



Turtle Mountain Band of Chippewa Indians
Turtle Mountain Gaming Program

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Interim Judiciary Committee
State Capitol
600 East Boulevard
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Chairman Klemin and Committee Members:

On behalf of the Turtle Mountain Band of Chippewa we are addressing the grave concerns we have over the rapid expansion of charitable gaming in the State of North Dakota. In particular, we are concerned about the explosive growth of electronic pull tab gaming devices in the state and the impact those devices are having on tribal gaming.

As you know, the national Indian Gaming Commission (NIGC) monitors tribal gaming activity, and our regional office is located in Rapid City, South Dakota. The NIGC reported Tribal Gaming Revenues by Region for the fiscal year 2018 and 2017, which listed our region as generating *the least amount* of annual gaming revenue of all of the tribe submissions. This amounts to only 0.01% of the total Tribal Gaming Revenue for the 501 Indian Gaming operations in the United States. Despite the modest income, Tribes provide jobs for our members in rural and economically distressed areas of the state. For example, our Turtle Mountain Casino employs 363 individuals. Of these, 98% are Native employees and 9% have been employed with the establish for at least 20 years.

Charitable gaming in North Dakota has seen a 32% increase in revenues from \$569 Million for the 2015-2017 biennium to \$841 Million for the 2017-2019 Biennium. The Attorney General's Office estimates that gross receipts will top \$1 Billion this year. Upon re-opening the state from closure due to the COVID-19 pandemic, charitable gaming generated a record amount in excess of \$85 Million for the month of May. There are reportedly about 2500 e-tab devices in 542 sites throughout the state conducted by 190 charitable gaming organizations. The significant increase in charitable gaming revenue can be attributed to the e-tab devices put into play in August of 2018. By contrast, during the same time period, tribal casinos in North Dakota have suffered substantial revenue declines, some as much as 42%.

Unlike tribal casinos, charitable gaming operators are not subject to strict requirements for the reporting and handling of cash. For example, Tribal casinos must comply with Title 31-Bank Secrecy Act and must establish programs for the detection and prevention of money laundering. Compliance with the Bank Secrecy Act is defined as any gaming entity that has gross gaming revenue of \$1 million or more, many of the charitable gaming operations from the overall gaming revenues reported are at the threshold for reporting requirements associated with the BSA – Title 31, strict penalties are imposed for non-compliance which could include both the operator and individual(s). Despite the vast amounts of cash flowing through the charitable gaming sites, there are no state law program requirements comparable to Title 31 for the prevention of money laundering.

Recent press reports indicate that the Attorney General's Gaming Division staff of 11.5 is inadequate to effectively regulate the size and scope of e-tab gaming across the area the size of North Dakota.

Moreover, it appears that the Gaming De3ivision does not have the resources to independently test and inspect the devices to ensure that they comply with the state's mandated technical standards or to verify the software tests and approved is the software actually being operated in the state. This opens the door to the possibility of widespread abuse. The recent action by the Attorney General against Power House Gaming is a prime example. While we commend the Attorney General for taking decisive action we question how nearly 500 electronic pull tab devices with pirated software allowed to operation in the state in the first place. If something this obvious as pirated software can be missed, imagine what other illicit practices are occurring and going un detected. This violation required a revision to administrative rule 33.01.3-09.6 Manufacturing specifications - Electronic pull tab device with operating system.

Tribes, under the Tribal-State Gaming Compacts are held to a higher standard of compliance. All of our gaming machines are certified by an independent test laboratory, and we are subject to inspection by the state on regular basis. The costs associated with the inspections are covered by the assessment the Tribes pay to the Office of Attorney General for that purpose, in fact billings have been occurring during the Covid -19 precautionary measures of closure although Casino's have been closed, no inspections occurred, nor has the tribe generated any revenue from the Gaming establishment. Electronic pull tab operators need to be held to al least the same standards, with robust independent testing and regular inspection by qualified trained state personnel. If current budget is insufficient to support aggressive regulation, the budget needs to be increased.

Tribal gaming casinos are also subject to strict standards for the licensing of gaming employees and vendors. We know too well that the potential for corruption is enhanced when people and companies with histories of unlawful or criminal behavior are not subject to adequate screening and prohibited from participation. We urge you to develop stricter licensing qualifications that rea at least as stringent as those required for tribal casinos. Companies with a history of illegal gambling practices, whether criminally prosecuted or not, should not be operating in our great state of North Dakota.

It is the foremost duty of every government to protect the citizens it serves. No one is served by the unchecked proliferation of unregulated gaming, including the players and the non-profit organizations these devices are supposed to support. We urge you to take action to stop the growth of electronic pull tab gaming unless and until adequate regulatry measures are put into place to assure that the activity is controlled at least as stringently as our tribal casinos.

