

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2/50

2007 SENATE JUDICIARY

SB 2150

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2150

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 12, 2007

Recorder Job Number: 1128

Committee Clerk Signature

Miriam L. Solberg

Minutes: Relating to net proceeds and gaming taxes.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Sen. Bowman – Dist.# 39 Introduced the bill. Meter (:15) Sited constituents complaints on the state receiving more money then the charity does. I tried to address it in the simplest form I could think of. Discussed how in the end the state and the charity receives equal halves of the final proceeds. Sited another bill has been submitted that also address this issue. Discussed fiscal note. The state is receiving \$70,000 in excess that the charities should be receiving.

Sen. Nelson stated why allowable expenses were raised to 53% and you want us to go back to the old language of 50%. That was determined in a before expense factor not after expenses.

Todd Kranda – Attorney on behalf of Charitable Gambling (meter 4:52) After speaking with Sen. Bowman and our legislative committee for C-GAM to find out the circumstances. Before the meeting I spoke with Mr. Lauer-while we appreciate the concept of the bill, I do not quite understand how this process will work and I will have to work with Mr. Lauer on this.

Sen. Lyson asked Mr. Bowman about SB 2225. Discussion (meter 8:06)

12

Testimony in Opposition of the Bill:

Warren DeKrey, Chrm. Of ND Council on Gambling Problems. (meter 8:30) Gave testimony –

Att. #1

Tom Freier – NDFA (meter 11:11) We are against any advancement in the gambling industry and are in agreement with Mr. DeKrey.

Dennis Daniel – Citizen (meter 12:07) Why are the charities worried about 50%. They are the ones who hire someone from out of state to do the work. The reason the 50/50 is off is due to administrative fees that they choose to pay.

Testimony Neutral to the Bill:

Keith Lauer – Attorney General's Office (meter 13:45) Gave Testimony and discussed the complication of this process will be if passed- Att. #2 While this industry is heavily taxes It would be better if we had something easier to work with.

Sen. Nelson requested another review of the process. (meter 21:08)

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2150**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2429

Committee Clerk Signature *Mona L Solby*

Minutes: Relating to net proceeds and gaming taxes

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

The committee discussed a bill of similar nature in Finance and Tax. This bill having passed was a clearer bill.

Sen. Olafson made the motion to Do NOT Pass SB 2150 and **Sen. Marcellais** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Marcellais**

Senator David Nething, Chairman closed the hearing.

FISCAL NOTE
Requested by Legislative Council
01/10/2007

Bill/Resolution No.: SB 2150

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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$70,000		\$10,000	
Appropriations			\$70,000		\$10,000	

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Gaming, pull-tab excise, and bingo sales tax deductions are used to compute an organization's adjusted and net proceeds. This bill will be very difficult to implement since the tax deductions would keep changing in order to avoid taxes exceeding 50% of organization's net proceeds.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The estimated fiscal impact of this bill on revenues is not possible to predict due to the changing tax amounts discussed above.

This bill will require a significant rewrite of the Gaming tax return system. This will be a nine month project, which will exceed the August 1, 2007 deadline for the change.

Due to the complicated calculations, gaming organizations will be able to complete only a portion of the tax return, and then need to send it to this office to calculate the taxes due.

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 estimated general fund revenue impact of this bill is not possible to predict due to the changing tax amounts discussed above. However, the bill will significantly decrease revenues to the state from gaming and pull-tab excise taxes.

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.*

This bill will require a significant rewrite of the Gaming tax return system. This will be a nine month project, which will exceed the August 1, 2007, deadline for the change.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a*

continuing appropriation.

A general fund appropriation of \$70,000 will be needed to implement the provisions of this bill. A 2009-11 biennium appropriation is reflected to maintain the changes to the Gaming system.

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	01/12/2007

REPORT OF STANDING COMMITTEE (410)
January 31, 2007 1:20 p.m.

