

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/14/2019**

Revised  
 Bill/Resolution No.: SB 2301

- 1 A. **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.*

	2017-2019 Biennium		2019-2021 Biennium		2021-2023 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0		\$(400,000)	\$400,000		
<b>Expenditures</b>	\$0		\$0	\$472,000	\$0	\$72,000
<b>Appropriations</b>	\$0		\$0	\$472,000	\$0	\$72,000

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

	2017-2019 Biennium	2019-2021 Biennium	2021-2023 Biennium
<b>Counties</b>			
<b>Cities</b>			
<b>School Districts</b>			
<b>Townships</b>			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill changes the tax to a four-tiered tax on gaming adjusted gross proceeds. It adds a continuing appropriation for a charitable gaming technology fund for contracting and purchasing equipment and software for a charitable gaming technology system.

- 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.*

If gaming adjusted proceeds are over \$1,000,000 the tax rate is 10.75%. If the gaming adjusted gross proceeds are over \$300,000 the gaming tax is 5% and if the gaming adjusted gross proceeds are \$100,000 or less the gaming tax is 3.75% The current gaming tax rate is \$15,000 plus 2.25%.

The bill provides for gaming license increases and provides that this increase is deposited in the charitable gaming technology fund. It adds a continuing appropriation for a charitable gaming technology fund for contracting and purchasing equipment and software for a charitable gaming technology system.

The bill increases the cost of gaming stamps purchased from the Office of Attorney General from \$.35 to \$.40, with \$.12 of the revenue to be deposited in the Office of Attorney General's operating fund.

The bill provides for a \$400,000 deposit from the general fund into the charitable gaming technology fund of \$400,000 in fiscal year 2020.

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 expected to be a significant increase in gaming revenues with the passage of this bill. At this point the amount of these changes is unknown. The estimated biennial deposits to the charitable gaming technology fund is \$72,000.

- 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.*

The bill provides for a \$400,000 transfer from the general fund gaming tax revenues to the fund. The bill provides for a continuing appropriation for the fund.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The bill provides for a \$400,000 transfer from the general fund gaming tax revenues to the fund. The bill provides for a continuing appropriation for the fund.

The Executive Recommendation did not anticipate the changes in this bill.

**Name:** Kathy Roll

**Agency:** Office of Attorney General

**Telephone:** 701-328-3622

**Date Prepared:** 01/21/2019

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**Agency:** Office of Attorney General

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**Date Prepared:** 01/21/2019

**2019 SENATE FINANCE AND TAXATION**

**SB 2301**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2301  
1/21/2019  
Job # 31112

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Alicia Larsgaard
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### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 53-06.1-12.4 of the North Dakota Century Code, relating to the creation of the charitable gaming technology fund; to amend and reenact subsection 2 of section 53-06.1-03 and sections 53-06.1-08.2, 53-06.1-12, and 53-06.1-14 of the North Dakota Century Code, relating to gaming license fees, taxes, and allocation and electronic pull tab device prize amounts; to provide a continuing appropriation; and to provide an allocation.

### Minutes:

Attachments: 7
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**Chairman Cook:** Called the hearing to order on SB 2301.

**Senator Larry Luick, District 25, Fairmount:** Introduced SB 2301. We have gambling nonprofit organizations in the state that are supposed to be getting compensation from our gambling in the state. Some of them are doing well and some are not. SB 2301 changes the formula as to how the payout and how those dollars are appropriated after the fact.

**Chairman Cook:** Basically it is a tax increase with a fiscal note of \$472,000.

**Tom Newberger, Chief Executive Officer for Red River Human Services Foundation:** Testified in favor of SB 2301. See attachment #1.

**Chairman Cook:** I am going to stop you right there with a question. You made a comment here that adjusted growth proceeds of \$10 pays the fees to the distributor which is 45%. Is that in administrative rules also?

**Tom Newberger:** That would be a good question for the Attorney General's office. Continued reading from testimony.

**Chairman Cook:** You say it increases the annual fee for charities by \$25 and higher amounts for distributor. That higher amount is what?

**Tom Newberger:** I believe it is \$1,500 per year. Look on page 4 under section 1a.

**Deb McDaniel, Director of the Gaming Division for the Office of the Attorney General:** Testified neutrally for SB 2301. I am here to ask on behalf of the attorney general for your consideration of the \$400,000 technology fund. That is due to the fact that our system was built in 1998 to take over for the AS400 which wasn't compatible. Since then, there hasn't been any updates and I have been informed by IT that \$400,000 would be a substantial start to have a rewrite of our gaming system. The reason for this need is because of the electronic pull tab devices and the age of the current gaming system. Right now, not only do charities, distributor, and our office have additional work to do for these devices, but it has increased everyone's work load 100%. Before electronic pull tabs, normal tax returns for charitable gaming organizations we this think (showed visual) our office has to data enter every single amount that is in these tax returns. With the legalization of the electronic pull tabs, this is the same organization's tax return that was just submitted compared to before (showed another visual). We are looking at the charities being able to filing their tax returns online and pay for them there as well. Our system would be able to be compatible with the current electronic systems where they can upload the required reports to our system so the processing would be easier. It also benefits the distributors. I am not in favor or opposition of the bill.

**Chairman Cook:** Those two piles you showed, is that common with every charity out there or is that the worst one you could find?

**Deb McDaniel:** It is an in between one. I have another one. (showed another visual)

**Chairman Cook:** Are there any that are the same?

**Deb McDaniel:** No. There are 149 organizations out of 300 that conduct the electronic pull tabs. If you are not conducting electronic pull tabs then yes, your tax return would be the same.

**Chairman Cook:** Do you know if the 45% is in administrative code or is that negotiated between the manufacturer and the individual charity?

**Deb McDaniel:** It is negotiated between the two.

**Lisa Vig, Director of the Gambler's Choice and Free Through Recovery programs for Lutheran Social Services of North Dakota (LSS):** Testified in favor of the bill. See attachment #2.

**Chairman Cook:** You mentioned the historic horse racing bill. You said it would have been amended. Did the amendment or bill fail?

