general for the purpose of defraying the administrative and other operating costs of the North Dakota lottery, for the biennium beginning July 1, 2005, and ending June 30, 2007. The attorney general is authorized nine full-time equivalent positions for administering the lottery.

SECTION 11. CONTINGENT APPROPRIATION - ADDITIONAL LOTTERY FUNDING - BUDGET SECTION REPORT.

There is appropriated out of any moneys in the lottery operating fund in the state treasury, not otherwise appropriated, the sum of \$279,020, or so much of the sum as may be necessary, to the attorney general for the purpose of defraying additional administrative and other operating costs of the North Dakota lottery if these costs exceed the funding appropriated in section 10 of this Act, for the biennium beginning July 1, 2005, and ending June 30, 2007. The attorney general is authorized to hire up to two additional full-time equivalent positions under this section. The attorney general shall report any expenditures made or employees hired pursuant to this section to the budget section. If the additional funding and full-time equivalent authorization provided by this section is not adequate, the attorney general may seek emergency commission approval for additional spending or full-time equivalent authority."

Renumber accordingly

Reengrossed HB 1259 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

HB 1259

TESTIMONY ON HOUSE BILL NO. 1259

By Representative RaeAnn Kelsch

House Judiciary Committee

January 19, 2005

I am Representative RaeAnn Kelsch of District 34, and 1 of 6 sponsors of the bill. I also chair the 5-member Lottery Advisory Commission that advises the Attorney General and director of the North Dakota Lottery on all substantive policies, rules, contracts, games, and activities of the Lottery.

I will present a brief overview of this bill. Then, Chuck Keller who is the director of the Lottery will explain the key provisions.

The bill would replace the present Lottery law with a new improved law that:

1. Is clear (organized and easy to read and understand);
2. Is concise (consolidated - reduces the number of sections from 34 to 12);
3. Is technically correct (housekeeping);
4. Matches the Lottery's efficient business model; and
5. Addresses concerns of a few state agencies related to confidentiality of information and debt setoff of lottery prizes.

Two years ago, when we passed House Bill 1243 that created the North Dakota Lottery, who would have guessed how successful our Lottery would be. Certainly, "Lady Luck" found us. Since the Lottery launched its 1st game on March 25th last year – a period of about 10 months – our total sales of lottery tickets are nearly \$17 million. By June 30, our total sales may be \$22 million or more which would be twice the amount that was initially projected for this biennium.

Your favorable consideration of House Bill 1259 will ensure that our state's Lottery continues to be highly successful and financially rewarding for our state.

I would be happy to answer any questions. Thank you.

TESTIMONY ON HOUSE BILL NO. 1259

By Chuck Keller, Lottery Division, Office of Attorney General

House Judiciary Committee

January 19, 2005

My name is Chuck Keller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. The key provisions of this bill are:

SECTION 1

Page 2, line 4. – The Lottery would be exempt from doing a “Regulatory Analysis and Economic Impact Statement” related to small businesses each time the Lottery amends its administrative rules. If a retailer is a small business, its size cannot be a discretionary factor for applying less stringent compliance or reporting requirements, schedules or deadlines, performance standards, or for exempting retailers from compliance. Otherwise, the Lottery would fail its responsibility to adequately protect the lottery industry, the Lottery’s image, public confidence, and the Lottery’s partners in the Multi-State Lottery Association. Our state would also risk the loss of millions of dollars of state general fund revenue.

SECTION 2

Page 2, lines 16-17 – Clarifies the definition of a “ticket” to include a registered subscription play for which there would be no physical ticket. The Lottery plans to make subscription play available to players on January 1, 2006. Through a subscription, a player may pre-pay and be automatically entered in draws for future periods of 13, 26, or 52 weeks. Subscriptions may increase sales of tickets by 5-7%. The Multi-State Lottery Association recently authorized its members to use subscriptions.

Page 2, lines 25-31 – The Lottery would be authorized to arrange a short-term line of credit with the Bank of North Dakota if cash on hand is insufficient to meet an immediate major prize obligation. The line of credit would be limited to the amount of each prize of \$100,000 or more related to prize funds known to be forthcoming to the Lottery from the Multi-State Lottery Association. The line of credit in the aggregate would be limited to \$1 million dollars. The Bank of North Dakota agrees with the proposed language.

Page 4, lines 18-19 – Changes the expiration of the terms of the commissioners to June 30th, from December 31st, to match the date of their initial appointments. Otherwise, the appointed Commissioners would not serve full 3-year terms.

Page 5, line 22 – Changes the percent of ownership to 10%, rather than 5%, that would trigger a record check on shareholders of a vendor. Even at 10%, a shareholder would have minimal influence, if any.

