

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2101

2007 SENATE JUDICIARY

SB 2101

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2101

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 854

Committee Clerk Signature *Maria Solberg*

Minutes: Relating to ND lottery & motor vehicle excise tax exemption for motor vehicle to be awarded as a prize.

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, Office of Attorney General (meter 0:01) Introduced the bill. Gave recommended amendments Att. #1

Sen. Nelson questioned how this process would be audited (meter 5:31) I am not sure that it would be an audit issue rather a financial statement issue and would show up on statements. The amount that we receive from cosponsors would be recognized on financial statements as other revenue but for appropriation issues-I believe that it should be offset against the amount the legislature appropriates as an operating expense.

Sen. Fiebiger stated (meter 9:18) if the language on page 2, line 26 "or as provided as the lottery rules" gives to much leeway. He did not think they should have so broad of a discipline.

Sen. Olafson question that we change the language to "or were provided by the lottery rules"

Mr. Keller said that he will come up with language in the form of an amendment.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2101**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1287

Committee Clerk Signature *Moira L. Solberg*

Minutes: Relating to ND Lottery & motor vehicle excise tax exemption for motor vehicle.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present.

Sen. Nething opened the hearing referring to **Chuck Keller's** amendment from his testimony on Jan 10th – Att. # 1 The committee still had questions in regard to the amendment

Sen. Marcellais will work with Mr. Keller to clarify the amendment.

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2101**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: 1841

Committee Clerk Signature

Minutes: Relating to ND Lottery & motor vehicle excise tax exemption for motor vehicle.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present.

Sen. Marcellais worked with Mr. Keller to clarify the amendment last Friday and he gave me more information on the bill. Referred to the blue book of rules and told the committee of the educational conversation.

Sen. Marcellais made the motion to Do Pass Amendment from 1/17 – Att #1 and **Sen. Olafson** seconded the motion. All members are in favor and the motion passes.

Sen. Marcellais made the motion to Do Pass SB 2101 as Amended and **Sen. Olafson** seconded the motion. All members are in favor and the motion passes.

Carrier: Sen. Marcellais

Senator David Nething, Chairman closed the hearing.

FISCAL NOTE

Requested by Legislative Council

12/28/2006

Bill/Resolution No.: SB 2101

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	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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).*

Offset marketing expenses by funds received from lottery promotion co-sponsors, includes retailer record and credit check fees in Lottery's continuing appropriation, and for the Lottery to take possession without taking title of a dealer motor vehicle to be awarded as a prize in a game or promotion.

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.*

There is no fiscal impact.

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.*

There is no impact on revenue.

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.*

There is no impact on expenditures.

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.*

There is no impact on appropriations.

Name:	Chuck Keller/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-1579/328-3622	Date Prepared:	01/03/2007

REPORT OF STANDING COMMITTEE

SB 2101: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2101 was placed on the Sixth order on the calendar.

Page 2, line 26, replace "as provided" with "at a temporary site for a special event authorized" and remove "rules"

Renumber accordingly

2007 HOUSE JUDICIARY

SB 2101

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2101

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/26/07

Recorder Job Number: 3797, 3798

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on SB 2101.

Danielle Schaefer, Administrative Staff Officer, ND Lottery: (see attached testimony).

Chairman DeKrey: This bill addresses the concerns of the administrative rules process to clarify some things.

Danielle Schaefer: Yes.

Chairman DeKrey: How do they steal lottery tickets from a machine.

Danielle Schaefer: The clerk just printed them without paying for them.

Chairman DeKrey: But electronic machines you wouldn't think there is a way to get away with it.

Danielle Schaefer: No, it is up to the manager to catch that. There is a correction within section 5, which is the reason that this has been declared an emergency bill, and that's to protect the confidentiality of subscription data. In previous laws, subscriptions were not an issue. We recently just started subscriptions in November 2005, and the law does not protect the confidentiality of the players that subscribe to the lottery. We want to make sure that that does that as well. As it does with any winning player that comes in with a winning ticket.

Section 6 we're asking for a technical correction to subject a promotion prize to debt setoff.

