

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2384

2005 SENATE JUDICIARY

SB 2384

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384

Senate Judiciary Committee

☐ Conference Committee

Hearing Date February 7, 2005

Tape Number	Side A	Side B	Meter #
1	X		5466 - End
1		X	0.0 - 220
Committee Clerk Signature			

Minutes: Relating to games of chance accounting records.

**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:**

**Tom Newberg**, Executive Dir. for Red River Human Services Foundation in Fargo/Wahpeton, ND. (meter 5466) Gave Testimony - Att. #1.

**Sen. Nelson** asked who is currently providing you with your guidelines? Each organization along with there accounting firms and board of directors/gaming committees along with the state gaming commission. It is left "at large" of all those groups.

**Sen. Trenbeath** stated that this bill makes sense. Generally something occurs that generates this type of legislation, did something happen? Currently the A.G.'s gaming department is doing audits across the state and it has caused some concerns/agonies on what is expected. Not every

auditor is asking for the same stuff at each location. We would like to remove the requirements from the auditor and put it into the rule making process on what is adequate.

**Testimony in Opposition of the Bill:**

none

**Testimony Neutral to the Bill**

**Keith Lower** - Attorney Generals Office (meter 6050) We have no problem with this bill and can understand the confusion that is in existence today. Usual internal controls are designed to provide reasonable assurance regarding a number of objectives. The efficiency of an operation, the reliability of the reporting, and compliance with laws and regulations. We have no problem working with the five members of the gaming commission in setting up reasonable objectives in meeting those internal controls in the rule making process.

**Sen. Traynor** asked if they have forms or manuals that the charities follow for operation? We have a number of draft forms but very few are required by rule. We have an internal control "sample" manual. This gives them some guidelines on what some of their segregation of duties etc.

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

**Senator Syverson** made the motion to Do Pass and **Sen. Nelson** seconded the motion. All were in favor motion passes.

Carrier: **Senator Syverson**

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

Date: 2/7/05  
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2384

Senate Judiciary Committee

☐ Check here for Conference Committee

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

Action Taken Do Pass

Motion Made By Sen. Syverson Seconded By Sen. Nelson

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

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Syverson

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

**REPORT OF STANDING COMMITTEE (410)**  
February 7, 2005 1:43 p.m.

**Module No: SR-24-1994**  
**Carrier: Syverson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2384: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS**  
**(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2384 was placed on the**  
**Eleventh order on the calendar.**

2005 HOUSE JUDICIARY

SB 2384

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384

House Judiciary Committee

☐ Conference Committee

Hearing Date 3/14/05

Tape Number	Side A	Side B	Meter #
1	xx		8.9-14
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 11 members present, 3 members absent (Reps. Maragos, Charging & Kingsbury).

**Representative Klemin:** We will open the hearing on SB 2384.

**Sen. Tom Fischer:** Sponsor, support, explained the bill. This is a change in some wording in the auditing process of charitable gaming. What it does in the bill, is it changes "inadequate", which apparently the parties are having a tough time defining and change it to a system of internal control as described by rule. I have someone with me that can explain the audit system and the reason for this in detail and I would ask for your support.

**Representative Delmore:** Tom, do you know if it's already in the Administrative Rule procedure that's used.

**Sen. Tom Fischer:** I believe so, it's in Rule now.

**Representative Klemin:** Thank you. Further testimony in support of SB 2384.

**Tom Newberger, Executive Director, Red River Human Services Foundation:** Support (see written testimony).



**Representative Delmore:** Does this affect only charitable gaming and have you talked to other organizations so we know where people are, as far as being on board.

**Tom Newberger:** Yes, it does impact charitable gaming, this is the section that talks about charitable gaming. I talked to many other organizations that have been subject to audits that Sen. Fischer mentioned, and there are concerns about the auditor's interpreting the definition very, very tightly, more tightly than public auditors would. So we've had lots of discussion with other auditors and I've had a number of discussions with the AG's office, and they are neutral on this bill, but when I listened to their testimony, it sounds like they quite support the bill.

**Representative Klemin:** Thank you. Further testimony in support, testimony in opposition, testimony neutral. We will close the hearing. What are the committee's wishes in regard to SB 2384.

**Representative Kretschmar:** I move a Do Pass.

**Representative Delmore:** Seconded.

11 YES 0 NO 3 ABSENT

DO PASS

CARRIER: Rep. Zaiser

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384

House Judiciary Committee

☐ Conference Committee

Hearing Date 3/16/05

Tape Number	Side A	Side B	Meter #
1	xx		7-12.2
1		xx	15.6-33
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Charging).

**Chairman DeKrey:** We have to bring SB 2384 back to the committee. Sen. Fischer wanted us to amend his bill.

**Representative Koppelman:** I move that we reconsider our actions by which we passed SB 2384.

**Representative Meyer:** Seconded.

**Chairman DeKrey:** Motion carried that we reconsider our actions on SB 2384. We now have the bill before us.

**Representative Onstad:** It was changing accounting methods.

**Chairman DeKrey:** It seems to me what his amendment was, it says that the organization shall retain 10% of the gross.

**Representative Zaiser:** That's the one I was supposed to carry yesterday, but the only problem was there was one word that was ambiguous, "adequate" in terms of the backup accounting measures.

**Chairman DeKrey:** This proposed amendment doesn't even deal with the section of the bill.

**Representative Koppelman:** He wants to accomplish something and wants a vehicle to attach it to.

**Chairman DeKrey:** Evidently.

**Representative Onstad:** Poker may be conducted on not more than two occasions per site per year, and the organization may supply the dealer, the change is "per site per year" the organization must retain at least 10% of the gross proceeds. That goes back to that poker bill that we heard before.

**Representative Zaiser:** It doesn't have anything to do with this bill.

**Representative Koppelman:** The change is what?

**Representative Onstad:** The original for a tournament, that an organization shall charge each player an entry fee and the amount of prizes may not exceed 90%, organization must retain at least 10 percent of the gross proceeds.

**Chairman DeKrey:** So they want to clarify something in law and he thought this bill was as close as we were going to get to be germane.

**Representative Klemin:** It's really not clarifying, because we a bill already that would allow wide-open poker all the time. We either killed that or changed it.

**Representative Zaiser:** There wasn't any testimony on it.

**Representative Onstad:** What this does in your poker tournaments, they get to hold back 10%.

**Chairman DeKrey:** We will hold off on this until Representative Maragos gets up here. He's the one who gave me the amendments. We'll come back after floor session. Adjourned.

(Reopened later in the session)

**Chairman DeKrey:** Sen. Cook is the one who came up with this amendment. Sen. Fischer brought the bill back. Adjourned to this afternoon.

(Reopened later in the afternoon session)

**Representative Maragos:** We will call the meeting back to order. Sen. Cook will explain and give us a little background.