**Lisa Vig:** The amendment was included in the bill and the bill failed.

**Chairman Cook:** How many gambling addiction counselors are in the state?

**Lisa Vig:** There are three.

**Chairman Cook:** And they all work for LSS?

**Liza Vig:** They do and they are not employed at full time capacities. Those three would be the equivalent of 2.5.

**Chairman Cook:** Is there a need for more?

**Lisa Vig:** Yes, but there is not funding.

**Chairman Cook:** Where are they located?

**Lisa Vig:** We have two in the Fargo/Grand Forks area, and one in the Bismarck/Mandan/Minot area.

**Ken Karls, Cystic Fibrosis Association of North Dakota:** Testified in support of SB 2301. See attachment #3. We are in support of the technology fund for gaming. They need a break in the Attorney General's Office. We also support the tax structure. We aren't tied to a tax on adjusted gross proceeds or on gross proceeds. We would like to see a reduction in the tax. The reason for that is that we believe the way the present law exists, the gross proceeds include not only the money that goes into a machine, but also the replays. The amendment I would suggest is because this bill is on adjusted gross proceeds. It sets up 4 tiers. In the first 100,000, it taxes on 3 and 3.75 percent on adjusted gross. We left that the same. The next tier went from 100,000-300,000 and it taxed it at 5%. We expanded that from 100,000 to 500,000. From 500,000-1,000,000 they had it at 8.75% and we dropped that to 7.5%. For anything in excess of \$1,000,000 they had 10.75 and we put that at 10%. We know there are costs associated with regulating gaming and there are costs that are needed for the Attorney General's technology improvement. We don't think this tax structure in these amendments will injure state revenues. It appears that the increase over projections will increase will continue even with these proposed amendments. As such we recommend the consideration and adopting of those.

**Chairman Cook:** Do you have sites where you have these electronic pull tabs at?

**Ken Karls:** We have them in two. We have had calls from our landlords for them to be in 4 others.

**Chairman Cook:** So you have seven sites?

**Ken Karls:** We have 6 sites.

**Chairman Cook:** What is it doing to your business? How much have you increased in sales?

**Ken Karls:** In the one quarter that we have had them in operation, we better than doubled our gross sales. Our tax increased by almost 300% because of the large number of relays. About \$300,000 in sales has gone through those machines.

**Chairman Cook:** Those are included in the sales though.



**Ken Karls:** I am not a CPA. I have heard that argument both ways. It is possible. Our organization's sales in pull tabs have decreased and even black jack while these sales have increased.

**Chairman Cook:** So you think it is a shift of gambling dollars?

**Ken Karls:** It is a shift of disposable income from one to the other. The hold for pull tabs is roughly 20%.

**Chairman Cook:** What has it done to your bottom line?

**Ken Karls:** In our gaming fund, it pays for the gaming taxes and the operation of gaming. Those fund revenues are really dropping. We have to make a requisite transfer at the end of every quarter to our trust fund for our charitable purpose and that is the way it should be. We also pay the taxes and the cost of paper pull tabs and electronic pull tabs. We are paying that based on replays.

**Chairman Cook:** Can you pay 45%.

**Ken Karls:** We do; they offer three ways to pay for it. You can buy the machines at \$7,000 each. When you have 6 sites saying they want them there, we aren't going to pay that much. You can do it on a rent to buy and pay a higher fee or you can tell them to keep the machine on their insurance and take care of all the glitches and I will pay a higher price. That is why we pay that 4.5 cents.

**Chairman Cook:** So there is a 10% hold and 10% of that 10% is going to the state for taxes. Then are you splitting what is left with the machine manufacturer?

**Ken Karls:** Yes, on the expense side that is correct.

**Chairman Cook:** Testimony in support? Testimony opposed?

**Todd Kranda, Lobbyist, Northern Prairie Performing Arts:** Testified in opposition of the bill. I would like to introduce a man to you who can cover 2301 with you and address the concerns we have. With the permission of the Chairman and Committee members, I introduce Rick Stenseth.

**Rick Stenseth, Northern Prairie Performing Arts:** Testified in opposition of SB 2301. We are in agreement with an appropriation of the Attorney General's Office. We all know how difficult it is for us to deal with our taxes as an individual organization. It is incomprehensible what they have to deal with when they are dealing with all the organizations. Moving to adjusted gross and setting these standards is good. Even with the proposed changes, that is based on current dollars and keeping things level. The pull tabs are going to more than double the tax collections in the next biennium with this change. We realize that new games mean new costs. Additionally, funds need for the office to operate is part of their budget. The collections are already in excess of what it takes to run that office. We would not like to see this bill proceed as it is in the tax structure area. There is another bill that I am aware of that is in the House in which we have been talking about. That takes our current gross proceeds

standard and amends it to deal with the issues of the new taxation. The hope is that we will end up paying less taxes and it doesn't change the pattern of reporting and taking care of business. We are not opposed to going to adjusted gross, we just think that this first offer is a good starting point. It does have a long way to go so we cannot support it in this form. The most important thing of the three items presented by Mr. Newberger, is the 85% payback. There is a difference between hold percentage and prize pay back. Prize pay back is 90% on these games and organizations if they want to provide games that are less than 90%, can do so under current administrative rule. There has been talk that certain game manufactures are not excited about providing games at less than 90%. We can address that and required that they offer those amounts rather than mandate it for everyone. That doesn't solve the issue that concerns me the greatest. 90% payback to the players and a 10% remainder for the organizations; on the surface, it looks like 10 dollars out of 100. That is if you are counting all the tickets you sold and all the prices you actually paid out. The Chairman said on paper tickets are included. They are because on paper, there is no other way to compute gross proceeds then to say "How many tickets did you sell for \$1?" With paper there is no way to track it. With this new game type, the bills have to be accepted by standardized bill acceptors. We know exactly how much money comes into the game. This is very similar to black jack where you know exactly how much cash came into the game by how much cash goes into the drop box. In all games, gross proceeds are cash. In this gross statute, gross proceeds are listed as cash. In this particular game, because e-tabs are an extension of paper pull tabs, the same principles were applied that paper more over to electronic. Because the electronic tells us how many dollars we take in, we feel that is exactly what we should pay taxes on. We are ending up paying taxes on the gross proceeds as currently defined which is every ticket. What it works out to be is that we are paying taxes on about \$2.5 on every dollar that is put into play on the device. The second issue is with a 90% payback, the players that sit down have an expectation of value for their dollar. When they get a larger winner, they are likely to cash out. When they cash out, we have to pay that prize. We didn't have to pay a prize on any of the other ones that were turned back. If we lower to 85 or even longer, all those smaller winners are where that prize is going to come from. When you put your \$20 in, you are not going to get as many play backs and win as many times. That means you are less likely to play which is not good for us. The term "whole percentage" as it has been used is incorrect because a hold percentage means the state wide average for whole percentage is just over 15%. You put you 100 dollars in and you might play 200-300 worth of play. We are getting taxed on the \$100 as our gross proceeds but the prizes for that game are only the chips that get cashed out. The turning is what makes it enjoyable for people. It gets us to a whole percentage rate of about 25-26%. That means \$25 out of every hundred that goes in the machine is ours to use for taxes and expenses. We think we should take advantage of that information and get the tax rate right. If this body decides that they should be allocated funds, we certainly can't speak against it in fact we are in favor of it. I will take any questions now.