Currently the debt setoff is checking with every state agency to make sure that a winning player does not owe any past due debts. This correction would actually include a promotional cash prize as well, which the law does not allow for. Section 7, page 5, lines 24-25, the amendment would enable the lottery to take a dealer's motor vehicle that is a prize off the dealer's lot without the dealer having to pay excise tax on the motor vehicle. Also the lottery would not title or license the motor vehicle. The player who wins, would be required to pay these fees. This amendment was written in conjunction with the Tax Dept.

Rep. Koppelman: This is more than a clean up bill. This expands the number of locations. One issue for me is the site issue and will this greatly expand the number of locations. Are those set by statute, or does the lottery do that.

Danielle Schaefer: Currently, the contract that we have with our on-line gaming vendor is set at 400 retail sites around the state.

Rep. Koppelman: If there are 400 retail sites, and those 400 retailers all wanted to sell lottery tickets at five other sites, you would have 2000 locations instead.

Danielle Schaefer: This amendment actually is relating to a lottery sponsored promotion. When we conducted the Tahoe promotion, we had Ressler Chevrolet in Mandan, our promotion set up there during one of the days and we had a current retailer selling tickets at that location.

Rep. Koppelman: Is there anything in the law that restricts the types of locations that the tickets can be sold at.

Danielle Schaefer: I would have to check into that exact language. It probably wouldn't be in the best interests of the lottery. I know that most of the requirements deal with their sales force and their traffic and issues like that.

Rep. Koppelman: On page 4, paying the marketing expense that is offset by co-sponsorship funds. Can you explain that process.

Danielle Schaefer: I will give you an example of what recently occurred, and the basis for this amendment. The Tahoe promotion that we held just within the last 2-3 months, the lottery had solicited sponsorship from the Ethanol group, from local dealerships. We received \$31,000 in that sponsorship from those various groups and we spent a little over \$27,000 in prizes in addition to, we gave away a Tahoe. This amendment will take the \$31,000 that we had received, we would be able to reuse those funds within our marketing promotion instead of having that expense come out. Basically, we bought the vehicle and spent that \$31,000 and when we received the sponsorship funds, it went directly into the overall budget, instead of back into the marketing appropriation.

Rep. Koppelman: So this is an effort to expand the marketing budget, beyond what is appropriated. The legislature has questioned spending money at all to advertise the lottery, because most people were buying tickets from other states, and wanted to buy in ND. That was the basis for having the lottery. Now we have a marketing budget to convince more folks that they should buy a lottery ticket. I think the lottery is a business which is what we are talking about and want it to grow and prosper, etc. Is there an effort to expand and convince more people to buy lottery tickets.

Danielle Schaefer: I don't believe that is his philosophy. I can't speak on behalf of his philosophy, but I don't believe that is. I believe the sponsorship that we would receive as far as the marketing should not be a lottery marketing expense, in essence. It is an expense of that sponsor. Although we ended up paying for it upfront, we did receive that back, so we are trying to keep that continuing appropriation for that marketing at a level that it should be. As

far as overall marketing expense, currently right now, we are under the 3% of our annual sales. Three percent is the national average in the lottery. We are under that amount.

Rep. Kingsbury: About this special promotion. Would someone apply to have that temporary location, how do you come to decide to do a temporary location, auto giveaway, was that along with a celebration, did the funds go to anything else beside the lottery.

Danielle Schaefer: A retailer does not apply to have a temporary site location. It would be considered a lottery sponsored promotion, in which the lottery would choose the site and ask a specific retailer to host that site. This Tahoe promotion which we had, we set up at Ressler Chevrolet in Mandan was a special circumstances. Other circumstances may be the ND State Fair, which the lottery is sponsoring that event and request a retailer to do that on our behalf.

They would not actually apply for any site location, or temporary site location, that is not sponsored by us.

Rep. Kingsbury: This does give the lottery open authority to go out and set up sites.

Danielle Schaefer: In essence, it probably would. I don't see this happening more than 2-3 times a year.

Rep. Charging: Walking down the fairway at the State Fair, there will be a temporary stand selling tickets?