**Sen. Dwight Cook:** Yes I did talk to Sen. Fischer for his permission to offer these amendments. Actually, I'm offering them for Tracy Potter, of the Ft. Abraham Lincoln Foundation. Tracy contacted me yesterday morning, and simply said that he was sick, he had to go home, but he was looking for a place and this was the bill that he found, but let me just explain the challenge, because I am aware of what Tracy's problem, Ft. Abraham Lincoln Foundation, and is one that I think applies to many charitable organizations. Ft. Abraham Lincoln Foundation has five sites across ND, they're in Bismarck, Mandan, Dickinson, around the site. Right now Texas Hold 'Em is a very popular entertainment now for people; but right now the way the law is, poker may not be conducted on more than two occasions per year. So Ft. Lincoln gets two chances to have a Texas Hold 'Em poker per year amongst all five of their sites. They've already used them. They've had one in Bismarck and somewhere else. Dickinson wants one at the Eagles in Dickinson. They can't get one, because they've already used their two up. What Tracy is afraid that's going to do, is that the facility in Dickinson, that uses them as their charity, will find another charity, just so they can have these sites. That's the whole purpose

and that's why the bill is introduced to make it two per site, so that Dickinson could have two. If they've got five locations, each site could have two Texas Hold 'Em poker games a year. That's it.

**Representative Maragos:** Please explain to Representative Klemin the amendments.

**Sen. Dwight Cook:** I've introduced these for Tracy Potter, Ft. Abraham Lincoln Foundation. Ft. Abraham Lincoln Foundation has five sites, and right now they can only have two Texas Hold 'Em poker tournaments per year for all five sites. The bill would just allow them to have two occasions at each site.

**Representative Klemin:** If we approved this amendment, then it would apply to any organization that wanted to do this, statewide, rather than, in addition to the Ft. Abe Lincoln Foundation. What would prevent any of these organizations from then going out and finding additional sites to do it at weekly.

**Sen. Dwight Cook:** I explained what his concern is, and I understand maybe what yours is, maybe there's a better way to amend that bill so that it meets the charitable organizations that have multiple sites. I would hope that is where you could go with this.

**Representative Klemin:** Did you give any explanation as to the change of the 10%.

**Sen. Dwight Cook:** I looked at that...

**Representative Klemin:** It doesn't read right, I'm wondering why they want to retain 10% of the gross, when I understand that they already retain 53% for expenses.

**Sen. Dwight Cook:** May not exceed 90% organization must retain...I don't know, Tracy offered me these amendments yesterday and said he had to go home, because he was sick. I know the only concern he issued to me, was the per site.

**Representative Zaiser:** I was carrying this bill, and probably still will. On the other hand, and I support the program that Tracy Potter has, but my question is the last minute nature of this, you know we had a hearing on this just a few days ago, is there a reason why he couldn't have come up with a bill earlier. I'm concerned that there wasn't any testimony and no opposition or potential opposition to the bill or to that concept.

**Sen. Dwight Cook:** Tracy talked to me, I believe the first time was Friday, and I think that's when it just came to his attention that this condition existed, because Dickinson was trying to have a Texas Hold 'Em poker game, and they found out they couldn't. So when he talked to me last Friday, he said that he was looking for a bill to attach some amendments to it, rather than a delayed bill.

**Representative Maragos:** Sen. Fischer agreed to allow the amendment to be offered, whether we pass it or not. That's a committee choice. Thank you for coming up. I think it is really self-explanatory, what's happened to the multiple site charities, is they have to pick two and the rest of them are all out. I think the idea of the two occasions per year, probably the intention might have been per site. I think this is saying that, so the intent early on, that each site should have, and I believe that's what the intent was, not for just a charity that has multiple sites and then they have to choose who gets them and who doesn't. That's sort of unfair.

**Representative Koppelman:** Maybe there's some language, if we do entertain this amendment, that it would address that, I don't know if you would say, per permanent site, so that they wouldn't be shopping, as Representative Klemin indicated, saying we'll do them in every part of town, that will be the site for this week.

**Representative Maragos:** I think in most cities, you can only have so many sites, can't you.

**Representative Koppelman:** I don't know.

**Representative Boehning:** Fargo can only have two sites.

**Representative Maragos:** I think each one, in each town, they would have to go far and wide.

**Representative Klemin:** If they took all the little towns around Fargo, they could have one.

**Representative Maragos:** They have to have a bar.

**Representative Boehning:** They do.

**Representative Zaiser:** Yes, Horace has a bar. There's a bar in every little town around Fargo.

**Representative Onstad:** In the earlier poker bill, they were really asking for a bill to play poker every day of the week. So tell me how this changes from that, if you have multiple sites, how does that get away from what was earlier asked.

**Representative Maragos:** I believe in most cities, you have only have two sites, so each site would have two days, four tournaments in 365 days. That's just for the one charity. So like if you're in a city, and you have one bar, guess what they only get two chances a year to have it, as far as I can see.

**Representative Klemin:** It is left up to the city to decide that.

**Representative Maragos:** I believe so.

**Representative Kretschmar:** Under the current rules and statutes on gaming sites, you have to get permission from the city council to have a site within the city limits or the county commission if it's out in the county. They can deny sites or only have so many and usually, if it's in a small town, they'll give each bar a site.

**Representative Klemin:** So there's really nothing statutory about two, it might be customary some places, but not other places.

**Representative Kretschmar:** That's a city choice.

**Representative Klemin:** The city can change, expand that if they wanted to.

**Representative Kretschmar:** I'm sure they can, sure.

**Representative Maragos:** They can do this now without this.

**Representative Onstad:** For each charity, they can only have two occasions.

**Representative Maragos:** That's the way it is now.

**Representative Onstad:** Within 60 miles of my home, every weekend..

**Representative Maragos:** If they have a tournament. You could right now. Each one of them can have two days, but what this addresses is the charities that have multiple sites. I don't know if the same charity has all your sites in the 60 mile radius.

**Representative Onstad:** That's different.

**Representative Maragos:** If the same charity had all the sites, you could only place twice a year. So you know that's not the case. That's what Ft. Abraham Foundation is worried about, the simple fact that they had two of their sites already having their two days; Dickinson, which is one of their sites is saying, look if you can't allow us to have our two days, we're just going to find another charity. It puts them in a very tough position. They have to give up the site.

**Representative Koppelman:** If the concern that was expressed is valid, does that mean that each site can then go charity shopping now.

**Representative Maragos:** They do, already, there's nothing that stops that.



**Representative Koppelman:** So they say, well we've had charity x, we've had our two tournament, we're going to switch and go with charity y and have two more.

**Representative Maragos:** They can do that now.

**Representative Koppelman:** But the amendment then would try to preclude that by allowing two occasions per site.

**Representative Klemin:** That would be pretty wide open, because your two occasions per site...

**Representative Koppelman:** So if they still shop, you could have one there every week?

**Representative Delmore:** No, you'd still only have two per that type of site.

**Representative Maragos:** They could technically try to find a new charity, but that would just destroy...

**Representative Koppelman:** But isn't that what he's afraid of.

**Representative Maragos:** Tracy's afraid that Dickinson will find another permanent charity, that has no other affiliations and then they will get their two days. I suppose a business could go charity shopping, in order to have their two days a year, but trying to get 50 different charities in there, to get two days per year. But they could do that now, under current law, they could do that.

