

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### LOTTERY TASK FORCE

Thursday, December 19, 2002  
South Dakota Lottery  
Pierre, South Dakota

**Members present:** Representatives William E. Kretschmar, Kim Koppelman, Andrew G. Maragos; Senators Bill Bowman, Ray Holmberg

**Members absent:** Representative Lonny Winrich; Senator Aaron Krauter

**Others present:** Mr. Keith Lauer, Gaming Division, North Dakota Attorney General's office, Bismarck

Mr. Clint Harris, South Dakota Lottery, Pierre, South Dakota

Mr. Lee McCahren, South Dakota Lottery, Pierre, South Dakota

Mr. Joe Kafka, Associated Press, Pierre, South Dakota

The task force members and Mr. Keith Lauer, Gaming Division, Attorney General's office, were given a tour of the South Dakota Lottery facilities. Mr. Clint Harris, Director, South Dakota Lottery, conducted the tour. Mr. Harris said the South Dakota Lottery employs a marketing team for the promotion of the South Dakota Lottery. He said the South Dakota Lottery also contracts with an advertising agency for the lottery's advertisement and point-of-sale materials. He said the South Dakota Lottery budgets about \$800,000 annually for marketing and promotion. Mr. Harris provided the task force with a copy of written responses to a number of questions regarding the South Dakota Lottery. A copy of this document is on file in the Legislative Council office.

In response to a question from Mr. Lauer, Mr. Harris said the South Dakota Lottery pays 14.098 percent of each dollar of lottery sales to the vendor hired by the lottery. He said in South Dakota, 348 retailers sell lottery products in their businesses. He said as per the state's vendor contract, 27 percent of the terminals operate on a dial-up system. He said the dial-up terminals are used in the retail establishments with the lowest sales. He said the South Dakota Lottery has two data centers. He said the primary center is located in Dover, Delaware, and a backup center is located in Sharon Hill, Pennsylvania. He said a compact between North Dakota and South Dakota would allow for the sharing of some of the costs involved in operating the lottery. He said South Dakota's vendor contract is unique because its vendor also has the state's video lottery contract. He

said without the video lottery contract, the vendor's percentage would be higher.

In response to a question from Mr. Harris, Representative Maragos said the Powerball game is the game that was promoted to the voters before the election. He said Powerball is the game North Dakotans are leaving the state to play.

In response to a question from Senator Holmberg, Mr. Harris said he would estimate the amount of time between the enactment of North Dakota's legislation and the selling of tickets to be up to one year. He said that timeframe may be less if some of the lottery functions are shared with South Dakota.

In response to a question from Representative Kretschmar, Mr. Harris said North Dakota must have its legislation in place before it can apply to the Multi-State Lottery Association (MUSL) for membership. Mr. Lee McCahren, legal counsel, South Dakota Lottery, said he is not aware of any legal reason why North Dakota and South Dakota could not share some of the electronic components of the lottery.

In response to a question from Senator Bowman, Mr. Harris said South Dakota does not have any other computer or equipment costs other than the 14.098 percent of each dollar which is paid to the vendor. He said in exchange for this amount paid to the vendor, the vendor places and services the terminals and provides for the necessary telephone lines and computer equipment.

In response to a question from Representative Kretschmar, Mr. Harris said in deciding which retailers to select to sell the lottery tickets, the amount of traffic and the business's potential for sales is considered. He said in South Dakota, the retailer must sell the scratch tickets before being permitted to have an on-line terminal. He said the state retains all control of the lottery. He said it is important that the lottery be run like a business.

In response to a question from Senator Bowman, Mr. Harris said of each dollar of lottery products sold, 50 percent is set aside for prizes and 5.5 percent is paid to the retailers. He said of the remaining 44.5 percent, South Dakota law requires at least one-half of that amount must be paid to the state. Therefore, he said, the administration and vendor costs may not exceed 22.25 percent of sales. He said

about 72 percent of the state's lotto sales are from the sale of Powerball tickets.