Module No: SR-21-1642
Carrier: Marcellais
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2150: Judiciary Committee (Sen. Nething, Chairman) recommends DO NOT PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2150 was placed on the
Eleventh order on the calendar.

2007 TESTIMONY

SB 2150

Att #1
1-15-07

**Chairman Nething & members of the Senate Judiciary
Committee**

**My name is Warren DeKrey, Chrm. Of the ND Council on
Gambling Problems**

I appear in opposition to SB 2150

**This bill would lower taxes on certain forms of charitable
gambling.**

**This bill would give special consideration to certain forms of
charitable gambling or could be considered a form of subsidy
to an entity that produces no wealth and one which is merely
involved in redistribution of wealth.**

**Most charitable gambling is a very inefficient form of fund
raising. Expenses for many are 50% or more of their take.**

**Many of us senior citizens can remember working with fund
drives for community projects where all the labor was
volunteer and all the funds solicited went to the project.
Most of the funds came from those who could afford it, in
contrast to charitable gambling which attracts many who can
least afford it.**

**Most of us would like to have our real estate, income tax and
sales tax reduced. Certainly charitable gambling taxation
would have last priority for most North Dakotans.**

I urge a no vote on SB 2150

SENATE BILL NO. 2150

Keith Lower

HT #2

1-15-07

According to Senate Bill No. 2150, notwithstanding section 53-06.1-12 (listed below) the total amount of gaming tax, excise tax, and bingo card sales tax imposed upon a licensed organization in a quarter may not exceed one-half of the licensed organization's net proceeds for that quarter.

53-06.1-12. Gaming and excise taxes - Exception - Deposits and allocations.

1. A gaming tax is imposed on the total adjusted gross proceeds earned by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. The tax rates are:
 - a. On adjusted gross proceeds not exceeding two hundred thousand dollars, a tax of five percent.
 - b. On adjusted gross proceeds exceeding two hundred thousand dollars but not exceeding four hundred thousand dollars, a tax of ten percent.
 - c. On adjusted gross proceeds exceeding four hundred thousand dollars but not exceeding six hundred thousand dollars, a tax of fifteen percent.
 - d. On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of twenty percent.
2. Except as provided in subsection 3, in addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of four and one-half percent on the gross proceeds from the sale at retail of pull tabs to final users. This includes pull tabs provided to a player in exchange for redeemed winning pull tabs. The tax must be paid to the attorney general when tax returns are filed.
3. For organizations whose gross proceeds of pull tabs do not exceed four thousand dollars per calendar quarter, no excise tax may be imposed on the gross proceeds from the sale at retail of pull tabs to final users.
4. Except as provided in subsection 5, the state treasurer shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
5. The state treasurer shall deposit three percent of the total taxes, less refunds, collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

The following is an example of the application of Senate Bill No. 2150 on the actual gaming tax return filed by the Bowman County Development Corp. for the quarter ended September 30, 2006:

ND Excise Tax, Line 12	Bingo Sales Tax, Line 14	Gaming Tax, Line 17	Total Tax	Net Proceeds, Line 18	1/2 Net Proceeds	Total tax over 1/2 Net Proceeds
\$5,611	\$491	\$1,154	\$7,256	\$6,630	\$3,315	\$3,941

According to section 53-06.1-01 (13) (Definitions):

"Net proceeds" means adjusted gross proceeds less allowable expenses and gaming tax.

Based on this example the organization would be paying \$3,941 over one-half of the calculated Net Proceeds earned for the quarter. Therefore, the organization would need to eliminate the Gaming Tax, Line 17, by \$1,154. By doing this the Net Proceeds, line 18, would be increased by the same \$1,154 resulting in new Net Proceeds of \$7,784.

ND Excise Tax, Line 12	Bingo Sales Tax, Line 14	Gaming Tax, Line 17	Total Tax	Amended Net Proceeds, Line 18	Amended 1/2 Net Proceeds	Amended Total tax over 1/2 Net Proceeds
\$5,611	\$491	0	\$6,102	\$7,784	\$3,892	\$2,210

According to this example the organization has still paid \$2,210 over one-half of the Net Proceeds earned for the quarter.

