

# MICROFILM DIVIDER

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



ROLL NUMBER

DESCRIPTION

1144

2005 HOUSE FINANCE AND TAXATION

HB 1144

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1144**

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date **January 12, 2005**

Tape Number

**1**

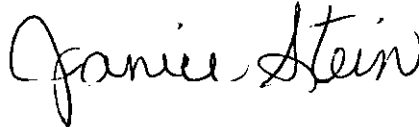
Side A

Side B

Meter #

**16.8**

Committee Clerk Signature



Minutes:

**REP. WES BELTER, CHAIRMAN** Called the committee hearing to order.

**MYLES VOSBERG, SUPERVISOR OF SALES AND WITHHOLDING TAXES, STATE TAX DEPARTMENT,** Testified in support of the bill. See attached written testimony.

**REP. WEILER** What happens if I win four thousand dollars, do I still owe the tax?

**MYLES VOSBERG** The withholding doesn't change the liability for the winner, all it does is to require the withholding at the time the winnings are paid out. Any winner is required to report and pay tax on their winnings.

**REP. BELTER** Is that all levels of winning?

**MYLES VOSBERG** Yes, anyone who wins, is required to report it as income on their income tax, for both federal and state purposes, however, the withholding limit is set at five thousand dollars.

**REP. FROELICH** Asked if fifty thousand dollars was won, how is that handled now?

**MYLES VOSBERG** Some of the casinos now, withhold tax, however, we don't have the ability to require them under law to do that.

**REP. FROELICH** I know there are federal income tax implications, couldn't you apply that under the table, and the casinos would not report that to the state, how can you chase that back to the federal income tax?

**JOSEPH BECKER, STATE TAX DEPARTMENT** Answered the question. There are information reporting requirements by the casinos. Federal law will require them to report gambling winnings over certain thresholds, through that mechanism, we can get a copy of that as well. It doesn't necessarily escape the radar screen. They have to report it on their federal tax return, which we pick up on. For federal purposes, withholding does not apply to every kind of win, you mentioned slots, for example, withholding does not apply to a slot machine. In this bill we are talking about the lottery. If we took an individual from the state of South Dakota, where our compliance return would be greatest, the withholding comes to help us in that regard.

**REP. FROELICH** Do we have a compact with Prairie Knights or Four Bears or the other casinos, if you do, what rate is that set at, does it compare to what we are looking at today?

**JOSEPH BECKER** At the federal level, it is the third lowest rate which is twenty five percent, I don't know if that is comparable.

**REP. FROELICH** If someone wins fifty thousand dollars at the casino, is he required by federal law to have that reduction taken or can he waive that?

**JOSEPH BECKER** If federal law has a provision covering the particular winning in question, it is required, you can't elect out of it. In the case of a lottery winning, it is required, as long as

the winning is over five thousand dollars. In the case of slots, or keno winnings, and a number of other things, on a non wagering basis, withholding is not required by federal statutes.

**REP. GRANDE** Regarding the five thousand, what if I was to win three four thousand dollar winners, are you going to win on the second one because I have a total coming in?

**JOSEPH BECKER** No, they don't have a total for the year, it only takes place at the point of the winning, if it doesn't exceed five thousand, withholding is not required.

**REP. GRANDE** Are we not missing a group of people doing this?

**JOSEPH BECKER** In a lottery situation, I am not sure we are looking at multiple winnings.

**REP. GRANDE** We are taking taxes earlier then we have to pay them, I am taking issue with the fact, that they are keeping my money before I owe it. If I can keep that money and pay it when I owe, that should be my priviledge. I prefer not to pay my taxes before I have to.

**MYLES VOSBERG** Returned to answer, stating it is the same concept as withholding for wages. Most people would probably have that money in their pocket until the tax is due, but as a matter of practicality and a compliance tool to insure the state gets its money, and it kind of protects the employee in that case, from spending all of the money and having it available.

**REP. GRANDE** When I put my deductions in, you take out as little as possible, what if you take it at the highest threshold, and now I have to get a refund from you, I don't like the idea of you having my money.

**MYLES VOSBERG** In the case of withholding wages, the law requires that we attempt to withhold that which will be equivilant to the amount of tax, when you file your return. You can argue that this is somewhat of a windfall to the winner, and is probably not money they are relying on as much as a wage.

**REP. GRANDE** On that then, why did you pick the highest threshold?

**MYLES VOSBERG** We just picked that to be sure there is adequate withholding. Some of the winnings could be substantial.

**REP. KELSH** If a North Dakota taxpayer wins a lottery in another state, how does North Dakota get its money?

**MYLES VOSBERG** It is common practice to do the same thing in other states. They use the same threshold.

**REP. KELSH** The state of Minnesota would withhold and it would go to the state of Minnesota, then the North Dakota taxpayer would have to apply for a refund from Minnesota?

