

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION  
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1243

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*Dennis Hall*  
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10/2/03  
Date

2003 HOUSE JUDICIARY

HB 1243

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*Doreen Hall*  
Operator's Signature

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Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1243

House Judiciary Committee

Conference Committee

Hearing Date 1-29-03

Tape Number	Side A	Side B	Meter #
1	xx		0-end
1		xx	0-end
2	xx		0-middle

Committee Clerk Signature *J. Penrose*

**Minutes:** 12 members present, 1 member absent (Rep. Onstad) (Tape 1, Side A)

**Chairman DeKrey:** We will open the hearing on HB 1243.

**Rep. Maragos:** Introduced the bill. Read through the different sections of the bill.

**Chairman DeKrey:** Regarding the confidentiality of lottery records, what exactly is not going to be confidential. I understand that applications for security checks, but audit work papers, worksheets, and auditing procedures, what are you getting at there? I assume the state auditor is going to be auditing the lottery, would the records be public after his audit is complete?

**Rep. Maragos:** Yes, ND has open records law. There are some requirements for joining the multi-state lottery that have to be covered, and as long as it doesn't come into conflict with this problem, the records would be open.

**Rep. Klemin:** On pg. 11, line 31, pg 12 - ticket gifted to minor, and paid to parents, why not to minors. Why can't the minor keep the proceeds of the prize, if it is won by that ticket.

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*Dorinda Ball...*  
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**Rep. Maragos:** This is modeled on legislation from other states covering this. We attempted to be uniform with states around us, so that there wouldn't be an excuse for people not to do their business with regards to the lottery in the state of ND. It was the policy decision that the parent or guardian was in the best position to know what to do with those proceeds from a gift.

**Rep. Klemin:** The parent or guardian would be responsible for the taxes?

**Rep. Maragos:** I would assume that they would be paid out of the proceeds.

**Rep. Klemin:** What if the prize taken is over time, what happens when that minor becomes an adult, will it continue to be paid to the parent or guardian, regardless of whether that minor becomes 18. That may be an area we need to take a look at.

**Rep. Maragos:** Your point is well taken, and if you think we need an amendment, I'd be open to that.

**Rep. Klemin:** Going on to page 12, line 23 and 24, the right of a person to a prize drawing or award is not assignable. What if the person takes the payments in installments, and the person changes his mind, and now would like to have the lump sum for some reason. If this was like any other kind of payment, you could assign that. Why can't we do that with the lottery prize.

**Rep. Maragos:** I don't have an answer, we crafted this legislation based on other states' legislation.

**Rep. Klemin:** The Uniform Commercial Code is adopted in all 50 states, that has a provision that allows a person to grant someone else a security interest in the right to proceeds. I wonder if you could grant a security interest. That seems to be inconsistent with the other states.

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**Rep. Maragos:** This may be, for reasons that the multi-state lottery, believe it is in their best interest to maintain this, and it could be a condition of application; but if not, I agree that we should amend it to reflect what the UCC says to do with that money.

**Rep. Klemin:** We would have to have an answer to that question before we proceed.

**Rep. Maragos:** I can certainly find out.

**Chairman DeKrey:** On top of pg 11, "as nearly as practical", what does that mean?

**Rep. Maragos:** I don't know - used legislation from a model.

**Rep. Grande:** On pg 4, we are talking about the appointment with employment, who would have to upfront the costs for the employees on this.

**Rep. Maragos:** I would envision that all of the upfront costs will be borrowed by the Bank of ND, to implement the lottery and then out of the initial revenues, all of that money would be paid back to the Bank of ND.

**Rep. Grande:** Then on the next section, section 4 with the annuity, doesn't the Powerball itself handle the payout, or is ND going to be responsible for all tickets sold in ND, pg. 4, line 17, need to set up an annuity, is ND held in the facility of the payout, or does Powerball itself, hold the winnings, is the state going to be holding the winning dollars, or does Powerball hold the winning dollars and payout.

**Rep. Maragos:** I don't have that answer.

**Rep. Grande:** On pg. 10, would the rules being written come from the Administrative Rules Committee process.

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**Rep. Maragos:** I would expect that that would be the case, if it is the law in ND. We have to set a mechanism in place for accomplishing what the voters told us we had to accomplish. This is an incremental, by stage process.

**Rep. Grande:** What is the process going to be.

**Rep. Maragos:** Rules will be developed to accomplish this. I don't know what rules we would do differently for one simple act, to provide the service of a multi-state lottery. I am sure that the AG understands what the people want, and will craft a proper rules in order to accomplish their directive.

**Chairman DeKrey:** Thank you. I will call on the Attorney General.

**Wayne Stenehjem, AG:** I was not necessarily here in support or opposition, but simply to recognize that I know that it is your duty to enact a ND lottery. (see attached amendments) If you are interested in getting the lottery up and running as soon as possible, then one of the amendments we are proposing to permit my office to use that expedited rule process, so that we can things up and running. That is why I have asked that this bill include a Lottery Advisory Commission to be made up of members, a majority appointed by the legislature.

**Rep. Eckre:** On pg 6, line 30-31, any person lawfully engaged in non-governmental business on state property, so the cafeteria here can sell.

**Mr. Stenehjem:** I think the bill is written right, governmental agencies cannot.

**Rep. Bernstein:** Getting back to section 53-12-27 about selling lottery products on the Indian reservations, is it my understanding that if ND enters the Powerball, they can set up a venue in Montana or Minnesota to sell tickets, since the Indian reservations have always been looked at as

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a separate government entity and yes they are part of ND for some things and not part of ND for other things.

**Mr. Stenejem:** I think the reservation should have the same opportunity as anybody else to enter into retail sale of tickets.

**Rep. Kingsbury:** As far as retailers, would charitable gaming be able to sell tickets.

**Mr. Stenejem:** I think you need to address that as a policy decision as well. I don't think there is anything wrong with it, but you need to decide if that is something you want to have.

**Rep. Klemin:** The initiated measure that we had, it said the legislature shall implement a lottery. We do have to come up with a lottery bill.

**Mr. Stenejem:** That is my understanding.

**Chairman DeKrey:** Thank you.

**Chuck Keller, Chief Auditor of Gaming, AG:** (explained the amendments and fiscal note)

**Rep. Klemin:** In your amendment, regarding putting unclaimed prize money into the general fund, that sound like a policy amendment, rather than a technical amendment.

**Mr. Keller:** It's really both.

**Rep. Klemin:** Since this comes up in all these other states with mutli-state lotteries, how do they do it.

**Mr. Keller:** I'm not sure.

**Rep. Maragos:** I think it varies from state to state, they've got their own rules.

**Rep. Klemin:** We have Unclaimed Property Division already that takes property.

**Mr. Keller:** Money can go wherever they want it to go, but ultimately it should end up in the general fund.

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