Therefore, ND Excise Tax would need to be reduced by this amount which, would increase the Adjusted Gross Proceeds (Line 15, column C – see definition below) for the organization and increase the organizations Allowable Expenses (Lines 16a, 16b, 16c, and 16d) thus increasing the Net Proceeds amount .

According to section 53-06.1-01 (1) (Definitions):

"Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, sales tax on bingo cards, pull tab excise tax, and federal excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].

Amended ND Excise Tax, Line 12	Bingo Sales Tax, Line 14	Gaming Tax, Line 17	Total Tax	Amended Net Proceeds, Line 18	Amended 1/2 Net Proceeds	Amended Total tax over 1/2 Net Proceeds
\$3,401	\$491	0	\$3,892	\$9,330	\$4,665	-\$773

As the example shows the organization has now paid less than one-half of the Net Proceeds earned and would again need to adjust (increase) the ND Excise Tax to an amount where the Total Tax Paid would not exceed one-half of the Net Proceeds. This same calculation would continue until the difference between the Total Tax and one-half of the Net Proceeds was considered immaterial.



NORTH DAKOTA GAMING TAX RETURN
OFFICE OF ATTORNEY GENERAL

SFN 9809 (7-06)

Original Filed Return

G-0166

Bowman County Development Corp

Quarter Ended September 30, 2006

PART I - TOTAL GAMING ACTIVITY		A	B	C	D
		Gross Proceeds	Prizes	Adj. Gross Proceeds	Cash Profit
1.	Bingo	8,667	7,795	872	872
2.	Raffles			0	
3a.	Pull Tabs - Jar Bar	7,055	5,774	1,281	1,334
3b.	Pull Tabs - Dispensing Devices	123,138	97,157	25,981	25,985
3c.	Club Specials, Tip Boards, Seal Boards, Coin Boards			0	
4.	Punchboards			0	
5.	Sports Pools			0	
6.	Twenty-One	6,058	5,112	946	946
7.	Calcuttas			0	
8a.	Paddlewheels			0	
8b.	Paddlewheels-used with a table			0	
9.	Poker			0	
10.	Other (Including Interest & Net Total Cash Long)	97		97	40
11.	Subtotal	145,015	115,838	29,177	29,177
12.	ND Excise Tax (.0431 x Sum of lines 3a, 3b, & 3c col A) * <input type="checkbox"/>	5,611		5,611	
13.	Federal Excise Tax from Federal Form 730 (attach copies)				
14.	Bingo Sales Tax from N.D. Sales Tax Return	491		491	
15.	TOTAL (Line 11 less lines 12, 13, and 14)	138,913	115,838	23,075	

If total gross proceeds for pull tabs, lines 3a, 3b, & 3c of column A, is \$4,000 or less, the organization is exempt from the ND Excise Tax. If exempt, check the box.

PART II - ALLOWABLE EXPENSES, GAMING TAX, NET PROCEEDS			
16a.	Allowable Expenses - 51% of first \$200,000 of line 15, column C plus 45% of the amount over \$200,000	11,768	
16b.	Allowable Expenses - .0235 x Sum of lines 3a, 3b, & 3c column A	3,060	
16c.	Allowable Expenses - Video surveillance equipment purchased - Attach documentation		
16d.	Additional Allowable Expenses - Worksheet Attach Documentation	463	Total (a+b+c+d)
17.	Gaming Tax - 5% of the first \$200,000 of line 15, column C. If over \$200,000, see instructions		1,154
18.	Net Proceeds - Line 14, column C, less lines 15 and 16		6,630
19.	Net Proceeds Carryover - amount from line 21 of prior quarter's return		(162,739)
20.	Adjustment - Attach explanation		0
21.	Amount transferred to trust fund account this quarter		7,879
22.	Net proceeds carry-over - Line 18 plus line 19, plus or less line 20, less line 21		(163,988)