In response to a question from Representative Kretschmar, Mr. Harris said North Dakota should look to other states' laws in drafting the necessary legislation. He said each member of a MUSL game group has one vote per state plus a portion of a vote based on that state's sales. He said MUSL is an umbrella organization that includes five game groups. He said each state is a member of each game group in which the state participates.

In response to a question from Representative Maragos, Mr. Harris said MUSL has projected North Dakota's annual Powerball sales to be \$7.7 million to \$12 million. He said South Dakota appropriates \$200,000 annually to its Department of Human Services for problem gambling treatment. He said the South Dakota Lottery has two budgets--one for the video lottery and one for the instant ticket and on-line games. He said over the past 10 years, South Dakota has raised about \$1 billion in revenue from its lottery. He said about 90 percent of that revenue is from the video lottery.

In response to a question from Representative Koppelman, Mr. Harris said other states vary greatly on the amounts designated for problem gambling treatment.

Senator Bowman said it is difficult to set a dollar amount on what is needed for gambling addiction treatment when a family loses everything because of the addiction. Mr. Harris said more gambling addiction problems arise from the video lottery games than from the instant ticket and on-line games. He said it is difficult to draw the line between the gambler's personal responsibility and the state's responsibility.

In response to a question from Representative Kretschmar, Mr. Harris said 65 percent of people with gambling addictions have multiple addictions, such as drug or alcohol addiction.

In response to a question from Mr. Lauer, Mr. Harris said he recommends that all control of the lottery remain with the state. He said lottery authority should not be given to cities or counties. Regarding the sale of lottery products on Indian reservations, Mr. Harris said since the state lottery is not a tribal game, he is not sure if the Department of the Interior will allow the sale of the state's lottery products on the reservations. He said the Indian Gaming Regulatory Act may include restrictions as well. He said when a corporation or other organization has multiple retail sites, each individual retail site must be licensed. He said South Dakota selects its Powerball sites by inviting retailers to apply for licenses. He said each site must sell scratch tickets before being permitted to sell on-line tickets.

In response to a question from Representative Maragos, Mr. Harris said a state does not want the retailers to be responsible for the terminals. He said North Dakota probably would not get a bid from a

vendor if the state wanted the vendor to purchase and be responsible for the terminals. He said the integrity of the lottery is very important. He said there are not any other states that allow retailers to purchase the terminals. He said MUSL may not allow a retailer to purchase the terminal. He said for a state to maximize profits, the state must retain control of the entire lottery operation.

In response to a question from Senator Bowman, Mr. McCahren said South Dakota does not require a bond for its scratch and on-line retailers. He said vendors will put restrictions on the number of terminals a vendor will place in a state. He said if North Dakota and South Dakota worked together to share computer services, both states could benefit. He said North Dakota would still need its own internal control system. He said North Dakota would also need to have someone who is responsible for the state's lottery, but there are areas of the process that could be shared.

In response to a question from Senator Holmberg, Mr. Harris said when the jackpot is high, South Dakota will sell about \$270,000 in Powerball tickets between drawings. He said if the jackpot is low, the sales are in the \$50,000 to \$60,000 range.

In response to a question from Representative Maragos, Mr. Harris said there are 10 or 11 retailer lottery sites located along the North Dakota border. He said South Dakota has estimated it will lose about \$40,000 to \$50,000 in revenue or about \$200,000 to \$300,000 in ticket sales when the North Dakota lottery is operational.

In response to a question from Mr. Lauer, Mr. Harris said at a minimum, North Dakota will need a lottery director, an informational technology person, and a security person. He said these positions are required by MUSL. He said the state could contract for its marketing needs, but there will need to be a person on staff to give direction to the marketing agency. He said that could be the responsibility of the director.

In response to a question from Representative Kretschmar, Mr. Harris said after North Dakota passes its legislation, it will need to seek acceptance into the Powerball game group. He said after that acceptance, MUSL's approval will also be needed. He said in drafting its legislation, North Dakota should keep its legislation and rules broad. He said the lottery is a rapidly changing industry and it is important to give the lottery options.

The tour and the meeting with the South Dakota Lottery officials concluded at 11:00 a.m.