**Representative Klemin:** But what this would do, is increase the two occasions for Ft. Lincoln Foundation to 10 occasions.

**Representative Maragos:** Two occasions per site, that's right.

**Representative Klemin:** So it would go from 2 occasions to 10 occasions, plus however many more sites they might add in the future, they would get 2 more occasions per site.

**Representative Maragos:** Just for that site.

**Representative Klemin:** But for each additional site, they could ratchet this up to as many sites as they may obtain.

**Representative Koppelman:** If the charity now has 20 sites, and they get 40 a year, from 2 to 40.

**Representative Boehning:** With this amendment, I don't see anything that's going to change anything in the state. Right now you can drive down around Bismarck, I think at Bucks, and they are going to have a Texas Hold 'Em tournament. So why don't we let the charities make some profit off it versus having a tournament and nobody is really making any money, except for some of the players. Maybe if we need to put some language in that says that "for sites already established and no other sites". Let the charities get in there, make some profit off of it versus just having that local bar.

**Representative Maragos:** I have no problem with limiting it to sites that were already in existence as of January 1, 2005, that way it would preclude them from this problem, so they couldn't go out and create 100 more sites, so they could get two more days each.

**Representative Klemin:** Let them do it on the Internet.

**Representative Maragos:** They're already doing that too, Representative Klemin, as we well know. Sure they're playing Texas Hold 'Em on the Internet.

**Representative Meyer:** This last line, the organization must retain at least ten percent of the gross proceeds. They're just referring to Texas Hold 'Em in that instance aren't they, with the 10% rake.

**Representative Onstad:** Any poker game.

**Representative Maragos:** For a tournament of which they can only have two per year an organization shall charge each player an entry fee and the amount of prizes may not exceed 90% of the gross proceeds. It really should have been put in, after gross proceeds, it should say, it may not exceed 90% of the gross proceeds and the organization must retain at least 10%.

**Representative Meyer:** Shouldn't that be the way it reads, instead of the way it does.

**Representative Maragos:** I think so.

**Representative Zaiser:** Shouldn't we refer to a card tournament too, or is that implied that it is a card tournament.

**Representative Maragos:** What's a card tournament, pinochle is not considered poker.

**Representative Meyer:** It says poker.

**Representative Klemin:** The organization cannot pay out prizes more than 90%. That was the last part added.

**Representative Maragos:** I'm not sure, so we can delete that. I don't believe we should act on it without our chairman here. I think we've had the discussion and the explanation. The debate will ensue upon the return of our chairman. Meeting adjourned.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384

House Judiciary Committee

☐ Conference Committee

Hearing Date 3/22/05

Tape Number	Side A	Side B	Meter #
1	xx		22.6-end
1		xx	0-13.9
Committee Clerk Signature <i>Dawn Penrose</i>			

Minutes: 13 members present, 1 member absent (Rep. Boehning).

**Chairman DeKrey:** We will take a look at SB 2384.

**Tracy Potter, Executive Director, Ft. Abraham Lincoln Foundation:** I want to thank you for this unusual courtesy and consideration for this amendment. I realize it's last moment, and I certainly appreciate the opportunity to talk to you about it. The situation is this, as a charity we can have poker on two occasions a year. We have 14 sites from Bottineau to Medora, and I can have poker tournaments, in two 3 day increments at each of those 14 sites today. But I have to have them on simultaneous three day occasions. The way the Attorney General has defined this is, that a poker occasion is any three day period. In that period, I could have Texas Hold 'Em tournaments at each of my 14 sites, legally; I can't do that practically. It would be a logistical nightmare for the organization. This puts us at a very severe disadvantage then, at being able to hold some of these sites, as Texas Hold 'Em has gotten so popular and the bar owners are really clamoring to have these tournaments, it's put us at a severe disadvantage, because we have to

make a decision, whether we will do something that is impractical and inefficient, in order to hang onto a site; there is a solution. The solution is simply to allow, rather than the law currently says two occasions per organization, make it two occasions per site. It will not increase the number of times that I can legally hold poker, or the number of days that we can legally do it, it will just allow us to do it in a way that is more efficient; and we will not be in competition with ourselves when we do this. There is at least one charity in the state that is in opposition to this. The reason that they're in opposition, is for the same reason that I am in favor of it. They are under pressure from bar owners to have Texas Hold 'Em tournaments at each of their sites. They have a half dozen sites. They are under pressure to do that. They want to be able to say to the bar owner, no, I can't do it because the legislature won't allow it to happen. Because the law doesn't allow it to happen. But, of course, as I just explained, law does allow it to happen, it's just not practical. We're in the same boat, but the solution, I think their answer is wrong, which is to just be able to say, no we're restricted because of the law. In our position, we're saying give us the opportunity to tell the bar in Dickinson, yes we can hold the tournament there, but it's not going to be on the same date that I'm holding one in Bismarck, and then holding one in Bottineau, because we can't coordinate that. We need to hold these on different dates. Again no change legally in the number of days that we can hold a poker tournament, but you can see the practical implications for a charity like ours.

**Representative Delmore:** I have a question on your amendment, I would assume that the 4th line of the actual content, it should be "per ½ hour playing time", and then I've got a question on the last line, "for a tournament, an organization shall charge each player an entry fee and the

amount of prizes may not exceed 90 percent." Should be a period there, right. There are just a couple of technical things that we might want to look at.

**Tracy Potter:** The change in the last line, this comes directly from the Attorney General's office and I don't know if Keith wants to speak to it or not. The point is that it is easier to determine what are 10% of the proceeds, then what the value of the prizes are, being the 90%.

**Representative Delmore:** I have a problem with that, it is one very long run-on sentence, and as an English teacher, I have a problem with that sentence. I understand the concept.

**Chairman DeKrey:** Thank you.

**Representative Klemin:** You've got me confused a little bit about the 14 sites, you mentioned 14 sites, you have 14 sites.

**Tracy Potter:** Yes we do. We have sites in Lake Metigoshe, Bottineau...

**Representative Klemin:** Well you don't have to list them for me. So they are pretty much statewide sites then.

**Tracy Potter:** That's correct.

**Representative Klemin:** So we'd have two occasions per site, we'd have a total of 28 occasions, then.

**Tracy Potter:** Legally I can hold poker on 28 occasions, 84 days.

**Representative Klemin:** 84 days, and so you said you didn't want to be in competition with yourself. Does that mean that you would hold one at Lake Metigoshe and then you'd tell everybody who was there, next week it's over at Bottineau, come over there instead. Then at Bottineau, you'd say next week it's at Rugby, come there instead; and then sort of go around the whole state that way, so that basically you'd be doing it, how many times, 84 days.

**Tracy Potter:** There are 84 site days legally that we could hold it. You're right, though that is not what will happen. That could happen, but it is not what will happen in our case. We have, out of those 14 sites, it's only practical to have Texas Hold 'Em tournaments at about 7 of them. When I'm talking about being in competition with myself, I am talking about having a tournament the same day at the Doublewood, the Seven Seas, and the Lonesome Dove, three sites in Bismarck/Mandan. We'd be advertising to the same players to come to three different sites. No one would benefit from that activity.