Page 7, line 2 – Clarifies that an applicant for a retailer's license may be considered for a license should the applicant be current in payment of taxes, interest, and penalty under a "payment plan," besides otherwise being current. This matches the Tax Dept.'s present interpretation of law for issuing tax clearances to the Lottery on retailer applicants.

Page 8, lines 17-18 – Clarifies that a retailer may conduct a second chance drawing of entry forms or non-winning tickets to promote sales of tickets.

Page 8, lines 26-28 – Classifies a theft of lottery tickets from a retailer by an individual as a class A misdemeanor. However, if the total value of tickets stolen exceeds \$500, the offense is a class C felony. This matches the penalty for a theft of pull tabs.

Page 9, lines 22-23 – Changes the method of allocating \$400,000 to the compulsive gambling prevention and treatment fund. Rather than calculating the amount as 5% of gross profits each quarter up to a maximum of \$400,000 per biennium, the Lottery would transfer \$50,000 each quarter. This simplified method would provide the Dept. of Human Services with the full funding level spread out equally over 8 quarters. The Dept. of Human Services (Division of Mental Health & Substance Abuse Services) supports the proposed method.

Page 9, lines 24-25 – Clarifies that a part of the net proceeds is transferred to the Multi-State Lottery Association to fund the Lottery's share of the games' prize reserve pools.

The prize reserve pools are maintained as contingency reserves to protect the Association from unforeseen prize liabilities. Upon becoming a member of the Association, the Lottery is responsible for its pro-rata share of the prize reserve pools.

Page 10, lines 12-14 – The Lottery would be able to release a winning player's name, city, state of residence, and amount won for a prize amount that exceeds \$100,000. Every other state Lottery considers information on jackpot winners to be public information. Release of this information adds credibility to the Lottery, enables the public to relate to a real life story, and promotes sales of lottery tickets. In some cases, winning players have disclosed themselves to the public.

Page 10, lines 26-29 & page 11, lines 1-2 – Regarding a setoff of a lottery prize against a delinquent debt owed to or collected through claimant agencies, the term "claimant agency" is clarified. It would enable claimant agencies and the Lottery to establish a debt setoff process that is mutually convenient, rather than the present prescribed method that requires claimant agencies to provide the Lottery with electronic data files. The Tax Dept. and Dept. of Human Services (Child Support Enforcement Division) agree with the proposed language.

Page 11, lines 13-18 – Provides a player an opportunity for a hearing before the director should the player dispute the setoff amount or claim upon which the setoff is based. No issue would be reconsidered that the player has or could have previously litigated in a court or administrative proceeding.

Also, I am proposing amendments (hand out) to change the cross reference citations of six other state statutes that reference the Lottery law as chapter 53-12, rather than the new chapter "53-12.1."

I would be happy to answer any questions. Thank you.

Office of Attorney General
Lottery Division

Regulatory Analysis and Economic Impact Statement on Proposed Administrative Rules
North Dakota Administrative Code Article 10-16 Multi-State Lottery

PURPOSE

In accordance with North Dakota Century Code (N.D.C.C.) § 28-32-08.1, this is a regulatory analysis and economic impact statement regarding the effect of proposed administrative rules on retailers (small businesses) that will sell and redeem lottery tickets for the North Dakota Lottery, a division of the Office of Attorney General.

The proposed rules that will affect retailers are:

Section 10-16-02-01	License Application and Fee
Section 10-16-02-03	Record and Credit Checks
Section 10-16-02-04	Change in Business Location, Ownership, or Name
Section 10-16-02-05	Required Training
Section 10-16-02-06	Duties
Section 10-16-02-08	Bank Account and Electronic Funds Transfer
Section 10-16-02-09	Recordkeeping
Section 10-16-03-05	Sale or Gift of a Ticket
Section 10-16-03-07	Validation of a Ticket
Section 10-16-03-08	Claim of a Prize

REGULATORY ANALYSIS

The Office of Attorney General prepared this 'Regulatory Analysis' before it adopted proposed rules on the law, N.D.C.C. chapter 53-12 (Multi-State Lottery). Through this analysis, the office considered the impact of the proposed rules on the public health, safety, and welfare in addressing the objectives of the law, and considered each of these methods for reducing the impact of the proposed rules on retailers:

1. Establishing less stringent compliance or reporting requirements.
2. Establishing less stringent schedules or deadlines for compliance or reporting requirements.
3. Consolidating or simplifying compliance or reporting requirements.
4. Establishing performance standards for retailers to replace design or operational standards required by proposed rules.