PART III - TRUST ACCOUNT				
23.	Trust carry-over - Amount from line 27 of prior quarter's return	599	29. End of quarter gaming account check register (s) balance	31,084
24.	Amount transferred to trust account this quarter - Amount from line 20	7,879	30. Total gaming expenses for all sites	15,649
25.	Adjustment - Include interest and service fees - Attach explanation	0	31. Total Tax Due-Line 12 plus Line 17. Remit payment to Attorney General	6,765
	Eligible use contributions this quarter - Total from Schedule C	7,879	SIGNATURE AND VERIFICATION	
	Trust carry-over - Line 23 plus line 24. + or - line 25, less line 26	599	Signature of top official or governing board member	Date
28.	End of quarter trust account check register and marketable securities balance	599	Signature of preparer	Day Phone

(two signatures required)



NORTH DAKOTA GAMING TAX RETURN
OFFICE OF ATTORNEY GENERAL

SFN 9809 (7-06)

1st Amended Return

G-0166

Bowman County Development Corp

Quarter Ended September 30, 2006

PART I - TOTAL GAMING ACTIVITY		A Gross Proceeds	B Prizes	C Adj. Gross Proceeds	D Cash Profit
1.	Bingo	8,667	7,795	872	872
2.	Raffles			0	
3a.	Pull Tabs - Jar Bar	7,055	5,774	1,281	1,334
3b.	Pull Tabs - Dispensing Devices	123,138	97,157	25,981	25,985
3c.	Club Specials, Tip Boards, Seal Boards, Coin Boards			0	
4.	Punchboards			0	
5.	Sports Pools			0	
6.	Twenty-One	6,058	5,112	946	946
7.	Calcuttas			0	
8a.	Paddlewheels			0	
8b.	Paddlewheels-used with a table			0	
9.	Poker			0	
10.	Other (Including Interest & Net Total Cash Long)	97		97	40
11.	Subtotal	145,015	115,838	29,177	29,177
12.	ND Excise Tax (.0431 x Sum of lines 3a, 3b, & 3c col A) * <input type="checkbox"/>	5,611		5,611	
13.	Federal Excise Tax from Federal Form 730 (attach copies)				
14.	Bingo Sales Tax from N.D. Sales Tax Return	491		491	
15.	TOTAL (Line 11 less lines 12, 13, and 14)	138,913	115,838	23,075	

If total gross proceeds for pull tabs, lines 3a, 3b, & 3c of column A, is \$4,000 or less, the organization is exempt from the ND Excise Tax. If exempt, check the box.

PART II - ALLOWABLE EXPENSES, GAMING TAX, NET PROCEEDS			
15a.	Allowable Expenses - 51% of first \$200,000 of line 15, column C plus 45% of the amount over \$200,000	11,768	
16b.	Allowable Expenses - .0235 x Sum of lines 3a, 3b, & 3c column A	3,060	
16c.	Allowable Expenses - Video surveillance equipment purchased - Attach documentation		
16d.	Additional Allowable Expenses - Worksheet Attach Documentation	463	Total (a+b+c+d)
17.	Gaming Tax - 5% of the first \$200,000 of line 15, column C. If over \$200,000, see instructions		15,291
18.	Net Proceeds - Line 14, column C, less lines 15 and 16		0
19.	Net Proceeds Carryover - amount from line 21 of prior quarter's return		7,784
20.	Adjustment - Attach explanation		(162,739)
21.	Amount transferred to trust fund account this quarter		0
22.	Net proceeds carry-over - Line 18 plus line 19, plus or less line 20, less line 21		7,879
			(162,834)