**Representative Klemin:** You have 14 sites now which equals 28, but there actually wouldn't be anything preventing you from going out and getting more sites as time goes by, would there. You didn't start with 14 sites, you started with one.

**Tracy Potter:** We had five when I started the Ft. Lincoln Foundation.

**Representative Klemin:** So, now you're up to 14, if this worked out the way you liked, it could be expanded to, there's no limit I guess.

**Tracy Potter:** I once had 17 sites, I'm much more comfortable with 14, and will be even happier when it's down to 12, I think.

**Representative Klemin:** So other charity probably has 14 sites too, I guess I don't know but they may not see it the same way you do. The second question I've got here, is this tournament activity. The existing statute talks about non-tournament activity and tournament activity. Do I understand you, you're only talked about tournament activity, you don't do the non-tournament.

**Tracy Potter:** That's exactly right. We're not interested in the non-tournament poker. The only reason that we want to do the tournament, again, is the popularity of TV Texas Hold 'Em,

celebrity Texas Hold 'Em, the fact that it is so widespread; that's a tournament activity. That's what interests people.

**Representative Delmore:** Right now, it is a competition for sites, are there a lot of sites that someone, who really wanted to expand using this bill, could go to, reasonably expecting to make something for their charities.

**Tracy Potter:** I don't believe so. The competition for the charity sites are for the ones that are extremely good gaming sites, where everyone would be glad to pay more than the maximum allowable rent to be in those sites. I'll give you one example, there's a site in Dickinson, you wouldn't think it is a good site, but it is. We ended up going in there and doing paramutual horse racing, because the bar owner would accept our organization to come in, if we would be willing to do horse racing. We went in knowing that we would lose money at horse racing, but that the site was good enough that we would be able to do that. We no longer do the horse racing anywhere, so we're glad.

**Representative Koppelman:** In your amendment, on line 4, at the end of the line there, is that supposed to per one-half hour.

**Tracy Potter:** Yes.

**Representative Kingsbury:** You're talking about, you wouldn't schedule the charity poker games in three separate places for all three of your charities at the same time. Couldn't there be other charities running at the same time as yours, within the same area and how would that work.

**Tracy Potter:** It certainly could be, that's competition that's in, the American way, it's competition between separate organizations. Competition within an organization is just inefficient.



**Chairman DeKrey:** Thank you. I think this isn't the only amendment that we're going to talk about. Colonel Donohue, do you want to tell us about what you want.

**Colonel Mike Donohue:** I'm representing the ND Wildlife Federation, and we became aware of an amendment that was being proposed for SB 2384, dealing with raffles and I got a copy from Keith Lauer, from the Gaming Division, and I looked at it, and it would really, that particular amendment on raffles, would really help our organization out. What the amendment would allow, is that for a large item, for example a pick-up truck, that if the prize winner said they'd rather have the cash, rather than the truck, we could then give them the cash instead of the truck. That would, we think, really help our sales with tickets. Right now, we run a raffle for the pick-up truck that we hold over in Valley City, and so it has statewide sales. We sell 300 tickets for \$100/ticket. As far as the customer goes, we know that's there is interest out there, but they would rather say, I don't want the truck, but I'd really like the cash.

**Chairman DeKrey:** That's pretty self-explanatory.

**Representative Delmore:** Do you have a copy of that amendment.

**Chairman DeKrey:** Keith has the amendment.

**Keith Lauer, AG's Office:** Our office has no position on the amendments here, we're neutral on it. Right now, by state law, an organization can have up to 25 sites, and they can go up to 30 sites if there is no other organization that wants those additional sites, so actually an organization could go up to 30 sites, just keep that in mind, I guess that's one of the questions that came up. There are two ways you can do poker, tournament and non-tournament. Right now, the non-tournament play is pretty much dead, because of the limits on it, with a dollar bet, no more than 3 bets per round with a \$1 each, and you take a rake off the table for each ½ hour of playing

time. That's pretty much a dead game, pretty much everybody is playing tournament poker right now, and according to the Administrative rules, what the State Gaming Commission has said, is that an occasion, it can include more than one site, and that for non-tournament occasions, it's a 24 hour period of time, but for tournament play, it can go up to three consecutive days of play. So just to clear up a few things. I do have the amendment drafted for the raffle prizes. The raffle right now, says that no single cash prize can exceed a \$1,000 and total cash prizes in one day can't exceed \$3,000. That was done to pretty much eliminate the opportunity for organizations to do daily lotteries through the raffle statute. Basically, the amendment would say, however on not more than one occasion per year, a licensed organization may, at its option, and at the request of the winning player, exchange a merchandise prize valued at not more than \$25,000 for a cash prize. I can certainly get that language to you.

**Representative Bernstein:** It seems to me that last year, we raised that to \$2,500 from the \$1,000 and the reason for that was because in the wildlife raffles, plus giving away prizes and guns were running more than \$1,000.

**Keith Lauer:** You've got a good memory, but that is on local permits only, and that is for merchandise prizes up to \$2,500, not cash.

**Representative Koppelman:** If I heard you correctly, it sounds like these issues could be addressed by Administrative Rules, because it seems to me that it's your rules from what you just testified that interpret what the site days are, etc.

**Keith Lauer:** Part of the problem there is the two occasions, rather than two per site per year. With organizations, where they have like 14 sites, you could end up having a problem in not having enough staff to man all of those sites in the same day, that gets to be the problem.

**Representative Klemin:** I just want to make sure I understood you, an occasion can last three days.

**Keith Lauer:** The State Gaming Commission has interpreted an occasion, not to be a singular day, but could be an occasion where it lasts up to 3 days for a poker tournament. The intent of that was there be an initial round where someone wins at multiple sites and then the players advance to a second or third round. So it could last up to 3 days for play.

**Representative Klemin:** So that's where I didn't quite follow Mr. Potter when he said he could do 84 days. So he's got 14 sites X 2, would be  $28 \times 3 = 84$  days. We might as well just make it the full year, don't you think.

**Keith Lauer:** I'm not sure that the State Gaming Commission would stay with the three consecutive days of play, if this were changed, I don't know what they would do, as far as what will be an occasion.

**Representative Klemin:** How many weekends do we have in a year.

**Keith Lauer:** 52.

**Representative Klemin:** So, 84 days takes care of every weekend of the year, maybe we'll take a break from poker on Christmas or Easter.

**Representative Delmore:** You've worked with charity organizations I think almost since the inception, how many organizations have sites over 25, do we have anybody that has that many.

**Keith Lauer:** I'm only aware of one organization that currently has more than 25 sites and that organization has a couple of them on the Ft. Berthold Indian Reservations, though they do not even report to us. I think they have 27 sites, but about 3 of them aren't under the jurisdiction of our office, so they stay within the 25 limit anyway.

**Representative Delmore:** What's the usual number of sites, that your organizations would have.

**Keith Lauer:** I would say that typical is, is probably no more than 8, as a guess. The city of Fargo limits you to 2 sites each, per charity, so if it's a Fargo charity, it may only have two, but typically the average charity has 6-8 maybe.