5. Exempting retailers from all or part of the requirements contained in proposed rules.

In regard to methods 1, 2, 4, and 5 above, the proposed rules do not unilaterally impose compliance or reporting requirements, schedules or deadlines, or performance standards on all retailers. Rather, retailers, as a condition of licensure to sell and redeem lottery tickets, voluntarily agree to comply with certain compliance or reporting requirements, schedules or deadlines, or performance standards which would not otherwise apply to them. Retailers will comply with the proposed rules in exchange for financial gain (sales commission) and will, on an annual license renewal basis, make informed decisions whether this benefit exceeds their cost and or inconvenience of complying with the rules by renewing or not renewing their licenses.

In regard to method 3 above, the proposed rules provide chain store retailers an opportunity to electronically transfer the amount of lottery ticket sales to the North Dakota Lottery through consolidated billings. Also, chain store retailers within chains of stores may file simplified consolidated chain store license applications.

The mission of the North Dakota Lottery is to maximize net proceeds for the benefit of the state by promoting entertaining games, providing quality customer service to retailers and players, achieving the highest standards of integrity, security, and accountability, and maintaining public trust. Retailers, as partners with the Lottery, must share this commitment. The economic interests of the Lottery and retailers are intrinsically linked - both must apply high standards of administrative and operational controls for their joint economic benefit. The proposed rules reflect this commitment.

The North Dakota Lottery is our state's newest government-sponsored business enterprise. As a business, it must be profitable in the eyes of the legislature. To be profitable, the lottery industry must prosper, have a positive public image, and players must be confident that the games are fair and honest. The success of the industry will depend on how well it is regulated, through rules, to maintain its public image and confidence. If a retailer is a small business, its size cannot be a discretionary factor for imposing less stringent compliance or reporting requirements, schedules or deadlines, performance standards, or exempting retailers from compliance. Otherwise, the Lottery would fail its responsibility to protect the industry and its partners in the Multi-State Lottery Association from crimes that could cause irreparable harm to the public image and confidence, including a major reduction in net proceeds. This responsibility cannot be diminished, disclaimed, evaded, or ignored because a retailer is a small business.

The proposed rules protect retailers, for example, by requiring retailers to train their employees on how to properly use lottery terminals for selling and redeeming tickets, apply truth-in-advertising, safeguard lottery terminals and ticket stock, validate tickets before paying prizes, maintain certain records, and designate the North Dakota Lottery to be responsible for splitting a prize if two or more players claim ownership of a winning ticket and for resolving player disputes.

Notwithstanding the above, the North Dakota Lottery deleted and revised proposed rules to reduce the impact of the rules on small and large businesses, including:

1. Deleted proposed rules that would have required a retailer to:
 - A. Have a dedicated trust bank account for the deposit of lottery proceeds;
 - B. Split a prize if two or more players claimed ownership of a winning ticket;
 - C. Request written authorization from the North Dakota Lottery before the retailer could do a sales promotion. Retailers have the flexibility to develop their own sales promotions; and
 - D. If a sole proprietor, to be a resident of North Dakota. If the retailer is partnership, to have at least one partner to be a resident of North Dakota.
2. Revised proposed rules to:
 - A. Require a criminal history record check be done on only corporate officers and directors who are primarily responsible for the financial affairs of the corporation, rather than all officers and directors;
 - B. Require the North Dakota Lottery to provide retailers with only a quick reference guide containing the relevant provisions of the law and rules for cashiers to read and reference, rather than require cashiers to read the entire law and rules;
 - C. Have the North Dakota Lottery only do periodic follow-up credit checks on retailers and record checks on certain agents of retailers, rather than require annual credit and record checks; and
 - D. Provide retailers an option to provide various types of security deposits, such as a certificate of deposit or letter of credit, rather than only performance bonds.

The proposed rules are comprehensive, yet reasonable, and generally reflect rules and or laws of other state lotteries. Also, the game rules contained in chapters 10-16-04 (Powerball), 10-16-05 (Hot Lotto), and 10-16-06 (Wild Card 2) are prescribed by the Multi-State Lottery Association and must be adopted or applied, without exception, in their entirety.

ECONOMIC IMPACT STATEMENT

The Office of Attorney General prepared this 'Economic Impact Statement' before it adopted proposed rules on the lottery law. The office considered the impact of the proposed rules on each of these items:

1. Entities subject to proposed rules.

Statement: Only retailers that are licensed by the North Dakota Lottery to sell and redeem lottery tickets will be subject to the proposed rules.

2. Any less intrusive or less costly alternative methods of achieving the purpose of the proposed rules.

Statement: For the reasons expressed in the 'Regulatory Analysis,' less intrusive or less costly alternative methods of achieving the purpose of the proposed rules is generally not possible. The North Dakota Lottery must apply a high level of regulatory control to minimize financial and criminal risk.

