

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2334

2007 SENATE JUDICIARY

SB 2334

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2334**

### Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2141

Committee Clerk Signature *Maria J. Selby*

**Minutes:** Relating to the advertising and promotion of the lottery.

**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:**

**Chuck Keller**, Dir. Of ND Lottery reviewed (meter 7:30) the fiscal note. The fiscal note was a joint effort and took the time to review it. The General Fund decreases was based on the projected decrease in sales.

**Sen. Nelson** questioned if all things remain the same why would there be any change with a fiscal note. (meter 10:00) discussion.

**Andrew Varvel**, Bismarck citizen spoke (meter 20:08) in favor of the bill. The way we market is too suggestive. How is lady luck going to find you and "Get Lucky", this is highly suggestive of an illegal activity, prostitution. This is our image that we are projecting. Spoke of the Majority rules view. Stated his cultural concerns and what our moral bearing is. Gave a quote on sports gambling (meter 24:20)

#### **Testimony in Opposition of the Bill:**

**Jack McDonald** – News Paper Assoc., Broadcast Assoc., and ND Cable Television Assoc.- (meter 1:10) Gave Testimony – Att. #1

**Roger Baily** – Ex. Dir. News Paper Assoc. (meter 4:48) We do not have a big dog in this fight only a little Chihuahua. We hope that the rural areas will be able to be utilized by the lottery for advertising. Currently they do not utilize us much.

**Sen. Nething** stated how surprised with such a big fiscal note how little it affected the paper. \$16.6 million plus is what the fiscal note says. In 2006 they spent an average of \$300 a paper in rural ND.

**Mike Rude**, ND Petroleum Marketers Ass. (meter 17:32) Reviewed what they pay/make off of a raffle ticket. This brings money into the state, no different then cigarettes. This is not about what I think, it is about what the people think. Discussion of the jurisdiction of the casinos vs. the lottery.

**Testimony Neutral to the Bill:**

**Sen. Fiebiger** questioned if this law would pass, who would enforce it? What would the A.G. role in this be? He did not answer the question but stated the lottery would become a business with out a face. This is a business supported by the legislature.

**Sen. Nething** (meter 12:15) asked what the moral obligation of the state is to promote gambling? This issue was addresses in the election of 2002 to allow in our state to create a lottery. The majority rule theory. It is the states obligation. It is our states responsibility not to support addictive behavior. Discussed his history of work in Human Services department.

Lottery seems to have one of the least addictive symptoms (meter 13:50) **Sen. Olafson** requested an overview of how the lottery is effected by advertising. **Sen. Nething** questioned (meter 15:40) the confusion of the fiscal note.

**Senator David Nething**, Chairman closed the hearing.

**Sen. Lyson** made the motion to Do Pass and **Sen. Olafson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Lyson**

**Senator David Nething**, Chairman closed the hearing.

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2334**

Senate **Judiciary Committee**

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2441

Committee Clerk Signature *Maria L. Solby*

**Minutes:** Relating to the advertising and promotion of the lottery.

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

**Sen. Lyson** stated that he had a problem with one of the ads that was placed on the radio appealing to the people who could least afford a ticket. The committee spoke of similar ads they had heard that were not, as the viewed, of good taste. **Sen. Nething** has a problem with the "state" telling people to buy lottery tickets. The committee discussed who does the advertising.

**Senator David Nething**, Chairman closed the hearing.

**Sen. Nelson** made the motion to Do NOT Pass and **Sen. Olafson** seconded the motion. All members, except **Sen. Nething** and **Sen. Lyson** were in favor and the motion passes.

Carrier: **Sen. Olafson**

**Senator David Nething**, Chairman closed the hearing.

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/19/2007

Bill/Resolution No.: SB 2334

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
<b>Revenues</b>	\$0	\$0	(\$4,966,000)	(\$16,631,500)	(\$5,781,230)	(\$18,208,500)
<b>Expenditures</b>	\$0	\$0	\$0	(\$16,631,500)	\$0	(\$18,208,500)
<b>Appropriations</b>	\$0	\$0	\$0	(\$2,246,040)	\$0	(\$2,246,040)

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
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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).*

The bill prohibits the Lottery from promoting or advertising its games. State funds may only be used to disclose where lottery tickets may be sold.

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.*

Section 4 prohibits the Lottery from promoting or advertising its games. This prohibition would substantially decrease the Lottery's ticket sales. The Lottery's operating expenditures would decrease.

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.*

State general fund revenue would be significantly impacted because sales of lottery tickets would be substantially decreased. State general fund revenue included in the executive budget is \$11.6 million, which would be reduced to \$6.634 million. In addition, Lottery operating fund revenues would be decreased by an additional (\$4.68 million).

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

The Lottery's operating expenditures would be decreased because of the restriction on promotions and advertising. Two FTE positions would be removed.

Expenditures for gaming group product dues and the Lottery vendor are paid from a continuing appropriation, which is the difference between special fund expenditures and appropriations.

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.*

The Lottery's appropriation would be decreased because of the restriction on promotions and advertising. The appropriation is included in the Executive recommendation.

<b>Name:</b>	Chuck Keller/Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-1579/328-3622	<b>Date Prepared:</b>	01/26/2007



**REPORT OF STANDING COMMITTEE (410)**  
January 31, 2007 4:48 p.m.

**Module No: SR-21-1717**  
**Carrier: Olafson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2334: Judiciary Committee (Sen. Nething, Chairman) recommends DO NOT PASS**  
(4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2334 was placed on the  
Eleventh order on the calendar.

2007 TESTIMONY

SB 2334

AH #1  
1-29-07

January 29, 2007

SENATE JUDICIARY COMMITTEE  
SB 2334

SENATOR NETHING AND COMMITTEE MEMBERS:

My name is Jack McDonald. I'm appearing here today on behalf of the North Dakota Newspaper Association, North Dakota Broadcasters Association and the North Dakota Cable Television Association. We recognize that the bill's sponsor has always been a strong supporter of advertising in North Dakota's marketplace, and that he has introduced this bill because of his personal convictions concerning the lottery. We must, nevertheless, oppose this bill and urge that you give it a do not pass.

When North Dakotans voted overwhelmingly in 2004 to have a state lottery, they clearly wanted a lottery that works. To be successful and to "work," a lottery, as a game of chance, must be able to compete in the marketplace with other activities to get the attention of individuals who want to participate. This is the way of the marketplace.

How does our professional basketball team, the Wizards, seek to get fans to their games when the University of Mary is having its nationally recognized Jazz Festival? They advertise. How does Bismarck High School get fans to its basketball game rather than the match between Bismarck State College and United Tribes? They advertise. How does the Commerce Department promote their programs to bring North Dakotans back to the state to take jobs in our expanding economy? They advertise.

Advertising works. It makes things happen. Lottery opponents recognized this in 2005 and came before your committee with proposals to do exactly what this bill seeks...to limit and prohibit advertising in an effort to kill the lottery. The 2005 Legislature, through this committee, specifically rejected this proposal as an effort to negate what North Dakota citizens had said they wanted with their vote for the lottery.

We ask that you honor this commitment to the will of the voters and give this bill a DO NOT PASS. If you have any questions, I will be happy to try to answer them.  
THANK YOU FOR YOUR TIME AND CONSIDERATION.