PART III - TRUST ACCOUNT				
23.	Trust carry-over - Amount from line 27 of prior quarter's return	599	29. End of quarter gaming account check register (s) balance	31,084
24.	Amount transferred to trust account this quarter - Amount from line 20	7,879	30. Total gaming expenses for all sites	15,649
25.	Adjustment - Include interest and service fees - Attach explanation	0	31. Total Tax Due-Line 12 plus Line 17. Remit payment to Attorney General	5,611
	Eligible use contributions this quarter - Total from Schedule C	7,879	SIGNATURE AND VERIFICATION	
27.	Trust carry-over - Line 23 plus line 24. + or - line 25, less line 26	599	Signature of top official or governing board member	Date
28.	End of quarter trust account check register and marketable securities balance	599	Signature of preparer	Day Phone

(two signatures required)



NORTH DAKOTA GAMING TAX RETURN

2nd Amended Return

OFFICE OF ATTORNEY GENERAL

SFN 9809 (7-06)

G-0166

Bowman County Development Corp

Quarter Ended September 30, 2006

PART I - TOTAL GAMING ACTIVITY				
	A Gross Proceeds	B Prizes	C Adj. Gross Proceeds	D Cash Profit
1. Bingo	8,667	7,795	872	872
2. Raffles			0	
3a. Pull Tabs - Jar Bar	7,055	5,774	1,281	1,334
3b. Pull Tabs - Dispensing Devices	123,138	97,157	25,981	25,985
3c. Club Specials, Tip Boards, Seal Boards, Coin Boards			0	
4. Punchboards			0	
5. Sports Pools			0	
6. Twenty-One	6,058	5,112	946	946
7. Calcuttas			0	
8a. Paddlewheels			0	
8b. Paddlewheels-used with a table			0	
9. Poker			0	
10. Other (Including Interest & Net Total Cash Long)	97		97	40
11. Subtotal	145,015	115,838	29,177	29,177
12. ND Excise Tax (.0431 x Sum of lines 3a, 3b, & 3c col A) * <input type="checkbox"/>	3,401		3,401	
13. Federal Excise Tax from Federal Form 730 (attach copies)				
14. Bingo Sales Tax from N.D. Sales Tax Return	491		491	
15. TOTAL (Line 11 less lines 12, 13, and 14)	141,123	115,838	25,285	

If total gross proceeds for pull tabs, lines 3a, 3b, & 3c of column A, is \$4,000 or less, the organization is exempt from the ND Excise Tax. If exempt, check the box.

PART II - ALLOWABLE EXPENSES, GAMING TAX, NET PROCEEDS				
15a. Allowable Expenses - 51% of first \$200,000 of line 15, column C plus 45% of the amount over \$200,000		12,895		
16b. Allowable Expenses - .0235 x Sum of lines 3a, 3b, & 3c column A		3,060		
16c. Allowable Expenses - Video surveillance equipment purchased - Attach documentation				
16d. Additional Allowable Expenses - Worksheet Attach Documentation		0	Total (a+b+c+d)	15,955
17. Gaming Tax - 5% of the first \$200,000 of line 15, column C. If over \$200,000, see instructions				0
18. Net Proceeds - Line 14, column C, less lines 15 and 16				9,330
19. Net Proceeds Carryover - amount from line 21 of prior quarter's return				(162,739)
20. Adjustment - Attach explanation				0
21. Amount transferred to trust fund account this quarter				7,879
22. Net proceeds carry-over - Line 18 plus line 19, plus or less line 20, less line 21				(161,288)

PART III - TRUST ACCOUNT			
23. Trust carry-over - Amount from line 27 of prior quarter's return	599	29. End of quarter gaming account check register (s) balance	31,084
24. Amount transferred to trust account this quarter - Amount from line 20	7,879	30. Total gaming expenses for all sites	15,649
25. Adjustment - Include interest and service fees - Attach explanation	0	31. Total Tax Due-Line 12 plus Line 17. Remit payment to Attorney General	3,401
Eligible use contributions this quarter - Total from Schedule C	7,879	SIGNATURE AND VERIFICATION	
Trust carry-over - Line 23 plus line 24. + or - line 25, less line 26	599	Signature of top official or governing board member	Date
28. End of quarter trust account check register and marketable securities balance	599	Signature of preparer	Day Phone

(two signatures required)