3. The administrative and other costs required for complying with the proposed rules.

Statement: Aside from application (including criminal history record checks and credit checks) and license fees, the only administrative or other costs required by retailers for complying with the proposed rules are costs of installing a dedicated duplex electrical receptacle for the lottery terminal and monthly electrical expense of operating the lottery equipment. The application and license fees are:

Application Fee - \$50

Credit Check Fee - \$3 (sole proprietor) or \$20 (partnership or corporation)
(fixed by contract)

North Dakota Record Check Fee - \$30 (fixed by law)

Out-of-State Record Check Fee - Varies by State (fixed by other state)

License Fee - \$500 (first year) and \$150 (second and subsequent years)

4. The probable cost and benefit to private persons and consumers who are affected by proposed rules.

Statement: There are no probable costs to private persons and consumers affected by the proposed rules. The benefit to private persons and consumers is the entertainment value of playing lottery games and having a fair and honest chance to win major cash prizes.

5. The probable effect of proposed rules on state revenues.

Statement: Lottery net proceeds forecast for the 2003-2005 biennium is \$1,686,000. Lottery net proceeds forecast for the 2005-2007 biennium is \$2,642,000.

Keller

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1259

Page 1, line 2, after "28-32-08.1" insert "section 50-06-22, subsection 2 of section 50-09-14, subsection 2 of section 54-10-01, subsection 7 of section 57-38-57, subsection 47 of section 57-39.2-04, and subsection 7 of section 57-39.2-23"

Page 2, after line 4 insert:

SECTION 2. AMENDMENT. Section 50-06-22 of the North Dakota Century Code is amended and reenacted as follows:

Compulsive gambling prevention and treatment fund - Continuing appropriation. Funds deposited in the compulsive gambling prevention and treatment fund under section ~~53-12-21~~ 53-12.1-09 are appropriated to the department on a continuing basis for the purpose of providing the services under section 50-06-21.

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, chapter 35-34, this chapter, or by the North Dakota lottery director under chapter ~~53-12~~ 53-12.1 to establish or enforce a child support order may seek review of the action in the court of this state 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 by the North Dakota lottery director under chapter ~~53-12~~ 53-12.1 to enforce that order may seek review of the action 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 in a proceeding under chapter 28-32.

Page 12, after line 24 insert

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. Except for the annual audit of the North Dakota lottery required by section ~~53-12-07~~ 53-12.1-03 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. AMENDMENT. Subsection 7 of section 57-38-57 of the North Dakota Century Code is amended and reenacted as follows:

7. 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 subsections 3, 4, and 5 of section ~~53-12-13~~ 53-12.1-07 and subdivision d of subsection 1 of section 53 12 14.

SECTION 6. AMENDMENT. Subsection 47 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

47. Gross receipts from the sale of lottery tickets under chapter ~~53-12~~ 53-12.1.

SECTION 7. AMENDMENT. Subsection 7 of section 57-39.2-23 of the North Dakota Century Code is amended and reenacted as follows:

7. 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 subsections 3, 4, and 5 of section ~~53-12-13~~ 53-12.1-07 and subdivision d of subsection 1 of section 53 12 11.

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1259

Page 11, line 16, after "valid" insert "unless a review by a court is authorized under section
50-09-14."

Renumber accordingly

TESTIMONY ON ENGROSSED HOUSE BILL NO. 1259

By Chuck Keller, Office of Attorney General

Human Resources Division of the House Appropriations Committee

February 7, 2005

My name is Chuck Keller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. The key provisions of this bill are:

SECTION 1

Page 2, line 8. – The Lottery would be exempt from doing a "Regulatory Analysis and Economic Impact Statement" related to small businesses each time the Lottery amends its administrative rules. If a retailer is a small business, its size cannot be a discretionary factor for applying less stringent compliance or reporting requirements, schedules or deadlines, performance standards, or for exempting retailers from compliance. Otherwise, the Lottery would fail its responsibility to adequately protect the lottery industry, the Lottery's image, public confidence, and the Lottery's partners in the Multi-State Lottery Association. Our state would also risk the loss of millions of dollars of state general fund revenue.

SECTION 4

Page 3, lines 11-13. – Clarifies the definition of a "ticket" to include a registered subscription play in place of a physical ticket. The Lottery plans to make subscription play available to players on January 1, 2006. Through a subscription, a player may pre-pay and be automatically entered in draws for future periods of 13, 26, or 52 weeks. Subscriptions may increase sales of tickets by 5-7%. The Multi-State Lottery Association recently authorized its members to use subscriptions.

Page 3, lines 21-27 – The Lottery would be authorized to arrange a short-term line of credit with the Bank of North Dakota if cash on hand is insufficient to meet an immediate major prize obligation. The line of credit would be limited to the amount of each prize of \$100,000 or more related to prize funds known to be forthcoming to the Lottery from the Multi-State Lottery Association. The line of credit in the aggregate would be limited to \$1 million dollars. The Bank of North Dakota agrees with the language.