**Chairman Cook:** The first conversation I had regarding this bill was with a charity that was not making any money. Are you making money?

**Rick Guy:** Yes, we are. We have seen a significant increase in our bottom line. This money that we drive from the electronic game is very low label. My organization has seen at least \$30,000 in one quarter as far as net net bottom line stuff. That is a pretty good increase for our organization.

**Chairman Cook:** So the conversation I had with Ken Karls about you getting \$10 and 10% of that \$10 goes to the state for taxes and you split the rest. You are saying you actually have \$25?

**Rick Guy:** That is correct.

**Chairman Cook:** And that is typical of all charities?

**Rick Guy:** That is typical of this game type. All are different as far as how much the produce in cash. 15% for black jack is about the lowest.

**Chairman Cook:** The fee that you pay to the manufacturer is 45% of what?

**Rick Guy:** There can't be a participatory percentage. We are paying per ticket. It works out to be 40% for us and them both. We chose to let the manufacturer own the device and take care of everything that comes with it. We felt that that was a fair deal. There is no way we could afford to put 20 machines in at \$7,000 per device. Our manufacture has a lot of machines and millions of dollars invested. It will be awhile until they turn a dollar while all along, we are.

**Dennis Drengson, President of the Mandan Hockey Club:** Testified in opposition of SB 2301. See attachment #4.

**Brandt Jenner, General Manager of the Harvey Eagles:** Testified in opposition of SB 2301. We are in favor of the technology fund. We are getting to be techier. We file a lot of things electronically except for our gaming taxes. On page 2 on line 20 is in reference to the electronic pull tabs. I would like to see that at 80%. Our paper cards pay about 80% In our organization, we are not a 501-3c. We donate to a number of different charities. We donate over \$100,000. When this goes to your adjusted gross, 40% of that goes right to our trust fund. We are allowed to operate on that 60%. Of that 60% we have to pay our rent, employment fees, wages, and cost of pull tabs. The current cost of out pull tabs is about 2 cents each. The e-tabs are about 4.5 cents. We work with 10% on those e-tabs. If we are paying 4.5% to the manufacturer and 1% to the state that only leaves us with 4.5%. Our charity is not making money at this. We are very new. The e-tabs have been a disaster. Our paper card sales have dropped. I hope all of this will recover. I will welcome any questions.

**Chairman Cook:** I hear of charities that are losing money, I hear of ones that are making money. The Mandan Eagles has ten of these and they are tickled pink.

**Brandt:** I have two sites and I have 5 machines. We are new and it has not gone well for us.

**Chairman Cook:** Are the machines being played a lot?

**Brandt:** This quarter since we have been up and running, about \$19,000 of green bill cash have gone through the machines. My prizes are about \$64,000. A lot of these play backs are getting played.

**Senator Dotzenrod:** I was surprised to hear you say that the cost for the pull tabs is less than the e-tabs. The electronic is just is digital representation though.

**Brandt:** We do not own our machines either and I would guess that the manufacturer charges the 4.5 because they are responsible for everything on them.

**Senator Dotzenrod:** So a digital representation of a pull tab is more expensive than a real one? I am surprised to hear that.

**Brandt:** Approximately, yes.

**Chairman Cook:** Have you ever seen one of those machines.

**Senator Dotzenrod:** No.

**Melissa Harvey, Gaming Manager:** Testified in opposition of SB 2301. I would consider the guy that went before me to be an anomaly. Those are numbers I have never heard of. My whole percentages are roughly about 30%. Section 2 of this bill makes an amendment of the charitable gaming law that address electronic pull tabs state that the amount of prizes may not exceed 85% of the gross proceeds for each deal. I am here to say that an 85% pay out structure would be catastrophic to both or my organizations. For my first organization, we are generating revenue that is necessary to continue to provide advocacy programing and related services for people with developmental and intellectual disabilities. Prior to the addition of electronic pull tabs, we were struggling to make enough revenue to even keep the organization operational. At the second organization, we make sizeable donations to other non-profits. We have seen those amounts increase. At both organizations, we have been running the current payout structure of 90% for two full quarters and not even a month of this quarter. We have had fantastic success with the 30% hold for both organizations. Customer feedback has also been great. I see repeat clients more often due to the fact that they know the revenue being generated is going for charitable causes. I cannot stress enough how electronic pull tabs have been. I ask that you vote do not pass.

**Chairman Cook:** You have two organizations that are both in private bars?

**Melissa Harvey:** Yes, one has five machines and the other has nine.

**Chairman Cook:** What does it do to your rent?

**Melissa Harvey:** I have increased rent but the fact that my organization is making more money, the deserve to have some of those funds. I am also in favor of providing more revenue to the Attorney General.

**Senator Dotzenrod:** If we adopt this provision, you described it as having catastrophic consequences. Would you explain that? What will happen?

**Melissa Harvey:** I absolutely feel that my customers will not come back into my bar because they will not have the playbacks necessary to keep playing. I have seen people sit there for

10 hours and play. They keep coming back as well because they know their dollars are going into the community.

**Jenna Magee, Development Homes, Grand Forks:** Testified in opposition of SB 2301. See attachment #5.

**Senator Dotzenrod:** We have had some charities come in and say they like it this and others that say not to do it. What is it in the bill that distinguished winners and losers?

**Jenna Magee:** The taxes.

**Senator Dotzenrod:** They don't seem to be uniformly difficult for all charities. It seems like for some charities, it doesn't appear as a problem but to others it does. I have a difficulty finding what the problem is?

**Jenna Magee:** I think it is a little more complicated with that with how it is structured.

**Rusty Steffen, Listening Center, Grand Forks:** Testified in opposition to SB 2301. We currently have 9 gaming sites in Lakota, Mayville, and Grand Forks. The electronic pull tab machines have been a god send for our charity. The current bill would hurt more charities than it would help. We are in favor of the funds for the Attorney General's Office and opposed to the structure they have set up on the adjusted gross proceeds.

**Janelle Mitzel, Charitable Gaming Association of North Dakota:** Testified in opposition of SB 2301. See attachment #6. To answer the question regarding the tiered system on the adjusted growth, gaming a dozen years ago, we had excess taxes which were on the gross as well as adjusted tiered systems on the adjusted gross. Every time we tried to simplify the tax structure and put in on the adjusted gross, there were always winner and losers. Some charities gained and some lost. That is why we ended up moving taxes to the gross.