**Representative Zaiser:** I missed this, what did you say about a \$25,000 max prize limit.

**Keith Lauer:** What the intent was that, if in fact there was a merchandise prize offered under a raffle, and at one time per year, of offering that value of a prize not to exceed \$25,000, if the player and the organization requests it, they could pay cash instead of giving the merchandise prize; \$25,000 was just said as a limit, I don't know if there really needs to be one, I don't think we want to go out there and offer a half million dollar prize or anything like that. Typically what organizations do, is they offer vehicles. We did have one situation where an organization up in Minot, did violate this state law. It was an organization up there that offered a 4-wheeler, and an elderly woman won it, did not want the 4-wheeler, it was worth about \$4-6,000, the organization just paid her the cash instead. They actually violated this law.

**Representative Onstad:** At the poker tournaments, what's the requirements for reporting winnings, W-2 statements, typical of being at the casinos, and so on.

**Keith Lauer:** I'm not exactly sure what they are requiring. I think it has something to do with the amount wagered. So many times the amount wagered, that's an IRS question, I don't know the answer to it. I know there's a \$1,500 cutoff on some game types, \$1,200 on others, \$600 on others. It's \$600 on pull tabs. I think Bingo games are \$1200 and I think there's a \$1500 one, but I'm not sure what game type that is. But there is a limit on how much you're wagering.

These tournaments, by Administrative Rule, can't charge an entry fee of more than \$200 for a tournament, so it could be based on the amount that's being wagered, so many times that.

**Representative Onstad:** I think it's something you may want to consider because \$100 or \$200 entry fee to the tournament, and the winnings are approx. \$3500-4000 and there's no reporting on that, you maybe want to consider that any time you enter these tournaments, they have to register at that point, and report some of those winnings. I think we adopted that, into the lottery now?

**Keith Lauer:** I think you're talking about the withholding part for state withholding. I'm not sure what the limit was on the lottery..

**Representative Maragos:** \$5,000.

**Keith Lauer:** \$5,000. Most of these poker tournaments pay out about 10 different places. It just depends on how many people you can get into a bar setting, a lot of times it's not more than 100 people. I don't know if we would ever get those limits that you would under the lottery.

**Representative Klemin:** I'm just trying to figure out, you say you can have up to 30 sites under state law.

**Keith Lauer:** Yes.

**Representative Klemin:** Times 2 occasions per site per year, times 3 days for each occasion, gives me 180 days.

**Keith Lauer:** That sounds right.

**Representative Klemin:** So I guess if I was a single site charity, that's now being pressured to expand and couldn't, wouldn't that be kind of tough on one, they would go to one of these other

multiple site charities, and say come in here and do this, because I can't get the single site charity to do it more than once or twice a year, and you guys could be in here a lot.

**Keith Lauer:** I think every charity would be equal because of the fact that they can all do them at that site, 2 occasions per year. So even if you had a charity that just had one site, they could come over and say, I can offer you the same thing that the other charity can, they're not going to be able to offer any more, just because he has 14 sites, doesn't secure him from having those sites in the future.

**Representative Klemin:** So following that then, we've got one charity that can do 180 days, and the other charity could do the other 180 days, and we'd have poker there almost the whole year, every day.

**Keith Lauer:** A site can only have one charity on a given day. It doesn't mean that you can't have more than charity in there during a year, because the other charity could relinquish its license for a day, give it up so someone else could come in there and run a game type.

**Representative Klemin:** So we could conceivably see, somebody would have a large tractor-trailer pulling their gaming around from town to town and so they could do it all year long.

**Keith Lauer:** I don't think you could get a site authorization, I don't think the charity is going to give it up, just to allow another charity to come in there and run poker on one occasion.

**Representative Bernstein:** It seems we're bouncing around a little bit. Do we have that other amendment that was proposed for the raffle.

**Keith Laura:** I can make copies of it, it's not in the same format and I didn't see your amendment on the poker, I am assuming that I have the correct language. I just want to make one other comment about the last sentence where it talks about a tournament, an organization

shall charge each player an entry fee, and what I've got down is, the organization must retain at least 10% of the gross proceeds, as opposed to the language that says the amount of prizes may not exceed 90%. We would like to see that language, if in fact you do adopt this amendment, just from the standpoint of determining what is 90% of gross proceeds, if they give away a lot of merchandise prizes, it can be difficult, as opposed to just saying that the organization must retain 10% of the gross proceeds.

**Representative Maragos:** I just want a little different information. What has been the trend, in the number of charities, that have licenses, what was the peak and where are we now in the total number of licenses, charitable licenses that are out there.

**Keith Lauer:** Really the number of charities hasn't changed much. Usually during a year's period of time, we run about 360 organizations that run some type of charitable gaming through the Attorney General's office. What has changed is the level of activity. At our high point, in the mid '90s, we were at wagers of around \$300 million in gross wagers, and now we're down to about \$270 million. At its low point, it was down at around \$250 million in recent years. But it has come back with the \$25 blackjack.

**Representative Maragos:** How about sites as opposed to charitable licenses. Are there more or less sites, can you kind of give us an idea of what's been happening in that regard.

**Keith Lauer:** There again, I think in the mid '90s, we probably peaked out as the number of sites, close to 1,000 sites; we're probably somewhere in the neighborhood of 850 right now. Part of that has been that, in the mid '90s, when we came out with the pull tab dispensing devices that dispensed the pull tab tickets, we had a lot of small bars that got into it, but then some of the charities have cut back on those sites now because they just aren't profitable anymore.

**Representative Maragos:** Charities can run sports pools legally, can't they.

**Keith Lauer:** That's correct, but it's a \$5 bet limit.

**Representative Maragos:** Are you aware of any that are doing that now, or is it all being done illegally.

**Keith Lauer:** There's organizations doing that. In fact, we just approved a 43 line board to use with NASCAR races. Someone came up with the idea, we had down in our Administrative Rules using less lines than that, somebody said well how about for NASCAR races, it's very popular right now. Well there's a \$5 bet limit, but if you want to use 43 lines and usually there's 43 drivers, it sounds like a good idea to me.

**Representative Klemin:** As far as the occasions equaling 3 days, really under your Administrative Rules, you could change that to equal 6 days or 4 days or whatever.

**Keith Lauer:** I think three days became a popular time because maybe a Thursday, Friday & Saturday, or a Friday, Saturday & Sunday, that type of thing. It certainly could be changed to 6, but it probably isn't practical, that people would take off work to play in poker tournaments.

**Representative Klemin:** It wouldn't be mandatory that you have 6 days, but it would just be permissive then, if you changed it, so that there's really no limit. Is this the section that started out as smokers. The organizations wanted to have smokers once in a while.