Page 5, line 14 – Changes the expiration of the terms of the commissioners to June 30th, from December 31st, to match the date of their initial appointments. Otherwise, the appointed Commissioners would not serve full 3-year terms.

Page 6, line 17 – Changes the percent of ownership to 10%, rather than 5%, that would trigger a record check on shareholders of a vendor. Even at 10%, a shareholder would have minimal influence, if any.

Page 7, line 27 – Clarifies that an applicant for a retailer's license may be considered for a license should the applicant be current in payment of taxes, interest, and penalty under a "payment plan," besides otherwise being current. This matches the Tax Dept.'s present interpretation of law for issuing tax clearances on retailer applicants.

Page 9, lines 12-13 – Clarifies that a retailer may conduct a second chance drawing of entry forms or non-winning tickets to promote sales of tickets.

Page 9, lines 21-23 – Classifies a theft of lottery tickets from a retailer by an individual as a class A misdemeanor. However, if the total value of tickets stolen exceeds \$500, the offense is a class C felony. This matches the penalty for a theft of pull tabs.

Page 10, lines 15-16 – Changes the method of allocating \$400,000 to the compulsive gambling prevention and treatment fund. Rather than calculating the amount as 5% of gross profits each quarter up to a maximum of \$400,000 per biennium, the Lottery would transfer \$50,000 each quarter. This simplified method would provide the Dept. of Human Services with the full funding level spread out equally over 8 quarters. The Dept. of Human Services (Division of Mental Health & Substance Abuse Services) supports this simplified method.

Also, since the bill carries an emergency measure, I am proposing an amendment to correct this provision so the \$50,000 quarterly allocation starts on July 1, 2005.

Page 10, lines 17-18 – Clarifies that a part of net proceeds is transferred to the Multi-State Lottery Association to fund the Lottery's share of the games' prize reserve pools. The prize reserve pools are maintained as contingency reserves to protect the Association from unforeseen prize liabilities. Upon becoming a member of the Association, the Lottery is responsible for its pro-rata share of the prize reserve pools.

Page 11, lines 16-22 – Regarding a setoff of a lottery prize against a delinquent debt owed to or collected through claimant agencies, the term "claimant agency" is clarified. It would enable claimant agencies and the Lottery to establish a debt setoff process that is mutually convenient, rather than the present prescribed method that requires claimant agencies to provide the Lottery with electronic data files. The Tax Dept. and Dept. of Human Services (Child Support Enforcement Division) agree with the language.

Page 12, lines 2-8 – Provides a player an opportunity for a hearing before the director should the player dispute the setoff amount or claim upon which the setoff is based. No issue would be reconsidered that the player has or could have previously litigated in a court or administrative proceeding.

I would be happy to answer any questions. Thank you.

Att #1

TESTIMONY ON REENGROSSED HOUSE BILL NO. 1259

By Representative RaeAnn Kelsch

Senate Judiciary Committee

March 7, 2005

I am Representative RaeAnn Kelsch of District 34 and a sponsor of the bill. I also chair the Lottery Advisory Commission that advises the Attorney General and director of the Lottery on all policies, rules, contracts, and activities of the Lottery.

I will present a brief overview of the bill and propose vital amendments. Then, Chuck Keller, director of the Lottery, will explain the bill's key provisions.

The First Engrossment version of the bill would have replaced the present Lottery law with a new improved law that is:

- Clear – organized and easy to read and understand;
- Concise – reducing the number of sections from 34 to 12;
- Technically correct;
- Matches the Lottery's efficient business model; and
- Retains a broad continuing appropriation.

However, the Second Engrossment version of the bill that was passed by the House is technically incorrect and no longer provides the Lottery a broad continuing appropriation. I am proposing amendments (hand out) to reinstate the broad continuing appropriation for these reasons:

- Two years ago when we passed the law that created the North Dakota Lottery we had the foresight to include a broad continuing appropriation to enable the Lottery to develop an efficient business model. The Lottery is in its infancy and warrants the same flexibility in the next biennium so it may continue to refine its business model while it matures;