Danielle Schaefer: As the last couple of years, we have been located at the State Fair, we have not sold tickets, but we had a booth within one of the commercial buildings. So it would be a site within that commercial building at our booth. It would not be out on the fairway.

Rep. Charging: The point is that can't happen today. The language in the bill would allow that to happen.

Danielle Schaefer: That is my understanding.

Rep. Charging: Could a site be set up at the race track in Fargo.

Danielle Schaefer: I don't believe that is the intention of this is to go to locations just to do this. It would need to be an overall promotional event, in which we sponsored or had a promotion going on at a location that we would bring in a retailer to do that. We would not just over a weekend go to the race track and do that.

Rep. Charging: It would open it up. Depending on the creativity of the racing manager, it could really spring up across ND. Every retailer could potentially have a free giveaway RV, ATV, car, truck, etc. to encourage people to take a risk.

Danielle Schaefer: That's my understanding.

Rep. Boehning: You said you have 400 retail sites. How many of those are being used.

Danielle Schaefer: All 400 of them.

Rep. Boehning: If one of these sites become available, could the State Fair put a lottery site on the fairgrounds, or the racing track in Fargo. If a site became available, that they could spend \$550 to have a site license and set up a site.

Danielle Schaefer: The State Fair is not a year round business. Therefore, they could try and apply if they'd like, but they definitely would not be issued a permit license.

Rep. Boehning: But there are a lot of retailers that would be happy to have a site at their location. Could they move that site to the State Fair temporarily for the two weeks of the Fair and take it back to their original location.

Danielle Schaefer: That would not be a decision made by the retailer that would be a decision made by the lottery.

Rep. Boehning: If the lottery would allow that, could they do that, bring their machine up there, you can do that today, correct.

Danielle Schaefer: No, you cannot.

Rep. Griffin: Currently, would you ever have more than two special events going on at one time.

Danielle Schaefer: No, I don't believe that would happen. Running a promotion is a very detailed operation and we hold 3 or 4 per year. I don't foresee doing more than one at one time.

Rep. Griffin: So, really this is having 400 sites plus one, a total of 401 at any one time.

Danielle Schaefer: Yes, that is correct.

Rep. Meyer: On section 6, does that only apply to debt, when a debtor owes a ND state agency, or any debt.

Danielle Schaefer: That is a debt owed to any state agency, and it is a past due debt, it is not a debt such as student loans. It would not set off any current student loan that they are paying. It is anything that is past due.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2101

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/27/07

Recorder Job Number: 4006

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at SB 2101.

Rep. Kingsbury: On page 2, line 27, after license, remove "temporary sites for special events authorized by the lottery".

Rep. Charging: Second.

Rep. Griffin: It doesn't make much difference to me with the amendment. I don't think it is going to expand it too much. It already allows 400 sites. I think for part of the year, it would allow 401 sites. I am going to oppose it.

Rep. Charging: They said it was one, but nothing would preclude them from more than one at any time, it is just a matter of how much staff they would have. Did they open this up to all the dealerships to be a part of this.

Rep. Delmore: Part of it is the equipment that they have to use and the hookups, etc. They have a limited number of machines at 400, and they might move a machine from one location to another, or if somebody was closed down. They aren't going to order 15 more machines to do a special occasion. I agree with Rep. Griffin, that once a year it will be 401, probably during the state fair.

Chairman DeKrey: I don't see where it says that they can add additional machines. It just says that it can go to temporary sites, and the number of machines is the same, so they are actually going to have to take a machine from somewhere to take it to the temporary site, aren't they.

Rep. Klemin: That's the way it would seem to me; to move from one place to another.

Rep. Delmore: It's not like something like Bingo cards where they have thousands of them sitting somewhere. There is a limited number, and taken from one site to another.

Rep. Kingsbury: This bill could bring it into more events around the state.

Rep. Charging: The other point that I was bringing out, I think it is genius what they have done. They came up with the idea of a vehicle and at some point it could be an RV, ATV, etc.

This is where the package would come together. There are several parts to it. One is the addition of a temporary site, which could conceivably be in front of a Charging's RV and Motor on any given weekend. How can this work, aren't we at risk here, how can the lottery select these dealerships without putting us at risk somewhere, whether it's favoritism, etc. Would it have to be bid out. We are a state agency, we would have to bid the item out and get the lowest bid.