**Keith Lauer:** That's correct.

**Representative Klemin:** Now we're up to practically every day.

**Representative Maragos:** I would move the question on this particular amendment.

**Chairman DeKrey:** We don't have a second or anything.

**Representative Klemin:** Most people don't have the amendment.



**Representative Koppelman:** I really believe that, you point out in the committee, that we need to be careful when we tread into areas where substantive issues are being added to bills that, even the germaneness of which you might question, but certainly things that haven't had hearings and so on, and I know we do that sometimes, but usually we do it in the context of the bill, or trying to fix a bill, or trying to deal better with an issue a bill addresses. This bill is a very simple housekeeping bill that deals with a technicality about audits and how books are kept for these organizations. All of the stuff we're seeing now, is pretty substantive, it's pretty major, I would submit that it probably should have come before the legislature as a bill, at the beginning of the session, I don't think the popularity of Internet live poker, has happened since we've been in Bismarck, and we've been hearing about it all session. Not Internet live poker, excuse me, Texas Hold 'Em. We even have a process now, if this is that vital a need for these organizations, we have a process for late bills, and they can go to leadership and ask for this to be introduced. I just don't see that tacking it on to this kind of a bill... unless it's been through one chamber, after a public hearing on a bill was over ...is a good process for the legislature, so I'm going to resist the amendments.

**Chairman DeKrey:** There's a gentleman that wants to say something.

**Tom Newberger, Red River Human Services Foundation:** I'm here in strong opposition of the amendment on the poker, very strong opposition to the poker amendment, but I do support the raffle amendment. The reason I'm opposed to the poker amendment, is that right now you can have Texas Hold 'Em's twice per organization. We are spending huge amounts of time preparing for it, I had a three hour meeting with the City of Fargo Auditor, the other day. It took 3 hours of my time, the gaming director of our organization has taken a lot of time to prepare for

it. We're training staff on that. All of those dollars take away money from our programs. I worked for an agency that supports the most vulnerable people in the state, those with developmental disabilities. We are 100% Medicaid funded. We have not had an inflationary increase in three years, and every time that we have to pay more staff to go out and work these special events, we have less money for our charitable purposes. We, in essence, are being forced to run poker, basically I had a brief conversation with Mr. Potter beforehand, and he said, well if you don't want to do the poker, just tell your bar owners no. Well if we do that, when lease renewal time comes around, we will be out. As charities gain more and more sites, what they'll be able to do is to offer poker more and more often, and they will get rid of these small operators. So in my view, we will see a lot of small charities going out of business, and in terms of charitable gaming, the larger ones will become larger. That is my concern. So my solution is, either we have Texas Hold 'Em poker wide open, every day of the year, so we can train our staff and do a good job on it and spread that risk out. The way it is right now, with the limited poker, even with the 2 opportunities per site, it will increase our risk of loss. Again, the bar owners are clamoring for more poker, as Mr. Potter said. The reason for that is because they make money, to the detriment of the charity. I had a conversation with Mr. Lauer, and he was saying, at best, the charities are breaking even on it. Talking to the Fargo City auditor, she was saying that some charities are opposed to it, because they're being forced to do it. Like Mr. Potter said, there's only one organization in the state that opposes it. I would strongly urge you to kill this amendment, in fact, it would make me happy if instead you would say, get rid of poker all together, because we're being forced to do things where we are losing money.

**Representative Delmore:** This committee heard the Internet poker bill, which, of course, wasn't gaming, but I would beg to differ with you, that poker is going to continue one way or another, whether it's in somebody's home, whether it's in a dorm, whatever. We know that it's going on, and it's legal to do in that way. Do you do any poker in any of your sites now.

**Tom Newberger:** Yes we do. We have one site in Fargo where we are working on it right now, and we are working with a consultant and I asked the consultant how much money can we expect to make, and he said, I can't guarantee anything, in fact, you will need someone to guarantee the prize. So I said, we could lose \$5,000; well you could make \$1,000 maybe \$2,000, but you could lose a considerable amount of money. I am concerned about funding for our charity.

**Representative Delmore:** That could be with any of your games, however. You could also lose in a blackjack series, if you had the right player that came in, that's one of the risks that charitable organizations have to continue to take.

**Tom Newberger:** Exactly, you hit it right on the head. Except with poker, the number of times is so limited, if you lose money, you can't make it up. With 21, Bingo, you can operate every night and in the long term, you do make money off of it. With the limited amount of poker time available, we could stand to lose money.

**Representative Maragos:** Can you cancel a poker tournament if you don't have enough registration.

**Tom Newberger:** I'm not sure, perhaps Mr. Lauer...

**Keith Lauer:** I don't see why not.

**Representative Maragos:** So how could you lose.

**Tom Newberger:** We could cancel it, I don't know what that would do with the relationship of the bar owner, was it not promoted enough, did we not spend enough money on advertising, so it is a possibility to cancel it.

**Representative Maragos:** If some bar owner doesn't understand that you could lose money, I would be quite surprised as a business person. You can certainly protect yourself against loss.

**Tom Newberger:** To give you an example, we used to operate Bucks here in Bismarck. The management there was very one-sided, they're concerned about the operations of the bar, their bottom line, they were not concerned about our bottom line. They had us, have Bar Bingo, which we agreed to do, we were not paying out enough in their estimation, so we ended up paying out well over 100% to satisfy the bar owners. We subsequently came to a legislature and asked for a law change to prevent that from happening, which did happen. We do not operate with bar owners that look at it as a win-lose situation. We need it to be a win-win situation, because again I go back to our programs for people with developmental disabilities and I cannot afford to take dollars and basically help the bar to our detriment.

**Representative Meyer:** The charities take a rake off every table every half hour, on tournament play. I don't understand where you lose money.

**Tom Newberger:** We can lose money if we do not have enough players that show up, if there's a prize amount, we could lose money. But it goes back to the point, could we cancel it, and my understanding is that yes, we could. But again, we've invested all the time, we have to pay a fee to the City of Fargo, we have staff training time, all those dollars are gone when we cancel the program, and we're out those dollars for our charity.

**Representative Meyer:** But the rake goes entirely to the charities every half an hour, the rake off each table.

**Tom Newberger:** That I would defer to Mr. Lauer.

**Representative Maragos:** Could you promote it as a percentage of the registrants, up to a certain amount, rather than cancel it, we'll pay out 90% of the registration.

**Tom Newberger:** Again, I would defer that Mr. Lauer, but I believe that is possible.

**Representative Maragos:** So there's really a lot of ways to avoid it, if a charity really wants to.

**Tom Newberger:** There is, but again if we're expecting 300 players, and 25 show up, and let's say we make \$200 off of the day, by the time you factor in taxes, the training, all of those types of things, we could lose money for our charity.

**Representative Maragos:** If you had nobody show up to play your pull tabs, wouldn't you have the same problem.

**Tom Newberger:** Yes, we would, but we have not encountered that situation.

**Representative Maragos:** I would move those two amendments.

**Representative Delmore:** Seconded.

**Chairman DeKrey:** The amendments have been moved and seconded. Is there further discussion on them.

**Representative Bernstein:** I guess I would have preferred to take them separately, because I can support one, but I can't support the other one.