**MYLES VOSBERG** The winnings are taxable at the point or the state where the ticket is purchased.

**JOSEPH BECKER** Added additional comments relating to Rep. Grande's questions.

If the withholding mechanism of five thousand doesn't pick up smaller winnings, there is a second mechanism in place, and that is generally, winnings of so much are aggregated over the year, and still have to be reported. We may not get the money up front, but they still have to be reported. We are also concerned with non residents, who we might lose in the mix.

With no further testimony, the hearing was closed.

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House Finance and Taxation Committee

Bill/Resolution Number **HB 1144**

Hearing Date **January 12, 2005**

**COMMITTEE ACTION** 1-12-05 Tape #1, Side A, Meter 46

**REP. WRANGHAM** Made a motion for a **DO PASS**.

**REP. CONRAD** Second the motion. **Motion carried.**

9 Yes      3 No      2 Absent

**REP. WEILER** Was given the floor assignment.

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/03/2005

Bill/Resolution No.: HB 1144

**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.*

|                | 2003-2005 Biennium |             | 2005-2007 Biennium |             | 2007-2009 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

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

| 2003-2005 Biennium |        |                  | 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1144 authorizes the withholding of state income tax on lottery winnings over \$5,000. The bill does not alter the income tax that is owed by lottery winners, however, it could result in a speed up of collections from large lottery winners. It is impossible to estimate how many winners - if any - will be impacted by this legislation.

**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.*

**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.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

**Name:** Kathryn L. Strombeck  
**Phone Number:** 328-3402

**Agency:** Office of Tax Commissioner  
**Date Prepared:** 01/11/2005



Date: 1-12-05  
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1144

House FINANCE & TAXATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass

Motion Made By

Rep Wrangham

Seconded By

Rep Conrad

| Representatives         | Yes | No | Representatives | Yes | No |
|-------------------------|-----|----|-----------------|-----|----|
| BELTER, WES, CHAIRMAN   | ✓   |    |                 |     |    |
| DROVDAL, DAVID, V-CHAIR | ✓   |    |                 |     |    |
| BRANDENBURG, MICHAEL    |     | ✓  |                 |     |    |
| CONRAD, KARI            | ✓   |    |                 |     |    |
| FROELICH, ROD           | ✓   |    |                 |     |    |
| GRANDE, BETTE           | ✓   |    |                 |     |    |
| HEADLAND, CRAIG         |     | ✓  |                 |     |    |
| IVERSON, RONALD         |     | ✓  |                 |     |    |
| KELSH, SCOT             | ✓   |    |                 |     |    |
| NICHOLAS, EUGENE        | ✓   |    |                 |     |    |
| OWENS, MARK             | ✓   |    |                 |     |    |
| SCHMIDT, ARLO           | ✓   |    |                 |     |    |
| WEILER, DAVE            | ✓   |    |                 |     |    |
| WRANGHAM, DWIGHT        | ✓   |    |                 |     |    |

Total (Yes)

9

No

3

Absent

2

Floor Assignment

Rep Weiler

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

**REPORT OF STANDING COMMITTEE (410)**  
January 12, 2005 1:16 p.m.

**Module No: HR-07-0349**  
**Carrier: Weiler**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1144: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (9 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). HB 1144 was placed on the Eleventh order on the calendar.**

2005 SENATE FINANCE AND TAXATION

HB 1144

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1144**

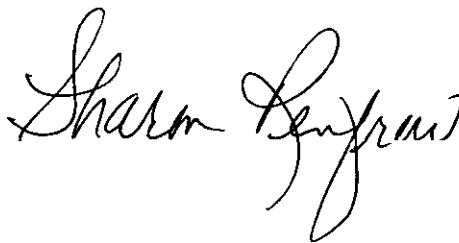
Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date **March 1, 2005**

| Tape Number | Side A | Side B | Meter #   |
|-------------|--------|--------|-----------|
| # 1         |        | X      | 0.0 - 7.9 |

Committee Clerk Signature



Minutes:

**CHAIRMAN URLACHER** CALLED THE COMMITTEE TO ORDER AND OPENED THE HEARING ON HB 1144.

**MILES VOSBERG:** Supervisor of Sales and Withholding Taxes for the Office of the State Tax Commissioner appeared in support with written testimony stating this will require the ND lottery to withhold income tax at a rate of 5.54 percent from the total proceeds of lottery winnings when the proceeds are greater than \$5,000. The \$5,000 threshold is consistent with the IRS's requirement to withhold federal income tax.

**SEN. EVERY:** where do the proceeds get deposited then? The funds that you collect, where will they be deposited.

**ANSWER:** will go into the general fund

**SEN. BERCIER:** the lottery has been running now for some time, is not then a lot to take that 5% out?

**ANSWER:** that's correct, at this point there has been no withholding. The income tax is due when the individual would need to report that on their income returns or income tax, but up this point there's been no withholding.

**SEN. EVERY:** where does the 5.54 come from?

**ANSWER;** the highest state tax rate, it's a large amount it's kind of a protection to make it simple but assured that there's a ample amount of withholding.

**BARB MASSET:** Accountant for the ND Lottery appeared in support with written testimony stating this will aid in ensuring that ND receives ND income tax due as a result of lottery prizes.