**Chairman Cook:** One thing that confuses me, is that you all compare the taxes to the first two quarters of 2018 but we didn't have electronic gaming then.

**Janelle Mitzel:** Correct, we are waiting for that data.

**Chairman Cook:** That would be a fair comparison correct?

**Janelle Mitzel:** The fourth quarter would be.

**Senator Dotzenrod:** You didn't comment on this charitable gaming technology fund. Do you think it is a good idea that we should have that fund? Any ideas on where the revenue should come from?

**Janelle Mitzel:** HB 1533 does address that. I think with this it is a little more complicated. I believe Representative Dockter wanted it a little more simplified. It does address the \$400,000. The charities are in favor of that a \$400,000 appropriation however that should happen.

**John Jorgensen, ShareHouse Inc., Fargo:** Testified in opposition of SB 2301. We support Deb's efforts in becoming more technically savvy. We support the section of this bill that does appropriate funding for them. I think it will make everyone's lives easier. We would fully support some sort of funding for gambler's choice. We are opposed to the 85% payback limit. To answer where the 85% is an issue, you have different manufacturers that are offering different payout structures. The organizations that I know of right now that are successful are generally all using 90% payback. It is a combination of a better machine and a better player experience because of 90%. As far as limiting, payback, there is only one other game type that we run that has a requirement for what we payback to players and that is poker. Other games that I am familiar with do not require a certain payback. When we are talking about the charity getting 10 dollars, if you looked at it from black jack and you said of that \$100 the player buys in for, the house keeps \$3. Because of volume, we get to the number where the house gets numbers. There will be winners and losers. No one is going to come back if they can't ever win. If you drop this payback percentage that low, no one is ever going to win. That is why I would say we need to oppose this percentage. The other question about what we are paying for ticket prices may also separate what we have with our people performing well and those who underperform. For our first set amount of tickets, we are paying 4.5 cents each. After a certain time, our ticket prices do lower if our sales are going that well. They are not getting volume discounts. They are paying full prices to both. My organization went with one manufacturer. We run five sites in Fargo with 28 machines. We are selling over about \$1,000,000 in tickets per month. The impact for our organization raises 200 employees at warehouse salaries. Two years ago, there were none. That is the impact of e-tabs. Our axes would've increase about \$20,000 for those two quarters. That is before e-tabs came out. After they did come out, our taxes increased that quarter. My accountant was shocked This change in the tax in this bill would not be good for ShareHouse. Most parts of this bill would not be good for us. Are there any further questions?

**Chairman Cook:** Further testimony opposed? Neutral Testimony? Anybody want to talk to section 5? Hearing none, we will close the hearing on SB 2301.

**Additional data was submitted to the clerk after the hearing. See attachment #7.**

# 2019 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2301  
1/29/2019  
Job #31704

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Alicia Larsgaard
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Attachments: 1
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**Chairman Cook:** Called the hearing to order on SB 2301. This made some changes to some tax policy to try to capture the dollars. If you recall from the testimonies, we had nonprofits saying they were losing money and we had others saying they were making tons of money. They would talk about a 10, 25, and a 30 percent take. That afternoon, Deb McDaniel came down and I can bring her back again. She had the reports that are required from all the charities that testified. It is a public record. They were all at 10%. I don't know where the 10% is. You make 10% off of gaming. What you do with the rest of your profit is done in 3 ways. One says 45% to the manufacturer and 45% to the charities. Others rent it. Bottom line is the sales are being up so with sales being up, there is no changes to the tax policy. Revenue should be up. There will be revenue hopefully raised this year that will cover the software that is needed. I do not think this bill is needed. There is another issue which is why I handed this sheet to you. See attachment #1. The manufacturers were in the hearing and none of them testified. I guess the reason why was that over in the House there was a bill (1245) that wanted to eliminate tax on the credits. I know that bill has been withdrawn. I would guess there is another one over in the House. I don't know if you want Deb to come back and answer some questions.

**Senator Dotzenrod:** I am a little confused. It seems like one of those things where there are some people who like it because of the favorable outcome it has for them, and then there are others that do not because there isn't a favorable outcome for them. I need a flowchart or something to see how it would effect a charity before and after we made these changes to really understand. It seems like the 85% is a problem.

**Chairman Cook:** I think the big difference is the arrangement they have with their distributor.

**Senator Unruh:** I agree. I am not quite sure where that line is. It wasn't clear in the testimony. I did receive a call or an email from every hockey club in the state. That raised a lot of concern for me that someone who would be so effected by the legislation, wasn't aware of it.

**Chairman Cook:** If the committee would like, I can have Deb McDaniel come down and show me the paperwork that she showed me. It is a report they have to file monthly. The other thing to remember is that these machines didn't start to be put into bars until July of 2018. In many of the testimonies, the compared tax now to when there weren't any machines. If we let a biennium go by, we will have more information. We will wait with this until Deb can come down.



# 2019 SENATE STANDING COMMITTEE MINUTES

## Finance and Taxation Committee Lewis and Clark Room, State Capitol

SB 2301  
2/5/2019  
Job #32149

- ☐ Subcommittee  
☐ Conference Committee

Committee Clerk: Alicia Larsgaard
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### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact section 53-06.1-12.4 of the North Dakota Century Code, relating to the creation of the charitable gaming technology fund; to amend and reenact subsection 2 of section 53-06.1-03 and sections 53-06.1-08.2, 53-06.1-12, and 53-06.1-14 of the North Dakota Century Code, relating to gaming license fees, taxes, and allocation and electronic pull tab device prize amounts; to provide a continuing appropriation; and to provide an allocation.

### Minutes:

Attachments: 0
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**Chairman Cook:** Called the hearing to order on SB 2301.

**Chairman Cook:** Deb, what was the revenue generated this biennium? What is it projected to be for the gaming tax?

**Deb McDaniel, Director of Charitable Gaming Division, Office of Attorney General:** It is projected to be \$12.8 million with the e-tabs for the biennium. That is all the games plus e-tabs.

**Chairman Cook:** What are you projecting that to be the next biennium?

**Deb McDaniel:** I am getting mixed up. \$12.8 million would be the next biennium. This biennium would be \$7.8 million.

**Chairman Cook:** So is projected to go up \$5 million. Is that more than enough to cover your software?

**Deb McDaniel:** It would be great if it would cover my entire budget. Yes, that is plenty to cover the gaming divisions budget.

**Chairman Cook:** Does anyone have any questions on the testimony that was given? Deb, you had shown me some reports they filed that spoke to the draw. Can you share them with the committee?