**Representative Maragos:** I would withdraw my motion.

**Representative Delmore:** I would as well.

**Representative Maragos:** If you would, we'll take the first amendment on the poker, I would move that amendment.

**Representative Delmore:** Seconded.

**Chairman DeKrey:** Clerk will call the roll.

**Representative Klemin:** I just want to make a comment, too. I agree with Representative Koppelman, we really didn't have a hearing on this, this is the second chamber this bill is in on, and it has nothing to do whatsoever with poker, it didn't come in that way and we're certainly on the fringe of violating our own rules here, by the germaneness of these amendments. Secondly, this is sort of like, we used to have these Christmas tree bills, that and now we've got this bill here. So we're coming in after the deadline for bills and starting to tack on amendments that relate to sort of diverse subjects. I don't think we ought to amend this bill at all.

**Representative Maragos:** My response to that, I guess, is it all depends on what the bill is about, Representative Klemin. I can assure you that it is germane, because this is the one gaming bill left, and we talked to the sponsor of the bill, and he gave us the okay to amend his bill if it were the committee's desire.

**Representative Klemin:** I don't think that any bill sponsor has the right to say it's okay to violate the constitution, if that's what we're doing. That's a constitutional prohibition.

**Representative Maragos:** I guess that's an opinion.

**Chairman DeKrey:** Clerk will call the roll on the poker amendment to SB 2384.

6 YES 7 NO 1 ABSENT      MOTION FAILS

**Chairman DeKrey:** Poker amendment fails, 6-7-1.

**Representative Bernstein:** I move the raffle amendment.

**Representative Delmore:** Seconded.

**Chairman DeKrey:** Nobody's talked much about the raffle amendment, but I'm going to support the raffle amendment, because I think it is more of a technical change, than it is substantive change. I think the poker amendment was a substantive change and we hadn't had a hearing on it. But the raffle amendment is pretty much of a technical change. We've already had one organization in the state that violated state law by paying out the prize, so it does involve a problem that exists, and nobody is going to make any more money off of it.

**Representative Maragos:** I think I might oppose this, because it could be a violation of the constitution.

**Chairman DeKrey:** Further discussion, Clerk will call the roll on the raffle amendment.

**9 YES 4 NO 1 ABSENT      MOTION CARRIED.**

**Chairman DeKrey:** We now have the bill before us as amended.

**Representative Delmore:** I move a Do Pass as amended.

**Representative Kretschmar:** Seconded.

**12 YES 1 NO 1 ABSENT      DO PASS AS AMENDED    CARRIER: Rep. Zaiser**

Date: 3/14/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2384

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

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

Action Taken

Do Pass

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	A				
Representative Galvin	✓				
Representative Kingsbury	A				
Representative Klemin	✓				
Representative Koppelman	✓				
Representative Kretschmar	✓				

Total (Yes)

11

No

0

Absent

3

Floor Assignment

Rep. Zaiser

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



**REPORT OF STANDING COMMITTEE (410)**  
March 14, 2005 11:15 a.m.

**Module No: HR-46-4844**  
**Carrier: Zaiser**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2384: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS**  
(11 YEAS, 0 NAYS, 3 ABSENT AND NOT VOTING). SB 2384 was placed on the  
Fourteenth order on the calendar.

## PROPOSED AMENDMENTS TO SENATE BILL NO. 2384

Page 1, after line 13, insert:

**"Section 2. AMENDMENT.** Section 53-06.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.2. Poker.** Poker may be conducted on not more than two occasions per site per year. An organization may supply the dealer. The maximum single bet is one dollar. Not more than three raises, of not more than one dollar each, may be made among all the players in each round of bets. For nontournament activity, an organization shall charge each player a fee not to exceed two dollars per one-half hour of playing time, collected in advance. For a tournament, an organization shall charge each player an entry fee and the ~~amount of prizes may not exceed ninety percent~~ organization must retain at least ten percent of the gross proceeds.

**Section 3. AMENDMENT.** Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10.1. Raffles.** A prize for a raffle may be cash or merchandise but may not be real estate. No single cash prize may exceed one thousand dollars and the total cash prizes in one day may not exceed three thousand dollars. However, on not more than one occasion per year a licensed organization may, at its option and at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize."

Renumber accordingly

2384

## Proposed Amendment

Section 53-06.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.2. Poker.** Poker may be conducted on not more than two occasions per site per year. An organization may supply the dealer. The maximum single bet is one dollar. Not more than one dollar each, may be made among all the players in each round of bets. For nontournament activity, an organization shall charge each player a fee not to exceed two dollars per <sup>one</sup> hour-half hour of playing time, collected in advance. For a tournament, an organization shall charge each player an entry fee and the amount of prizes may not exceed ninety percent organization must retain at least ten percent of the gross proceeds.

Date: 3/22/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2384

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

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

Action Taken Poker Amendment

Motion Made By Rep. Maragos Seconded By Rep. Delmore

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

Total (Yes) 6 No 7

Absent 1

Floor Assignment Motion Failed

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

**House Amendments to SB 2384 - Judiciary Committee 03/22/2005**

Page 1, line 1, after "53-06.1-06" insert "and section 53-06.1-10.1"

Page 1, line 2, after "to" insert "raffles and"

Page 1, after line 13, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10.1. Raffles.** A prize for a raffle may be cash or merchandise but may not be real estate. No single cash prize may exceed one thousand dollars and the total cash prizes in one day may not exceed three thousand dollars. However, on not more than one occasion per year a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize."

Renumber accordingly

Date: 3/22/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2384

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

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

Action Taken Raffle Amendment

Motion Made By Rep. Bernstein Seconded By Rep. Delmore

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

Total (Yes) 9 No 4

Absent 1

Floor Assignment Motion Carried

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

Date: 3/22/05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2384

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

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

Action Taken Do Pass as Amended

Motion Made By Rep. Delmore Seconded By Rep. Kretschmar

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

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Zaiser

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

**REPORT OF STANDING COMMITTEE**

**SB 2384: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2384 was placed on the Sixth order on the calendar.

Page 1, line 1, after "53-06.1-06" insert "and section 53-06.1-10.1"

Page 1, line 2, after "to" insert "raffles and"

Page 1, after line 13, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-10.1. Raffles.** A prize for a raffle may be cash or merchandise but may not be real estate. No single cash prize may exceed one thousand dollars and the total cash prizes in one day may not exceed three thousand dollars. However, on not more than one occasion per year a licensed organization may, at the request of a winning player, exchange a merchandise prize valued at not more than twenty-five thousand dollars for a cash prize."

Renumber accordingly



2005 SENATE JUDICIARY

CONFERENCE COMMITTEE

SB 2384

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2384

Senate Judiciary Committee

☒ Conference Committee

Hearing Date April 4, 2005

Tape Number	Side A	Side B	Meter #
1	X		5538- END
1		X	1-1700
Committee Clerk Signature <i>Jey Hays</i>			

Minutes:

**Chairman Syverson called the conference committee to order to discuss SB 2384. All members were present: Senators Hacker & Triplett, Representatives Klemin, Koppelman, & Onstad.**

**Chairman Syverson-** This bill establishes rules for gaming sites and there was some confusion on how the rules would be acceptable for the gaming commission. It also addresses the granting of awards for various raffles, and accepting cash instead of the merchandise.