Chairman DeKrey: We need to get Chuck Keller, from the AG's office in here to answer questions. We will take this up later.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2101

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 3/5/07

Recorder Job Number: 4365

Committee Clerk Signature

R. Penrose

Minutes:

Chairman DeKrey: We will take a look at SB 2101.

Chuck Keller, Director of Lottery Division, AG's office: In the 2005 legislative session, the lottery completely rewrote the lottery law to make it clear, concise and easy to understand.

As we approach the third anniversary of the launching of the lottery, there were still some items that weren't fixed earlier. One of the provisions was on page 2, line 27, one purpose of it is to enable a retailer to sell tickets at a temporary location without having to secure a second license that would cost \$550. This provision does more than that. It's really a missing link between the present law and the administrative rule that we have. The present law requires that a retailer obtain a license for each site; however, we have an administrative rule that says that except as authorized by the lottery, a complete sales transaction between a retailer and the player must occur at the terminal. Well, as part of the lottery's business model, we partnered with third parties to conduct special promotions, and an example is our Your Dreams Deserve a Second Chance promotion that we did last fall. As part of that promotion, the lottery solicited \$31,000 of cash from Chevy dealers and from the Energy office to work to award as prizes a Chevy Tahoe vehicle and \$22,000 of ethanol fuel. Based on the rule that I alluded to, a retailer sold lottery tickets at Ressler Chevrolet, which was one of our co-sponsors. We did

not have a lottery terminal there because of the law. We ended up having the retailer generate lottery tickets at the C-store, which was located two blocks from Ressler Chevrolet, and those tickets were hand carried from the C-Store to Ressler Chevy. In bundles of 20-40 at a time, and when the retailer was low, the retailer went back to the C-store and got more lottery tickets, brought them back to Ressler and sold them. So I believe that this law is necessary to enable us to actually, if necessary, have the lottery terminal at a site, because it is much more efficient and it can have a terminal and satellite hookups set up within an hour or two to make it much more convenient to sell lottery tickets. We have been approached by a national motorcycle manufacturer who would like to give us a motorcycle that we can award as a lottery prize through a lottery promotion. We would, if we were to take advantage of that offer, to sell lottery tickets at a motorcycle retailer, perhaps in Bismarck or Grand Forks, wherever. This proposed law, enables us to by-pass the manual movement of lottery tickets.

Rep. Kingsbury: So that wasn't exactly against the law then to carry tickets from one place out into a public place and sell.

Chuck Keller: That's a good question. One of the reasons why I proposed this law change is to make it crystal clear that the lottery does have statutory authority to do what it would like to do, when it partners with third parties or lottery commission.

Rep. Koppelman: Apparently another thing that you would like to do, is on page 4, spend more dollars on advertising, to offset it by third parties, is that to enhance the advertising budget without going to the legislature, or raising your line item.

Chuck Keller: The reason for that provision, is that also as part of the lottery's business model, we are very assertive in search for co-sponsors in a lot of promotions. For the primary purpose of reducing our marketing costs, and as I alluded a few minutes ago, we did solicit \$31,000 for the Dreams promotion. In the previous biennium, we solicited \$10,000 for a

promotion. Our marketing budget is about 3% of our sales; for the 2005-07 biennium is \$1.5 million dollars, we will use probably less than ½ of that amount. The average national ratio of marketing to sales is 3%. Smaller states like ND could show a higher percentage, because our population is very sparse. What I am envisioning through that proposed law, is that, should the ND lottery have a downturn in sales, where we would have to use our full budget and then some, if we are assertive in soliciting and successful in soliciting marketing dollars from third parties, then I would like to be able to use the money that we solicit bump our standard marketing budget. Otherwise, there would be no incentive for the lottery to even try to co-sponsor with third parties.

Rep. Koppelman: I think the testimony that we heard earlier, about this kind of arrangement now is that those monies have to go, where do they go, to the general fund or to the lottery budget.

Chuck Keller: The money is receipted and classified as other revenue and flows to the lottery bottom line.