**Deb McDaniel:** Some of the organizations will inform you that they are making money on the electronic pull tabs and others will tell you they are not making money. There are several reasons for this. It is the way they are looking at how they are getting the money. The percent of hold on e-tabs is 10%. All the other game types percentage of hold is 20%. They are not getting as much money from that particular game type. The cost expensed for the e-tabs are that the manufacturers are charging 4 cents per dollar to conduct these types of games. Their expenses are doubled now. Some organizations have cash that go into the device. The legislature approved last session that when you win prizes, you can replay the prizes without having to cash them out then they put them back in the machine. The organizations are looking at the cash in the device. If there is \$100 in the device, they are thinking they made \$100. That is not true. The money that went into the device needs to have the prizes added to it and then you get your adjusted gross. They see \$100 and ignore the prizes. That is not how it works. If you put in \$100 and you win \$90 in prizes, you only made \$10. They are not looking at their net correctly. I did a little run down. If you just played e-tabs. You put in a dollar and you get 90cents back in prizes. The charity then gets 10 cents. Of that 10 cents, we charge 1.2% as the average breakdown of taxes. The organization would pay 1.2 cents in taxes. We allow the organization 60% of the net after taxes for expenses. They get 8.8 cents for expenses and the charity themselves would get 3.6 cents. With other game types, you get to keep 20 cents of your dollar for the charity. Their tax again is 1.2 cents, but their expenses is where they get to use 11 cents and the charity makes 7 cents. The cost of the e-tabs is more expensive than any of the 8 game types. When the little organizations are coming in here and saying that it will cost them a lot of money, they are correct. It is costing them a lot of money in expenses to keep this game type whereas, the bigger organizations, come in and say they are making a lot of money. They are making money however; they are supplementing their gaming expenses with programmed money. They are not making money; they are using supplemental income to continue their gaming activities. The little guys might not have supplemental income to help them make up these expenses.

**Chairman Cook:** When they file their reports, there is a line that shows what the profit is for electric gaming and it is fairly close to 10% across the board, correct?

**Deb McDaniel:** Correct.

**Senator Patten:** So there are 10 cents on the dollar as their net before expenses. We pay 4 cents on the dollar for their e-tabs correct?

**Deb McDaniel:** The manufacture is charging them 4 cents.

**Senator Patten:** That leaves 6 cents and there are 1.2 cents coming off for taxes. It gets a little skinny when they are done.

**Deb McDaniel:** Yes, their solution is to cut the tax when that is only 1 cent and the manufacturers are charging them 4 cents.

**Chairman Cook:** Their solution is not cutting the tax in the bill in the Senate, that solution is over in the House. We have here is a tax increase solely to get you \$450,000 for the software.

**Deb McDaniel:** If we didn't have e-tabs, I would be asking for an increase anyway. The \$450,000 isn't coming from the organizations, it is coming from the General Fund.

**Chairman Cook:** The \$7.8 million- \$12.8 million; that extra \$5 million is because you see that coming from electronic pull tab activity. Do you have any idea of what is going to go down with the paper tabs?

**Deb McDaniel:** We see that it is both the jars and the dispensing devices that are going down. These are numbers from the December quarter. It is only one quarters worth of play. With the electronic quick shot games, we saw the first three quarters where everyone played them because they are new and fun. After that, we saw activity slowing being pulled from other games to make up that activity. We are also noticing that we have had some information from the tribal casinos that their activity has gone down. We are getting some of their play with these.

**Senator Dotzenrod:** On page 2 line 20, the amount of prizes may not exceed 85%. The examples you have given are 90%. It does appear that the 85% is the large part is to recover that 4 cents. That is what they are trying to do here. There is concern that the 85% is going to effect the amount of business and times it gets played. It is hard to say.

**Deb McDaniel:** Just looking at the state of Minnesota, their percentage is set in statute at 86%. They are not losing any money on their games at all. Our 90% is set in administrative rule that is not in the statute right now. The reason why some of the smaller organizations want to end statute is so there is a fair playing field. They can adjust it in administrative code, but a lot of the larger organizations will leave their percentage up very high to get the play in and then they can supplement it with outside money. The little organizations can't do that. This protects everyone in statute saying 85%. I do not have an opinion on the payout percentage. MN is at 86%.

**Chairman Cook:** There is plenty of money here to cover the number one reason this bill was introduced. I talked to appropriations and they are perfectly content to put this on the attorney general's appropriation bill to make sure that funding is there for that. My biggest concern is to get some history on what is going to happen. How many of these casinos have them that are not happy with what is happening with them and are they going to turn them back in and go back to paper tabs? I would like to wait 2 years and see what the revenue forecast is on it and what we are actually getting and then we will make any tax decisions on it.

**Senator Patten:** I agree on that. My one question would be with the expansion of the use of the gaming devices as the treatment programs and the funding of those. There were some suggestions that we should look at that when we look at our gaming legislation and whether we are funding the treatment programs adequately.

**Chairman Cook:** I agree. There is a bill across the hall and I do not know if it is going to make it to us. There is a place that I think we can do that.

**Senator Meyer:** I agree with you. I had a couple constituents testify. I wasn't here that day but again, they are coming out in opposition. I agree and they just showed up in July. I do like the technology fund part but otherwise I can move on from this.

**Chairman Cook:** I was surprised the hockey clubs came in and started emailing me

**Senator Kannianen:** Moved a Do Not Pass on SB 2301.

**Senator Meyer:** Seconded.

**Chairman Cook:** Any Discussion?

**A Roll Call Vote Was Taken. 6 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Cook will carry the bill.**

Date: 2-5-19  
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2301

Senate Finance and Taxation Committee

☐ Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation: ☐ Adopt Amendment  
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation  
☐ As Amended ☐ Rerefer to Appropriations  
☐ Place on Consent Calendar  
Other Actions: ☐ Reconsider ☐ \_\_\_\_\_

Motion Made By Kannianen Seconded By Meyer

Senators	Yes	No	Senators	Yes	No
Chairman Cook	✓		Senator Dotzenrod	✓	
Vice Chairman Kannianen	✓				
Senator Meyer	✓				
Senator Patten	✓				
Senator Unruh	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment COOK

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

**REPORT OF STANDING COMMITTEE**

**SB 2301: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2301 was placed on the Eleventh order on the calendar.

**2019 TESTIMONY**

**SB 2301**

Testimony  
Senate Bill 2301  
Senate Finance and Taxation Committee  
Senator Dwight Cook, Chairman  
Charitable Gaming E-machines, Taxes and Technology Fund  
January 21, 2019

Chairman Cook and members of the Senate Finance and Taxation Committee, for the record, my name is Tom Newberger. I am the Chief Executive Officer for Red River Human Services Foundation. We provide services to people with Developmental Disabilities in Fargo, West Fargo and Wahpeton, North Dakota. I have worked in this industry for almost 33 years and I am a CPA. I am here today in support of SB 2301.