**SEN. WARDNER:** if we don't take it out right away do we follow up and get it collected when they file?

**ANSWER;** we have reported the names to the Tax Dept. If the prize is \$600 or greater they receive a W2G at the end of the year because it is reportable to the IRS.

**SEN. COOK:** I was just curious how we overlooked this last session or how you overlooked it or whoever did, were we not that optimistic that anybody would win?

**ANSWER:** I wasn't here. I don't know if it was considered last session.

**SEN. URLACHER:** now the prizes going out of state, are they recoverable?

**ANSWER;** Yes

**SEN. URLACHER:** how does that work?

**ANSWER BY DONNITA WALD:** we do receive the W2's from the lottery office, so we would have that information but we do rely on those non-residents filling reports and if they don't then that would become part of our compliance effort. If the withholding is made on these,

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Senate Finance and Taxation Committee

Bill/Resolution Number HB 1144

Hearing Date March 1, 2005

most likely we will get better compliance because they will want to get whatever refunds they would have available.

**SEN. WARDNER:** made a **MOTION FOR DO PASS**, seconded by Sen. Bercier.

**ROLL CALL VOTE:** 6-0-0      Sen. Bercier will carry the bill.

Date: 3-1-05  
Roll Call Vote #: 1

**2005 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HB 1144**

Senate

**Finance and Taxation**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

*Do Pass*

Motion Made By

*Wardner*

Seconded By

*Bercier*

| Senators       | Yes      | No | Senators     | Yes      | No |
|----------------|----------|----|--------------|----------|----|
| Sen. Urlacher  | <i>✓</i> |    | Sen. Bercier | <i>✓</i> |    |
| Sen. Wardner   | <i>✓</i> |    | Sen. Every   | <i>✓</i> |    |
| Sen. Cook      | <i>✓</i> |    |              |          |    |
| Sen. Tollefson | <i>✓</i> |    |              |          |    |

Total (Yes)

*6*

No

*0*

Absent

*0*

Floor Assignment

*Bercier*

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

**REPORT OF STANDING COMMITTEE (410)**  
March 1, 2005 11:40 a.m.

**Module No: SR-37-3820**  
**Carrier: Bercier**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**HB 1144: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1144 was placed on the Fourteenth order on the calendar.**



2005 TESTIMONY

HB 1144

TESTIMONY BEFORE THE HOUSE  
FINANCE AND TAXATION COMMITTEE

HB 1144

Myles Vosberg

January 12, 2005

Chairman Belter and members of the committee, my name is Myles Vosberg. I am the supervisor of Sales and Withholding Taxes for the Office of State Tax Commissioner. I am here to testify in support of HB 1144.

House Bill 1144 will require the North Dakota lottery to withhold income tax at a rate of 5.54 percent from the total proceeds of lottery winnings when the proceeds are greater than \$5,000. The \$5,000 threshold is consistent with the Internal Revenue Service's requirement to withhold federal income tax. Therefore, if HB 1144 becomes law, lottery proceeds greater than \$5,000 will subject to both federal and state income tax withholding, but proceeds of \$5,000 or less will be subject to neither federal nor North Dakota withholding.

Withholding of North Dakota income tax from lottery winnings will be a compliance tool to help assure tax is paid on North Dakota income as well as a protection to the lottery winner by assuring some of the proceeds are available to cover the income tax liability incurred on the winnings.

The Tax Commissioner's Office recommends a "do-pass" on House Bill 1144. I will be happy to respond to any questions the committee may have. Thank you.

TESTIMONY ON HOUSE BILL NO. 1144

By Barb Masset, Office of Attorney General  
Senate Finance and Taxation Committee  
March 1, 2005

My name is Barb Masset. I am the accountant for the North Dakota Lottery. I am here to support House Bill No. 1144.

In accordance with Federal regulations, the Lottery is required to report any prizes of \$600 or greater to the IRS and withhold 25% of a prize greater than \$5,000 for federal tax. To date there have been 35 prizes in the amount of \$600 or greater. The winners of these prizes included 2 Minnesota residents and 1 South Dakota Resident. One prize was in the amount of \$100,000 and two in the amount of \$5,000, there was no North Dakota income tax withheld on these prizes.

Players have the choice of claiming prizes of \$599 or less by presenting the winning ticket to a North Dakota lottery retailer or mailing it to the Lottery office. On average, the Lottery mails 11 prize checks per week. The majority of these checks are mailed to out of state residents. Nonresidents do play the North Dakota Lottery and they do win prizes.

Your favorable consideration of House Bill 1144 will aid in ensuring that North Dakota receives North Dakota income tax due as a result of lottery prizes.

I would be happy to answer any questions. Thank you.

TESTIMONY BEFORE THE SENATE  
FINANCE AND TAXATION COMMITTEE

HB 1144

Myles Vosberg

March 1, 2005

Chairman Urlacher and members of the committee, my name is Myles Vosberg. I am the supervisor of Sales and Withholding Taxes for the Office of State Tax Commissioner. I am here to testify in support of HB 1144.

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