Rep. Koppelman: So eventually it goes to the general fund.

Chuck Keller: Yes, it will all go to the general fund.

Rep. Koppelman: I'm confused about some of the statements you made then, because on one hand you said you want to partner with third parties in order to bring money in to reduce the amount of money you spend on advertising, then you said you would like to have this provision so that you can spend more. Which is it?

Chuck Keller: I don't know whether the lottery will ever spend \$1.5 million or 3% of its budget for marketing purposes. But there may be a time, perhaps in another tenure, if things in the lottery industry go sour, the lottery needs to interject more money into its promotions to maintain or sustain its current level. If that happened, if the lottery did solicit money from third

parties, then I think it is prudent that the lottery could also benefit from the additional money it solicited.

Rep. Koppelman: If you don't see that happening in the next few years, wouldn't it be more prudent to look at this kind of a provision, when or if it comes.

Chuck Keller: I really can't forecast what is going to happen in the next year or two.

Rep. Koppelman: I understand, but you don't expect that kind of change, do you.

Chuck Keller: I'm not sure. We have four multi-state games. It is possible, certainly not expected, that in a two year biennium period that the multi-state lottery system or someone in the four game groups may decide to change or replace the games. If that happens, then certainly we would want to put a lot more of our dollars into marketing than we do now. The 2 by 2 game, for example, that we just launched on February 2, of last year, has done very well for us and we'll go to 3 states in that game group. The game group, is already considering replacing that game or changing the game this summer. The Power ball game was changed on August of 2005 and the other two games have all been replaced two & three or four times.

Rep. Kingsbury: Talking about these other sites, someone mentioned the State Fair, plans to take a site to the State Fair. I am wondering, wherever you decide to have another temporary site, what specifically needs to happen to set up that in another site.

Chuck Keller: Should the lottery sell tickets at the ND State Fair, our on-line gaming system vendors would loan the lottery the satellite equipment and another terminal that would be placed in one of the commercial buildings on the Fairgrounds. We would probably work with the retailer, even though the lottery may sell lottery tickets, as a policy, the lottery does not sell tickets through the lottery division, but rather we would work with the lottery retailer to come to the State Fair, staff the lottery's booth with us and operate a lottery terminal.

Rep. Kingsbury: What do you mean by a lottery retailer, from another site in Minot?

Chuck Keller: It doesn't really matter where the retailer would be located at, it would just be another site for the retailer. We would probably solicit proposals from retailers, of which we have 400, and whichever retailer is the most interested, is the one that we would probably work with to sell tickets at the State Fair.

Rep. Kingsbury: On a given day you can actually do this in several sites across the state, right? If there was something going on around the state, which generated a crowd, you could do this with this language in here, at various sites.

Chuck Keller: Are you referring to a community event like the State Fair or a special lottery promotions.

Rep. Kingsbury: A community event like the State Fair.

Chuck Keller: Yes.

Rep. Kingsbury: You could set up.

Chuck Keller: Yes. It would need to be economically feasible for us to do it, for a retailer, the break even point would be, based on the license fee and the application fee, the break-even point would be \$11,000 tickets. That's a lot of tickets. So it may not be feasible except at the State Fair.

Rep. Boehning: Currently there are 400 sites for lottery terminals, that's what we have.

Chuck Keller: Our contract with our online gaming system vendor provide the lottery with 400 terminals. They have authorized us two additional terminals without charge that we have in our office on loan. We are limited to 400, but that doesn't mean that we couldn't contract with the vendor to loan us one or two terminals as necessary for worthwhile projects.

Rep. Boehning: So we can go over the 400, you could have 401 or 402 sites in the state.

Chuck Keller: Our contract limits us to 400 terminals; however, Cygames does have several terminals on the site as replacement terminals. If the Wal-Mart C-store was interested in a

Lotto terminal, which would be the first Wal-Mart store in the US, we would probably grant Wal-Mart a terminal and we would probably get 401, and the next terminal that was surrendered or relinquished by the retailer, would be given back to Cygames so that we would be back to the 400 number.

Rep. Boehning: So we only have a set number in statute that says we can only have 400, with your agreement with your vendor, that we are limited to a certain number.