- The Lottery's performance measurements (i.e. weekly sales per capita, ratio of net proceeds to total sales, and number of employees) are extremely favorable compared to other similar size state lotteries;
- Prizes, gaming system vendor fee, retailer commissions, and Multi-State Lottery Association game dues are variable expenses that are based directly on the volume of sales of tickets. However, this bill does not classify retailer commissions and game dues as variable expenses;
- The budget must be flexible to accommodate the Lottery's marketing plan, staffing needs, and rate of growth;
- For example, for the 2003-05 biennium it was projected that 1 game would be conducted, 275 retailers would be licensed, and 6 employees would be needed. Actually, 3 games are conducted, 400 retailers are licensed, and at least 8 employees are needed. In the 2005-07 biennium, the Lottery must have the budget flexibility to timely react, as necessary, to changes in the Lottery arena;
- No one can yet estimate reasonable amounts of substantive fixed expenses, including the number of necessary employees;
- The Lottery's link with its retailers is vital for implementing the marketing plan and increasing sales to maximize revenue for the state general fund. It is questionable whether 2 customer service specialists will be able to adequately service 400 retailers. During the past 10 months, 1 customer service specialist was able to meet with each retailer only 1 time. Normally, a customer service specialist should visit a retailer once every 2 weeks;
- A fixed appropriation may jeopardize the general fund revenue forecast; and

- The Lottery Advisory Commission advises the attorney general and director of the Lottery on all substantive policies, contracts, games, and activities of the Lottery. The attorney general is responsible for the administration and financial success of the Lottery and must have the authority to manage the Lottery's expenditures.

Since the Lottery launched its 1st game on March 25th last year – a period of almost 1 year, who would have guessed how successful our Lottery would be. Certainly, "Lady Luck" found us. Today, our total sales of lottery tickets will reach \$19 million. By June 30, our total sales will be \$23 million - more than twice the amount that was initially projected, and our state general fund revenue will be at least \$6.2 million – more than 4 times the amount that was initially projected.

Your favorable consideration of the proposed amendments to House Bill 1259 will ensure that our state's Lottery continues to be highly successful and financially rewarding for our state during the next biennium.

I am happy to answer any questions. Thank you.

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1259

Page 10, line 2, delete "- Report"

Page 10, line 5, replace "Except for" with "All"

Page 10, remove line 6

Page 10, line 7, remove "and operating costs of the lottery under section 53-12.1-10, all other"

Page 10, line 8, remove "During each regular"

Page 10, remove lines 9 through 11

Page 10, line 17, after "of" insert "an expense, including" and replace "expense" with ", supplies, survey, advertising and marketing, printing, promotion, premium incentive item, and reimbursement of the cost of a facility or service provided by another state agency"

Page 10, line 19, replace "Fifty" with "Starting July 1, 2005, fifty"

Page 10, remove lines 26 through 30

Page 10, line 31, replace "**53-12.1-11**" with "**53-12.1-10**"

Page 11, line 24, replace "**53-12.1-12**" with "**53-12.1-11**"

Page 13, line 8, replace "**53-12.1-13**" with "**53-12.1-12**"

Renumber accordingly

TESTIMONY ON REENGROSSED HOUSE BILL NO. 1259

By Chuck Keller, Office of Attorney General

Senate Judiciary Committee

March 7, 2005

My name is Chuck Keller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. The key provisions of this bill are:

SECTION 1

Page 2, line 8. – The Lottery would be exempt from doing a “Regulatory Analysis and Economic Impact Statement” related to small businesses each time the Lottery amends its administrative rules. If a retailer is a small business, its size cannot be a discretionary factor for applying less stringent compliance or reporting requirements, schedules or deadlines, performance standards, or for exempting retailers from compliance. Otherwise, the Lottery would fail its responsibility to adequately protect the lottery industry, the Lottery’s image, public confidence, and the Lottery’s partners in the Multi-State Lottery Association. Our state would also risk the loss of millions of dollars of state general fund revenue.

SECTION 4

Page 3, lines 23-29 – The Lottery would be authorized to arrange a short-term line of credit with the Bank of North Dakota (BND) if cash on hand is insufficient to meet an immediate major prize obligation. The line of credit would be limited to the amount of each prize of \$100,000 or more related to prize funds known to be forthcoming to the Lottery from the Multi-State Lottery Association. The line of credit in the aggregate would be limited to \$1 million dollars. BND supports the proposed language.

Page 9, lines 23-25 – Classifies a theft of lottery tickets from a retailer by an individual as a class A misdemeanor. However, if the total value of tickets stolen exceeds \$500, the offense is a class C felony. This matches the penalty for a theft of pull tabs.

Page 10, lines 19-20 – Changes the method of allocating \$400,000 to the compulsive gambling prevention and treatment fund. Rather than calculating the amount as 5% of

gross profits each quarter up to a maximum of \$400,000 per biennium, the Lottery would transfer \$50,000 each quarter. This simplified method would provide the Dept. of Human Services with the full funding level spread out equally over 8 quarters. The Dept. of Human Services (Division of Mental Health & Substance Abuse Services) supports this simplified method. Since the Lottery has already transferred \$400,000 to the compulsive gambling fund for the current biennium, an amendment is necessary to avoid requiring the Lottery to transfer an additional \$50,000 during the April-June 2005 quarter should the emergency measure pass.