I would like to share with you my thoughts in each of the three areas the Bill addresses as follows:

1. Electronic pull tab device payout percentages
2. Gaming Tax Rates
3. Charitable Gaming Technology Fund

1. Electronic pull tab device payout percentages: Electronic Pull tabs devices first came into North Dakota late last summer and Administrative Code section 99-01.3-06.1-02.16(4) limits the prize payout to no more than ninety percent of gross proceeds. In other words, the machine takes in \$100 and the maximum payout is \$90 leaving \$10 as the adjusted gross proceeds. The adjusted gross proceeds of \$10 pays the fees to the Distributor, which is 45% or \$4.50, leaving the charity with \$5.50. Of this remaining amount, \$1 is for gaming taxes leaving the charity with \$4.50 to cover wages, taxes, benefits and mileage. The charities receive very few net dollars from these devices, hence the proposed law change is to reduce the maximum payout from ninety percent to eight-five percent. I support the lower payout percentage as it will bring more dollars to the charities and in our case, support people with developmental disabilities and give them a better life. You will probably hear that gross proceeds or sales will drop if the payout percentage is lowered. I



disagree. If sales drop by even one percent, the charity still gain over four percent to help support their charities.

2. Gaming Tax Rates: SB 2301 proposes changing the tax rates from one percent of gross proceeds, which was adopted in 2011, back to adjusted gross proceeds with a tiered percentage rate. Taxes on adjusted gross proceeds was first established in 1977 at three percent. In 1983 and in 1989, a tiered tax rate on adjusted gross proceeds was established to help the smaller charities and have larger gaming operators pay a higher tax rate. In the example above, the gross proceeds were \$100 and the prizes were \$90 leaving \$10 as the adjusted gross proceeds. Currently taxes for all charities is at one percent of gross proceeds or \$1 in this example regardless of the charities gross proceeds or size. In looking at the Attorney General's Gaming Division spreadsheet on the proposed tax rates, a charity that has adjusted gross proceeds of \$10 will pay four percent on their adjusted gross proceeds or 40 cents rather than the one dollar. This will lower the taxes for the smaller charities by 60 cents which equates to a sixty percent reduction.

In looking again at the Attorney General's spreadsheet, the total taxes collected for the quarter ending June 30, 2018 was \$808,513. Under the proposed tiered tax structure, the taxes would be \$808,625 or only a \$112 difference. The largest benefit from the new tax structure is helping the smaller charities and keeping the overall taxes collected by the State at the same amount. The next biggest benefit is all gaming operators will no longer pay gaming taxes on credit replays from electronic pull tab devices. This is a concern as all gaming operators now pay gaming taxes when a player redeems a winning ticket to purchase additional ones.

3. Charitable Gaming Technology Fund: The reason for this proposed amendment to the law is to update the Attorney General's Gaming Division's computer system. Currently they use a DOS system (Disk Operating System) that is over twenty years old. Gaming operators submit their tax returns and then the gaming Division data inputs them, which is a very big burden. Currently some tax returns are over an inch thick which takes a long time to enter the data. If a new computer system is approved for \$400,000, this will save not only the Gaming Division a lot of time, but also the charities. It is my understanding that charities

<sup>1</sup>/<sub>22</sub> SB 2301 #1 pg. 3

will be able to submit their gaming tax returns electronically rather than by snail mail. This is a one-time cost and future technology updates will be paid by setting up a Charitable Gaming Technology Fund. The dollars needed for future usage will come from increasing the annual charities license renewal fees by \$25 per year and higher amounts from Distributors and manufacturers. I support this amendment too.

Thank you your time and please support SB 2301. I will be happy to answer any questions you may have.

SENATE FINANCE & TAXATION COMMITTEE

TESTIMONY IN SUPPORT OF SB2301  
“Modernizing Gambling Regulatory Technology”

AND PROPOSED AMENDMENT  
“Gambling Addiction Prevention and Treatment”

**Senator Cook and Committee Members.** My name is Lisa Vig, and I am the Director of the Gambler’s Choice and Free Through Recovery programs for Lutheran Social Services of North Dakota. I am here to support creation of the Charitable Gaming Technology Fund, and to propose an **amendment** for your consideration to also set aside dollars for the **Compulsive Gambling Treatment and Prevention Fund**.

Legal gambling options continue to increase in North Dakota. This recreational activity can be safely enjoyed by most people who participate, particularly if effective public messaging about responsible gambling is widely available, and if treatment is available to those who develop compulsive gambling behaviors (ranging from problem gambling to gambling addiction).

When the Lottery was established in 2002, the Attorney General recommended, and the State Legislature agreed that, to counter-balance the concern that people would be harmed by the expansion of legalized gambling, it was important for North Dakota to adopt a “responsible gambling” approach. This approach is rooted in the knowledge that legalized gambling is entertainment for the vast majority of people but turns into a life-altering addiction for some (approximately 2-3% of people struggle with problem gambling, according to prevalence data in DSM-V).

A “Responsible Gambling” philosophy is about two things: **addiction prevention and addiction treatment.**

Addiction prevention requires a consistent, thoughtful, evidence-informed approach to how we talk to people about responsible recreational gambling behaviors. This type of messaging requires consistency if it is going to be effective. Consistency requires funding. With today’s funding levels, the size and scope of the public awareness campaign in North Dakota is extremely limited. However, the messaging that has been developed is solid; it’s the distribution and reach of that messaging that could increase with additional resources, including greater outreach to youth across the state as this is an area of growing risk and concern.

Without investment in sound public health-oriented messaging around problem gambling, people who engage in gambling of one type or another may be less likely to recognize signs of distress in their own behavior, or in the behavior of others they know. And process addiction is a behavioral addiction. It is when an otherwise harmless activity (ex. shopping, gaming, gambling, internet use) becomes harmful because the “rewards” from the behavior have activated a mal-adjusted brain chemistry that mutates the “normal” sense of pleasure one receives from an activity to something that triggers addictive physical responses.

**Recognizing signs of trouble is essential to a person being able to maintain a healthy relationship with gambling as an activity.**

As a state, we also want to ensure that addiction treatment is available for those who need it. Given the fact that gambling addiction is an equal opportunity disease (i.e., there is no particular type of gambling that is more likely than another to result in addiction), it makes sense

1/21 8B 2301 #2

that all forms of legal gambling should share in the responsibility to ensure that recovery is possible for problem and compulsive gamblers.