Chuck Keller: That's correct.

Rep. Charging: My concern, is that we are state government and we have rules to follow, aren't you concerned to work with individuals retailers around the state. How does one not get into trouble favoring one retailer or another. There is a risk here.

Chuck Keller: Actually the lottery did follow the procurement office regulations. The lottery, through our ad agency, in Fargo, did contact all the car manufacturers and they solicited proposals I believe from four of them, and the Chevy dealers were the only manufacturer that expressed any interest at all in partnership with the lottery. ND is divided into two divisions for Chevy dealerships. The eastern side is the Heartland Select Chevy dealer association and the western side, I don't have the name. The eastern association went with us and the western side decided not to partner with us, except for one dealership, Ressler Chevrolet.

Rep. Charging: So to answer the question, you did everything you were supposed to and you weren't concerned about it.

Chuck Keller: We did everything that was required of us. That documentation was provided to the procurement office.

Rep. Charging: The water gets murky, potentially with these issues. What about when you're dealing with those issues when they come up, for example for the motorcycle.

Chuck Keller: The brand isn't Honda or Harley, but they would have to address that issue as well.

Rep. Charging: Back to an earlier question, based on what you answered, we're not restricted to the terminals in the other games that we do. So by statute, we aren't limited to 400 terminals.

Chuck Keller: We're restricted only by the contract that we have with our online gaming system vendor.

Rep. Charging: So what you're looking for from us is to add the special language here which would allow you to set up anywhere, not at a retail site, but anywhere.

Chuck Keller: We would have a terminal on loan from Cygames just for that purpose.

Rep. Charging: This is a win-win for the retailer if they purchase a license from you, they get proceeds from selling the tickets. How does that work.

Chuck Keller: The retailer receives a 5% commission on each \$1 of sales plus if the retailer was in the incentive program on January 2006, that rewards retailers with commissions if they sell tier sales. So if the retailer, for example, sells a \$20,000 2x2 jacket winning ticket, which we are averaging nearly one a week, the retailer would receive a \$500 bonus.

Rep. Charging: If we had more retailers, is 400 the saturation level, if you had more retailers moving in, would you up to 500.

Chuck Keller: The saturation point is actually, in my opinion, is about 420 or 425. We could use more terminals now but we don't want to pay any additional price in the vendor fee with our online gaming system vendor.

Rep. Delmore: You work with charitable gaming and with some of the Tribal compacts as part of the AG's office. They are also able to do some of that.

Chuck Keller: Yes, one of the tribal casinos, Four Bears Casino is a licensed lottery retailer. The lottery does not compete with tribal gaming, it actually complements tribal gaming. Four Bear is selling lottery tickets to generate their traffic and to provide a product to those people that desire a lottery ticket and to gamble at the tribal casinos.

Rep. Delmore: You are also audited on a regular basis on a commission, so there isn't money that just gets put away and used for something that it's not supposed to, is that correct.

Chuck Keller: Unlike state agencies which are audited every two years, the lottery is audited on an annual basis and we have had three audits now, and all three audits have been very favorable towards the lottery, there have been no managerial issues.

Rep. Charging: You made a good point, there is a site where people like to gamble and are ready to part with their money to gamble. Another point that was brought up, the race track could be another site, you wouldn't even need this language to do that, correct?

Chuck Keller: I'm not that familiar with the race track. There is criteria that a retailer must meet to be a licensed retailer for lottery purposes. I'm not sure, the race track in Fargo?

Rep. Charging: If you added this language that could be called a temporary site.

Chuck Keller: The lottery may have already licensed this on a single basis. Medora, is a good example. We used to have a lottery retailer in the summer, but in the winter we took the terminal out of there.

Rep. Charging: How much more does this expand, the temporary site authorized by the lottery. It seems to me that you have administrative rules to determine where you want to put them. You probably do already, because you hand carried the tickets.

Chuck Keller: We want to be efficient, and I believe that this provision that I'm asking the committee to adopt is the missing link to provide us with that opportunity.

Chairman DeKrey: Thank you. We have a motion on the floor. Rep. Kingsbury moved to amend the bill to remove the "temporary site" language on page 2, line 27, seconded by Rep. Charging. Is there further discussion. Roll call vote.