Page 11, lines 25-31 – Regarding a setoff of a lottery prize against a delinquent debt owed to or collected through claimant agencies, the term “claimant agency” is clarified. It would enable claimant agencies and the Lottery to establish a debt setoff process that is mutually convenient, rather than the present prescribed method that requires claimant agencies to provide the Lottery with electronic data files. The Tax Dept. and Dept. of Human Services (Child Support Enforcement Division) agree with the language.

I am happy to answer any questions. Thank you.



OFFICE OF ATTORNEY GENERAL
STATE OF NORTH DAKOTA

AH #1

Wayne Stenehjem
ATTORNEY GENERAL

MEMO

STATE CAPITOL
600 E. Boulevard Ave. Dept. 125
Bismarck, ND 58505-0040
701-328-2210
800-366-6888 (TTY)
Fax 701-328-2226

Consumer Protection
and Antitrust Division
701-328-3404
Toll Free in North Dakota
800-472-2600
Fax 701-328-3535

Gaming Division
701-328-4848
Fax 701-328-3535

Licensing Section
701-328-2329
Fax 701-328-3535

Lottery Division
701-328-1574
Fax 701-328-3535

500 N. 9th St.
Bismarck, ND 58501-4509
Fax 701-328-4300

Civil Litigation
701-328-3640

Natural Resources
701-328-3640

Racing Commission
701-328-4290

P.O. Box 1054
Bismarck, ND 58502-1054
Fax 701-328-5510

Bureau of Criminal Investigation
701-328-5500
Toll Free in North Dakota
800-472-2185

Fire Marshal
701-328-5555

Information Technology
701-328-5500

P.O. Box 937
Bismarck, ND 58502-0937
Fax 701-328-6145

Crime Laboratory
701-328-6159
Toll Free in North Dakota
800-296-2054

TO: Senator Trenbeath

FROM: Chuck Keller, Director, North Dakota Lottery CK

RE: Reengrossed House Bill No. 1259

DATE: March 7, 2005

This follows up your questions today regarding Reengrossed H.B. No. 1259. You asked what the impact was of removing the continuing appropriation in the bill for lottery funds deposited in the Compulsive Gambling Prevention and Treatment Fund (Fund), whether \$400,000 was being appropriated for the 2005-07 biennium, and which agency would have authority to expend the funds.

Removing the continuing appropriation in the bill for lottery funds deposited in the Fund will have no impact to the ND Lottery or Department of Human Services (DHS). Regardless of the amount of funds that may be in the Fund, agency appropriation authority controls the level of expenditure. For the 2005-07 biennium, \$400,000 is being appropriated for compulsive gambling services. According to a representative of DHS, appropriation authority to expend the \$400,000 is in DHS's appropriations bill.

Thank you co-sponsoring H.B. No. 1259.

If you have another question, please email or call me at 8-1579.

cc: Senator Traynor
Sandi Tabor, Chief Deputy Attorney General

North Dakota Lottery
Updated Forecast of Revenues, Expenses, and Transfers
for the 2005-07 Biennium
April 13, 2005

	2005-07	% of Rev
Revenue	38,544,883	
Expenses:		
Prize Expense	17,756,228	46%
Retailer Commissions	1,919,592	5%
Contractual Services Expense	4,081,053	10%
Salaries and Benefits	1,042,380	3%
Other Operating Expenses	2,577,791	7%
Total Expenses	27,377,044	
Income Before Transfers	11,167,839	
Transfers to Other Funds:		
MUSL Prize Reserve Funds	767,839	2%
Compulsive Gambling Fund	400,000	1%
State General Fund	10,000,000	26%
Total Transfers to Other Funds	11,167,839	100%

With the contingent appropriation amendment to HB 1259, 2 additional FTE's are available to the Lottery at a total estimated additional cost of \$279,021, for sales growth above the estimated revenues of \$38 million for the 2005-07 biennium.

TESTIMONY ON REENGROSSED HOUSE BILL NO. 1259
(SECOND ENGROSSMENT with Senate Amendments)

By Representative RaeAnn Kelsch
Senate Appropriations Committee
March 17, 2005

I am Rep. RaeAnn Kelsch of District 34 and co-sponsor of the bill. I also chair the Lottery Advisory Commission. I will explain the importance of the bill. Then, Chuck Keller, director of the Lottery, will explain the bill's key provisions.

The 'Second Engrossment with Senate Amendments' version of the bill replaces the present Lottery law with a new improved law that is:

- Clear – organized and easy to read and understand;
- Concise – reducing the number of sections from 34 to 12;
- Technically correct; and
- Retains the present level of a continuing appropriation.