To offset the risk gambling poses to individuals and families, a portion of the net proceeds of state Lottery revenues have always been set aside to support public awareness campaigns around problem gambling, and treatment options for people whose lives are negatively affected by gambling addiction. The lottery currently allocates \$100,000 per quarter to this fund for treatment and awareness; this represents approximately the first 1.2-1.5% of annual net proceeds from the ND Lottery.

These funds are collected by the Attorney General's office, directed to the Department of Human Services Behavioral Health Division for oversight, and put to work across the state by a private entity with expertise in treating the process addiction of problem gambling. The program I oversee at Lutheran Social Services has been providing this service across the state since 1997.

As of 2018, it is only the Lottery that has a statutory set-aside for addiction treatment and public awareness. Both casinos and the Racing Commission voluntarily contribute some funds to support public awareness and treatment. To date, charitable gambling has not contributed to the effort to mitigate the negative impact that gambling can have on individuals and families.

The requirement for set-aside funds to support treatment and public awareness could be implemented across all forms of legalized gambling and channeled through the existing state mechanism for ensuring access to this specialized form of addiction treatment.

**A consistently applied Responsible Gambling philosophy would suggest that, whenever the legislature considers new forms of legalized gambling in North Dakota, the**

**authorizing legislation should include a provision for prevention and treatment set-aside funds.**

There are many different ways that this could be accomplished. One approach could utilize language that was included in SB2221, the historic horse racing bill from the 2017 legislative session. In that bill, the ND Century Code (NDCC 53-06.1-12) would have been amended to establish an ongoing set-aside of funds to support treatment and prevention.

***"Of the amount wagered, One-fourth of one percent to be deposited in the compulsive gambling prevention and treatment fund under 50-06-22."***

This language could perhaps be replicated to apply to other forms of legalized gambling as well:

***"Of the amount collected, one-fourth of one percent to be deposited in the compulsive gambling prevention and treatment fund under 50-06-22."***

Research indicates that problem gambling behaviors do not discriminate between types of gambling. Gambling is gambling is gambling. A person is as likely to develop a gambling addiction from casino-based gambling as they are from online sports betting as they are from electronic pull tabs in their local bar and grill.

**The method of gambling is not the determinant of the addiction. It is the act of gambling itself that is the cause of the addiction.**

We know that the number of people who will find themselves on the compulsive gambling continuum (from early-stage problem gambling to late-stage addiction), will increase as the availability of gambling options increase. (see attached graphical representation of gambling progression)

1/21 80B 2301 #2

**It follows that, as we increase gambling options in North Dakota, we must at the same time increase the availability of prevention and treatment services.**

The good news is that we know treatment works.

Mike is a 58-year old single man who has worked at his current job in Fargo for 30 years. Mike was defaulting on bank loans and had recently obtained a high interest (24%) rate loan to try and make ends meet. Mike went to the casino every time he got a promotional coupon in the mail, spending all of his available money. He had been overdrawn in his checking account and late on nearly all of his monthly expenses for over a year when he started attending group. Mike has not gambled since April 1, 2018. He completed outpatient programming and attends GA every Saturday morning. Because of his demonstrated financial stability, he was able to move the high interest loan back to his regular bank. He is current on all monthly expenses and should have his gambling debt completely paid off in two years.

Brandon is a 38-year old man from Grand Forks. His wife is active duty in the Air Force. During her most recent deployment, Brandon's online sports betting became out of control. He was suicidal, unable to function at work and with parenting responsibilities at home. His employer allowed a leave of absence so that he could begin treatment. He's been gamble free since June, is gainfully employed and pursuing a Master's degree. Brandon is expected to graduate from the treatment program in February.

Richard came to Gamblers Choice in January 2017 after having been convicted of embezzlement from his place of employment. He worked in downtown Fargo in the hospitality industry and spent considerable time playing blackjack at the local bars with friends and co-workers. He is making restitution on the money stolen, has been gamble free since December

21 8B 2301 #2

2017, and recently completed the Peer Specialist Training Program offered by the Free Through Recovery Program. Richard is anxious to mentor and inspire others to seek recovery.

Kevin is currently serving a sentence in prison for embezzlement. Kevin played pull tabs daily at several bars in the Bismarck/Mandan area completely unbeknownst to his friends or family. He successfully completed treatment but will need to serve the remainder of his prison term. He is currently writing a book and wants to share his experiences; addiction and recovery, in the hopes that others will seek help.

Gambling is a popular recreational activity in North Dakota. It can be enjoyed responsibly, especially if well-designed public messaging on responsible gambling behaviors is part of our culture.

We also know that while it will not turn into an addiction for most people, gambling addiction is devastating for the individuals and families who are affected by this disease. But recovery is possible with appropriate treatment.

As legalized gambling options continue to increase in our state, it is more important than ever to ensure that we have a consistent and serious commitment to mitigating the potentially negative impacts of this particular form of recreation.

Creating designated set-asides for problem gambling prevention and gambling addiction treatment will help ensure that the positives generated by the expansion of this activity will not be outweighed by the negative impact on the people who are responsible for generating the revenue – those who gamble.



1/21 8B 2301 #2

Thank you for the opportunity to speak to you today, and for considering ways to enhance the State's commitment to a Responsible Gambling philosophy. I would be happy to answer any questions you have for me.

*Lisa Vig, Director, Gambler's Choice | Free Through Recovery  
Lutheran Social Services of North Dakota  
ND Lobbyist #233  
Email: [lisav@lssnd.org](mailto:lisav@lssnd.org)  
Phone: 701-271-3279*

Testimony of Ken Karls

Senate Finance and Taxation Committee

SB 2301

January 21, 2019

Chairman Cook and members of the Committee, my name is Ken Karls and I represent the Cystic Fibrosis Association of North Dakota. I am here to offer testimony in support of SB 2301.

The Cystic Fibrosis Association of North Dakota (CFA) is a North Dakota non-profit that offers assistance to individuals and families living with cystic fibrosis. It has been in existence since 1980, and assists with the non-insured costs of medications, therapeutic equipment, scholarships, lung transplants and other costs associated with care provided.

CFA supports SB 2301 because it represents a slight reduction in gaming tax for the association, because it increases the allowable "hold percentage" for electronic pull tab devices to 15%, and because it sets aside funds for a charitable gaming technology fund within the attorney general's gaming division.