4 YES 10 NO 0 ABSENT MOTION FAILS

Rep. Delmore: I move a Do Pass.

Rep. Boehning: Second.

10 YES 4 NO 0 ABSENT DO PASS CARRIER: Rep. Kretschmar

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2101

Page 2, line 27, remove "or at a temporary site for a special event authorized by the lottery"

Renumber accordingly

Failed

Date: 3/5/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2101

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Kingsbury Amendment

Motion Made By Rep. Kingsbury Seconded By Rep. Charging

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey		✓	Rep. Delmore		✓
Rep. Klemin		✓	Rep. Griffin		✓
Rep. Boehning		✓	Rep. Meyer		✓
Rep. Charging	✓		Rep. Onstad		✓
Rep. Dahl		✓	Rep. Wolf		✓
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar		✓			

Total (Yes) 4 No 10

Absent 0

Floor Assignment _____

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

Motion fails

Date: 3/5/07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2101

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Wellmore Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller		✓			
Rep. Kingsbury		✓			
Rep. Koppelman		✓			
Rep. Kretschmar	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Kretschmar

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

REPORT OF STANDING COMMITTEE (410)
March 5, 2007 3:46 p.m.

Module No: HR-41-4485
Carrier: Kretschmar
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2101, as engrossed: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2101 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2101

Att #1

TESTIMONY ON SENATE BILL NO. 2101

By Chuck Keller, Office of Attorney General

Senate Judiciary Committee

January 10, 2007

My name is Chuck Keller. I am the director of the North Dakota Lottery, a division of the Office of Attorney General. The bill includes 12 housekeeping items which are technical corrections or clarifications, and 5 important proposed amendments, as follows:

SECTION 1

Page 1, lines 11-13 – Technical correction - to include computer “quick pick” tickets.

Page 1, line 14 – Technical correction - to meet definition of Multi-State Lottery Assn.

SECTION 2

Page 1, line 24 – Technical correction - to delete unnecessary language.

Page 2, lines 1-2 – Technical correction - to delete unnecessary language.

SECTION 3

Page 2, line 14 – Clarification - to apply the restriction to only ND Lottery tickets.

Page 2, line 26 – The amendment would enable the Lottery, by rule, to have a licensed lottery retailer, at the Lottery's request, sell tickets at a temporary location for a special Lottery promotion without licensing the temporary location.

Page 3, lines 1-3 – Clarification - to clarify participation in retailer 2nd chance drawings.

Page 3, lines 11-12 – The amendment would prohibit a prize from being paid on a winning ticket that has been purchased by a stolen lottery gift certificate or acquired illegally. There is one known incident of a retail clerk stealing lottery gift certificates and one known incident of a retail clerk stealing lottery tickets.

Page 3, lines 13-15 – Technical correction - to include theft of gift certifi. as an offense.

SECTION 4

Page 3, line 28 – Technical correction - to include a prize on a lottery promotion.

Page 4, lines 3-4 – Technical correction - to include a report on operating revenues.

Page 4, lines 10-11 – The amendment would enable the Lottery to directly offset promotional co-sponsorship funds it receives against the Lottery's appropriated marketing expense. The Lottery plans to continue to actively solicit co-sponsors for its promotions. The funds the Lottery receives should logically be applied against the Lottery's marketing expense to enable the Lottery to realize the full potential of its appropriated marketing expense line item without being penalized for its assertiveness and success in partnering with third parties on promotions.

Page 4, lines 12-13 – The amendment would classify retailer record check and credit check fees as part of the Lottery's continuing appropriation, rather than a fixed appropriation, because these fees are directly offset by fees the Lottery charges retailer applicants and licensed retailers. The amendment is also consistent with how the legislature presently classifies record check fees for the Gaming Division of the Attorney General's Office.

Page 4, line 15 – Technical correction - to delete unnecessary language.

SECTION 5

Page 5, lines 5-6 – Technical correction - to protect confidentiality of subscription data.

SECTION 6

Page 5, lines 14-15 – Technical correction - to subject a promotional prize to debt setoff.