The Senate Amendments to the bill retain the present level of a continuing appropriation for operating the Lottery and are critical to its financial success, for these reasons:

- Two years ago when we passed the law that created the North Dakota Lottery we had the foresight to include a continuing appropriation to enable the Lottery to develop an efficient business model. The Lottery is in its infancy and warrants the same flexibility in the next biennium so it may continue to refine its business model while it matures;
- It will ensure that the general fund revenue forecast of \$10 million is met;
- The Lottery's performance measurements (i.e. weekly sales per capita, ratio of net proceeds to total sales, and number of employees) are extremely favorable compared to other similar size state lotteries;

- Prizes and major operating expenses of contracted services, retailer commissions, and game dues are variable expenses that are based directly on the volume of sales of lottery tickets and cannot be appropriated;
- The budget must be flexible to accommodate the Lottery's marketing plan, staffing needs, and growth, and enable the Lottery to timely react to changes in the Lottery industry;
- For example, for the 2003-05 biennium it was projected that:
 - 275 retailers would be licensed – 400 retailers are actually licensed;
 - 1 game would be conducted – 3 games are actually conducted; and
 - 6 employees would be needed – 8 or more employees are actually needed;
- No one can yet estimate reasonable amounts of large fixed expenses, including the number of necessary employees;
- The Lottery's link with its retailers is vital for implementing the marketing plan and increasing sales to maximize revenue for the general fund. It is questionable whether 2 customer service specialists (1 recent hire) can adequately service 400 retailers. During the past 10 months, 1 customer service specialist was able to meet with each retailer only 1 time. Normally, a customer service specialist should visit a retailer once every 2 weeks; and
- The Lottery Advisory Commission advises the attorney general and director of the Lottery on all substantive policies, contracts, games, and activities. The attorney general is responsible for the financial success of the Lottery and must have the authority to manage its expenditures. Otherwise, no one can be held accountable for any unfavorable results of the Lottery.

Since the Lottery launched its 1st game on March 25th last year, who would have guessed how successful our Lottery would be. Certainly, "Lady Luck" found us. By June 30, our total sales will reach \$23 million – more than twice the amount initially projected, and our general fund revenue will be about \$6.2 million – more than 4 times the amount initially projected.

Your favorable consideration of the 'Second Engrossment with Senate Amendments' version of the bill will ensure that our state's Lottery continues to be highly successful and financially rewarding for our state during the next biennium.

I am happy to answer any questions. Thank you.

TESTIMONY ON REENGROSSED HOUSE BILL NO. 1259

(SECOND ENGROSSMENT with Senate Amendments)

By Chuck Keller, Office of Attorney General

Senate Appropriations Committee

March 17, 2005

My name is Chuck Keller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. The key provisions of this bill are:

SECTION 1

Page 2, line 8. – The Lottery would be exempt from doing a "Regulatory Analysis and Economic Impact Statement" related to small businesses each time the Lottery amends its administrative rules. If a retailer is a small business, its size cannot be a discretionary factor for applying less stringent compliance or reporting requirements, schedules or deadlines, performance standards, or for exempting retailers from compliance. Otherwise, the Lottery would fail its responsibility to adequately protect the lottery industry, the Lottery's image, public confidence, and the Lottery's partners in the Multi-State Lottery Association. Our state would also risk the loss of millions of dollars of state general fund revenue.

SECTION 4

Page 3, lines 21-27 – The Lottery would be authorized to arrange a short-term line of credit with the Bank of North Dakota (BND) if cash on hand is insufficient to meet an immediate major prize obligation. The line of credit would be limited to the amount of each prize of \$100,000 or more related to prize funds known to be forthcoming to the Lottery from the Multi-State Lottery Association. The line of credit in the aggregate would be limited to \$1 million dollars.

Page 10, lines 15-17 – Changes the method of allocating \$400,000 to the compulsive gambling prevention and treatment fund. Rather than calculating the amount as 5% of gross profits each quarter up to a maximum of \$400,000 per biennium, the Lottery would transfer \$50,000 each quarter. This simplified method would provide the Dept. of Human Services with the full funding level spread out equally over 8 quarters.

I am happy to answer any questions. Thank you.

REENGROSSED HOUSE BILL NO. 1259

Senate Appropriations Committee
March 17, 2005

Projected Detail of each \$1 of Lottery Ticket Sales and Fees

Operating Revenue	\$1.00
Less: Prizes	.46
Contracted Services	.10
Retailer Commissions	.05
Admin. & Operating Expenses	.06
Marketing & Advertising	<u>.03</u>
Net Proceeds (Profit)	.30
Less: Funding Problem Gambling	.01
Funding Prize Reserve Pools	<u>.02</u>
General Fund Revenue	\$.27