Thank you,



Marty M Davis
Gaming Regulator

**Interim Judiciary Committee Testimony
Provided by Don Santer
Charitable Gaming Association of North Dakota
September 24th, 2020**

Chairman Klemin and Committee members, thank you for the opportunity to provide information regarding the charitable gaming industry of North Dakota.

My name is Don Santer, CEO of NDAD. NDAD is a North Dakota charity that for over 40 years has been dedicated to improving the quality of life for persons with disabilities. We provide services to citizens across North Dakota.

I serve on the Board of Directors of the Charitable Gaming Association of North Dakota, CGAND, who many of you know is the trade association for charities throughout North Dakota with charitable gaming operations that support their mission. CGAND hopes to be a resource to the legislature as you seek to understand the charitable gaming community, how these games operate, and how community charities benefit from our operations.

North Dakota Charitable Gaming

Over the past 40 years North Dakota has built out a responsible system for charitable gaming that puts charitable missions first, is highly regulated, beneficial to local communities, and evolves to utilize new technologies.

The North Dakota charitable gaming community has looked at the current laws, rules, and tax rates affecting charitable gaming.

- Charitable gaming tax revenue should be solely designated for appropriately regulating and maintaining oversight of the charitable gaming industry.
- The Office of Attorney General Gaming Division has faced budget cuts in recent years even as the charitable gaming industry is experiencing growth. The gaming division needs to be adequately funded to maintain high quality regulatory oversight of the industry. CGAND strongly supports and requests an increase in funding for regulation and local enforcement.
- North Dakota could appropriately utilize a portion of gaming tax revenue for the prevention and treatment of gambling addiction. We encourage the legislative body to set aside dollars for addiction prevention and treatment and believe that is an appropriate use of gaming tax dollars.

CGAND would like to respond to a few recent erroneous statements made about the North Dakota charitable gaming industry.

- **Charities do not issue IRS W-2G tax forms for electronic pull tab winnings. This is False:**
 - The IRS requires U.S. citizens to report all gaming income on their tax return, even if they were not issued a W2-G.
 - Federal IRS Laws require W-2G forms to be issued by gaming facilities on certain gambling winnings. The specific requirements for issuing and reporting a W-2G form depend on the type of gambling, the ratio of the winnings to the wager, and the amount of the gambling winnings. For instance:
 - Bingo winnings and Tribal slot machine winnings in the amount of \$1,200 or more require a W-2G to be issued.
 - A winning ticket for either paper or electronic pull tabs valued more than \$600 require a W-2G to be issued. For quick reference of just one gaming charity in North Dakota; NDAD issued 139 W-2G's in 2018; 192 in 2019 and 165 to date in 2020.
 - In addition to the W-2G's, North Dakota law requires charities to perform a child support check and intercept of gambling winnings when a W-2G has been issued and past due child support is owed. This intercept of gambling winnings is not a federal requirement and is not performed at tribal casinos.
- **North Dakota electronic pull tab machines are not regulated well enough and allow for sex trafficking and money laundering. This is False:**
 - The recent unsubstantiated statements made in the press and at interim legislative committee hearings related to money laundering and sex trafficking concerns connected to electronic pull tab machines are inflammatory and vague by design. They are intended to draw suspicion and cause public distrust in the charitable gaming industry. These allegations have been made without providing any evidence, direct or indirect, and supply no specific details for how or if any such activity is actually happening.
 - At a recent interim taxation committee hearing, Chief Deputy Attorney General, Troy Siebel was asked if these concerns were based in fact or just anecdotal; he stated he was not aware of any past or present sex trafficking or money laundering cases connected to charitable gaming or electronic pull tab machines in the state of North Dakota.
- **It is possible for a player to sit at an electronic pull tab machine and “launder” \$100,000 in drug money and then cash out unmonitored. This is False:**
 - It would not be possible for a player to cash out \$100,000 dollars from an etab machine in North Dakota. Most of the gaming charities in the state could not cover even 5% of a transaction that large at a gaming site.

- Money laundering requires a way to prove a legitimate source of funds. Even if all the player did was feed cash into the machine and then asked for it back, they would not be issued a W-2G; in other words, no winnings, no legitimate source of funds.
- Generally, many charities avoid games with prizes large enough to require W-2G's to be issued at all. This is because the charity may be liable for the tax if done incorrectly, players are not very cooperative giving personal information required by the IRS, and players often get irate and rude with the gaming staff; particularly if back child support is owed and the funds have to be intercepted.
- It is difficult to understand how in one statement, North Dakota charities are accused of not issuing tax forms for electronic pull tab winnings; then in the next, accused of fostering money laundering schemes that would require those very tax forms to be successful.

While there are some adjustments that can and should be made to streamline compliance, develop a fairer tax structure, and ensure funding is available for gambling addiction and treatment, overall, we believe that the system currently in place serves North Dakotans well.

Respectfully Submitted By,

Don Santer
CEO, NDAD