SECTION 7

Page 5, lines 24-25 – The amendment would enable the Lottery to take possession of a dealer's motor vehicle (prize) on loan during a Lottery promotion without the Lottery having to title or license the vehicle. Presently, when a motor vehicle is withdrawn from a dealer's inventory and is no longer available for sale, the dealer must pay excise tax on the motor vehicle. The winning player of the motor vehicle prize would continue to be required to pay the excise tax when the motor vehicle is titled by the player. Note – The title of the bill is misleading.

I am happy to answer any questions. Thank you.

AH #1
1-17-07

PROPOSED AMENDMENT TO SENATE BILL NO. 2101

Page 2, line 26, replace "as provided by the lottery rules" with "at a temporary site for a special event authorized by the lottery"

Renumber accordingly

TESTIMONY ON ENGROSSED SENATE BILL NO. 2101

By Danielle Schaefer, Office of Attorney General

House Judiciary Committee

February 26, 2007

My name is Danielle Schaefer. I am the administrative staff officer of the North Dakota Lottery, a division of the Office of Attorney General. The bill includes 12 housekeeping items which are technical corrections or clarifications, and 5 important proposed amendments, as follows:

SECTION 1

Page 1, lines 11-13 – Technical correction - to include computer “quick pick” tickets.

Page 1, line 14 – Technical correction - to meet definition of Multi-State Lottery Assn.

SECTION 2

Page 1, line 24 – Technical correction - to delete unnecessary language.

Page 2, lines 1-2 – Technical correction - to delete unnecessary language.

SECTION 3

Page 2, line 14 – Clarification - to apply the restriction to only ND Lottery tickets.

Page 2, line 27 – The amendment would enable the Lottery to authorize a lottery retailer to sell tickets at a temporary location for a special Lottery-sponsored promotion without the retailer having to obtain another site license that would cost \$550 (\$50 application fee & \$500 license fee).

Page 3, lines 1-3 – Clarification - to clarify participation in retailer 2nd chance drawings.

Page 3, lines 11-12 – The amendment would enable the Lottery not to pay a prize on a winning ticket that a player bought by using a stolen lottery gift certificate or acquired illegally (i.e. eBay). There is one known incident of a retail clerk stealing gift certificates and one known incident of a retail clerk stealing lottery tickets.

Page 3, lines 13-15 – Technical correction - to include theft of a gift certificate as an offense.

SECTION 4

Page 3, line 28 – Technical correction - to include a prize on a lottery promotion.

Page 4, lines 3-4 – Technical correction - to include a report on operating revenues.

Page 4, lines 10-11 – The amendment would enable the Lottery to use funds that it receives from co-sponsors of its promotions in addition to its marketing appropriation. It is only logical and fair for the Lottery to receive the full benefit of its marketing appropriation and, due to the Lottery's assertiveness, the benefit of additional funds that it solicits from co-sponsors. The Lottery plans to continue to actively solicit co-sponsors for its promotions.

Page 4, lines 12-13 – The amendment would include, as part of the Lottery's continuing appropriation, the expense of doing criminal history record checks and credit checks on Lottery retailers because this expense is directly offset by fees the Lottery collects from retailers. Also, this would be consistent with present law for other divisions of the Attorney General's Office. The Lottery has a continuing appropriation for certain types of expenses that are incremental to sales, including vendor fees, retailer commissions, prizes, and game group dues.

Page 4, line 15 – Technical correction - to delete unnecessary language.

SECTION 5

Page 5, lines 5-6 – Technical correction - to protect confidentiality of subscription data.

SECTION 6

Page 5, lines 14-15 – Technical correction - to subject a promotional prize to debt setoff.

SECTION 7

Page 5, lines 24-25 – The amendment would enable the Lottery to take a dealer's motor vehicle that is a prize in a Lottery promotion off the dealer's lot without the dealer having to pay excise tax on the motor vehicle as is presently required when a vehicle is withdrawn from a dealer's inventory and no longer available for sale. Also, the Lottery would not have to title or license the motor vehicle. The player who wins the motor vehicle would continue to be required to pay excise tax on the vehicle when the player titles the vehicle.