**Representative Klemin-** The ND Wildlife Federation allows a cash prize as an alternative for the raffle prize. For example, if someone won a pick-up, they could take a cash prize of \$25,000 instead of the truck. The House judiciary committee agreed with that amendment.

**Mike Donahue, representing the ND Wildlife Federation appeared before the committee.**

**Chairman Syverson-** Is \$25,000 adequate for most pickups today? I know the retail price of a lot of them are far above that.

**Mike-** Yes. Our organization has been discussing that. In the future it is likely the figure would have to be raised to perhaps \$30,000, with the cost of living and inflation figured into it.

**Senator Hacker-** Does your organization purchase the truck at the retail price?

**Mike-** We don't actually purchase the truck, we make arrangements with the dealer.  
We have the raffle once a year.

**Senator Triplett-** Why didn't we concur on this amendment?

**Chairman Syverson-** I believe it was because of the dollar limitation.

**Chairman Syverson brought the amendment proposed by Ken Karls, relating to poker regulation for the committee's consideration. See attached.**

**Representative Koppelman-** We considered this amendment in the House side. The House committee decided not to attach it to the bill at this point. I understand there is another bill in the Senate that dealt with the poker issue, but was killed. So, my advice would be to introduce a late bill and have a hearing on it.

**Representative Klemin-** This bill does not include anything about poker, and the amendment would not be germane to this piece of legislation. He recited rule 301, paragraph 5 from the conference committee guidelines.

**The committee agreed to not consider the amendment with SB 2384.**

**Chairman Syverson-** I think that moving the \$25,000 to \$30,000 amount for the raffle might have some merit.

**Representative Klemin-** We could always change that amount in the future, we meet every 2 years.

**Representative Onstad-** If the limit was set at \$50,000 that could be an option, since there is no cost at the state level.

**Senator Triplett-** Anyone who wins a prize, always has the right to deal with the dealership and trade the prize back in for cash.

**Chairman Syverson-** The way the amendment currently stands is that a \$80,000 motor home for example, could not be traded in for a cash prize, since the limit is \$35,000.

**Senator Hacker-** No matter what the price tag is on the merchandise, we need a standard amount to go by.

**Representative Klemin-** The merchandised prize can not be valued at more than a certain dollar amount for the person to trade it in for cash. Right now, with this amendment, the winning person does not get the choice of a cash prize unless the merchandise is \$25,000 or less.

**Representative Koppelman-** Mike, do you currently do this type of conversion with your raffle?

**Mike-** There was an ATV type of vehicle worth \$6,000 in Minot where the winner of the raffle chose to take the cash instead. It was in violation of state law since only merchandise worth \$1000-\$3000 can be exchanged for cash.

**Chairman Syverson-** So, right now the law would not accomodate a prize valued at more than \$3000 to be exchanged for cash?

**Mike-** Yes.

**Representative Koppelman-** If a person went back to the dealership to exchange the vehicle for cash, rather than going to the organization who sponsored the raffle, can that be done?

**Mike-** Yes, that has been done.

Action taken:

Page 4

Senate Judiciary Committee

Bill/Resolution Number SB 2384

Hearing Date April 4, 2005

**Senator Triplett moved to accede the House amendments to SB 2384. Seconded by Senator**

**Hacker. The vote was 6-0-0. Chairman Syverson will be the carrier of the bill.**

**Chairman Syverson closed the conference committee meeting on SB 2384.**

ATTN: KEN KARLS**Proposed Amendment**

Section 53-06.1-07.2 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.1-07.2. Poker.** Poker may be conducted on not more than two occasions per site per year. An organization may supply the dealer. The maximum single bet is one dollar. Not more than one dollar each, may be made among all the players in each round of bets. For nontournament activity, an organization shall charge each player a fee not to exceed two dollars per non-half hour of playing time, collected in advance. For a tournament, an organization shall charge each player an entry fee and the amount of prizes may not exceed ninety percent organization must retain at least ten percent of the gross proceeds.

Date:  
Roll Call Vote #:

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2384

Senate Judiciary Conference Committee Committee

☒ Check here for Conference Committee

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

Action Taken move to accede House amendments

Motion Made By Triplett Seconded By Hacker

Senators	Yes	No	Representatives	Yes	No
Senator Syverson <i>Chair</i>	X		Rep. Klemin	X	
Senator Hacker	X		Rep. Koppelman	X	
Senator Triplett	X		Rep. Onstad	X	

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Syverson Rep. \_\_\_\_\_

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

**Insert LC: .**

**REPORT OF CONFERENCE COMMITTEE**

**SB 2384:** Your conference committee (Sens. Syverson, Hacker, Triplett and Reps. Klemin, Koppelman, Onstad) recommends that the **SENATE ACCEDE** to the House amendments on SJ pages 1117-1118 and place SB 2384 on the Seventh order.

SB 2384 was placed on the Seventh order of business on the calendar.



2005 TESTIMONY

SB 2384

# **SB 2384**

## **Related to Games of Chance**

**February 7, 2005**

Chairman Traynor and members of the Senate Judiciary committee, my name is Tom Newberger and I am the Executive Director for Red River Human Services Foundation in Fargo and Wahpeton, North Dakota. I am here today to testify in support of SB 2384.

I support this Bill because the word "adequate" in North Dakota Century Code 53-06.1.06.3 needs to be removed. Currently the definition of what is "adequate" is left up to the person interpreting it. This leads to confusion. In my opinion, the best way clarify what "an adequate system of internal control" is, is to remove the word "adequate" from the law and to have the rule making process define what is needed.

This proposed change is consistent with other language in the Games of Chance Laws. For example, later in the same section the law talks about an organization not renewing its' gaming license and how the gaming rules will determine a plan of correction. Similarly, section NDCC 53-06.1.06.5c states that a criminal background check must occur, unless a person is exempt by gaming rules."

Mr. Chair and members of the Committee, I would encourage you to support this Bill.

Thank you and I will answer any questions you may have.

# **SB 2384 - Related to Games of Chance**

## **House Judiciary Committee**

**March 14, 2005**

Chairman Duane DeKrey and members of the House Judiciary Committee, my name is Tom Newberger and I am the Executive Director for Red River Human Services Foundation in Fargo and Wahpeton, North Dakota. I am here today to testify in support of SB 2384.

I support this Bill because the word "adequate" in North Dakota Century Code 53-06.1.06.3 needs to be removed. Currently the definition of what is "adequate" is subject to interpretation. This leads to confusion. In my opinion, the best way clarify what "an adequate system of internal control" is, is to remove the language from law and to have the rule making process define what is needed.

This proposed change is consistent with other language in the Games of Chance Laws. For example, later in the same section the law talks about an organization not renewing its' gaming license and how the gaming rules will determine a plan of correction. Similarly, section NDCC 53-06.1.06.5c states that a criminal background check must occur, unless a person is exempt by gaming rules."

Mr. Chair and members of the Committee, I would encourage you to support this Bill.

Thank you and I will answer any questions you may have.