The slight reduction in gaming tax, and increased "hold percentage" represent opportunities for CFA to increase cash flow, and availability of resources with which to carry out CFA's charitable purpose.

CFA believes that the addition of a charitable gaming technology fund will increase efficiency and timely performance within the attorney general's gaming division, while allowing for online tax filing and other forms of digital interface between the gaming division, CFA or other charitable gaming organizations. However, CFA believes that the amount of tax paid by charitable gaming could continue to fund the attorney general's gaming division and fund the gaming technology fund, while undergoing a further reduction in the rate of taxation than that stated in this bill.

Given the large amount of credits received by the player while playing electronic pull tab devices, and the fact that charitable gaming organizations currently pay taxes on those credits, we believe the gross play reported represents an opportunity to significantly lower the tax rate and still exceed the amount of money needed to fund the regulation of charitable gaming, and provide for the gaming technology fund.

CFA is not tied to either a tax on gross proceeds or one on adjusted gross proceeds. We do believe that the introduction of electronic pull tab devices has changed both the field and manner of operations for charitable gaming organizations, and has necessitated a review of charitable gaming taxation.

Our experience is that the amount of tax paid under the current tax, combined with the cost of the electronic pull tab product, and our duty to transfer that requisite portion of our gaming income to our charitable purpose each quarter has left the association with significantly less available cash to operate than prior to the introduction of electronic pull tab devices.

CFA realizes that a reduction in the tax is only part of the solution, but it is a necessary and justifiable part. Since this SB 2301 deals with a tax on adjusted gross proceeds, we would suggest the following amendment:

SB 2031 – AMENDMENT SUGGESTED BY KEN KARLS, CYSTIC FIBROSIS ASSOCIATION OF ND

Testimony presented January 21, 2019 – SENATE FINANCE AND TAXATION COMMITTEE

On page 3, line 2:

Delete the word “three” and insert therein the word “five”;

After the word “is” add the words “three thousand, seven hundred fifty dollars plus”;

On page 3, line 4:

After the word “proceeds”, add the words “exceeding one hundred thousand dollars.”

On page 3, line 5:

Delete the word “three” and insert therein the word “five”;

On page 3, line 6:

Delete the words “eight and three-fourths” and insert therein the words “twenty-three thousand, seven hundred fifty dollars, plus seven and one-half”;

On page 3, line 7:

After the word “proceeds”, insert the words “in excess of five hundred thousand dollars.”

On page 3, line 8:

After the word is, insert the words, “sixty-one thousand two hundred fifty dollars plus”;

Delete the words “and three-fourths”.

On page 3, line 9:

After the word “proceeds”, insert the words “in excess of one million dollars.”

While we believe this amendment will provide assistance to CFA and others in charitable gaming, and provide more than adequate funding for the attorney general's gaming division, we do not believe it will negatively impact the State General Fund either. As is presently the case, excess gaming taxes over and above the cost of charitable gaming regulation are placed in the State's General Fund. While the amount of taxes paid by CFA and other organizations in charitable gaming is a large part of our budgets, it represents a very small segment of the State General Fund.

According to the General Fund Revenues Monthly Update prepared by the Legislative Council as of the end of November 2018, Gaming taxation represents only .18% of actual General Fund revenues. However, the actual receipts to the General Fund from charitable gaming taxation in November showed a 93% increase over projections. With the addition of more electronic gaming devices in the State, it appears likely the increase over projections will continue, even with the proposed amendments. As such, we recommend consideration and adoption of the proposed amendment.

Thank you for your time. I will be willing to answer your questions.

1/21 8B 2301 #4 pg.1

Senate Finance & Tax

1/21/2019

Good morning Chairman Cook and members of the committee. For the record my name is Dennis Drengson. I am date current president of the Mandan Hockey Club. We are one of the many clubs that generates a tremendous amount of our operating from charitable gaming. In fact, 85% of our gross revenue comes from gaming. I only became aware of this bill late last night so I unfortunately do not have Mandan Hockey club's impact to members, but I can give you a glimpse of West Fargo's impact which is a tax increase of \$14,000 per quarter or \$56,000 annually. This means roughly a 40% increase for some skaters. We are a 5013C for hte purpose to remove the barrier of cost so more kids can play the sport. My time is 100% volunteer.

- Loss of participation
- Affects many youth sports.

Dennis Drengson

701-220-5868

[Dennis@triplentransport.com](mailto:Dennis@triplentransport.com)

## SENATE FINANCE &amp; TAX COMMITTEE

JENNA MAGEE, DISTRICT 18

JANUARY 21<sup>ST</sup>, 2019

Development Homes, Inc. urges a Do Not Pass recommendation on Senate Bill 2301. Using data from the 1<sup>st</sup> and 2<sup>nd</sup> quarters of 2018 and the proposed tax structure, Development Homes would have paid more in charitable gaming taxes than the current tax system. This bill creates a complicated tax structure, and generates more tax funds from charitable gaming than is needed to regulate the industry.

## DEVELOPMENT HOMES, INC:

- Nonprofit organization in Grand Forks providing community based support services to persons with disabilities
- Residential Services including seven groups homes, two duplex facilities, a living center for persons with autism and independent living settings
- Vocational Services including job training and placement
- Family Services including respite care and in-home support
- Approximately 200 children and adults served through all stages of life
- 8<sup>th</sup> largest employer in Grand Forks, employing 500 people

## GAMING REVENUE USES:

- Provides financial funds necessary to supplement new projects, such as bricks & mortar
- Specialized adaptive equipment for persons served
- Urgent/Crisis Care needs
- Basic Care Needs, such as eyeglasses, shoes, clothing
- Specialized training for professional staff including nurses and social workers
- Grants to ND communities funding local needs, including police equipment, literacy adaptive equipment and software, drug & alcohol prevention, substance abuse and mental health professional facilitators, daycare facility equipment, and promotion of local community events

Development Homes, Inc. would appreciate a Do Not Pass recommendation on SB 2301 to continue providing critical services to the most vulnerable citizens of our state.

**SENATE FINANCE & TAX COMMITTEE**

SUBMITTED BY JANELLE MITZEL, CGAND

JANUARY 21, 2019

The Charitable Gaming Association of North Dakota urges a Do Not Pass recommendation on Senate Bill 2301.

**TAX IMPLICATIONS:**

- Using 2018 - 1<sup>st</sup> & 2<sup>nd</sup> quarter data to compare proposed to current tax structure, ND charities comprehensively would have paid more in taxes than currently collected.
- Using 2018 - 1<sup>st</sup> quarter data 73 charitable gaming organizations would have seen an increase in the amount of taxes paid with the proposed structure.
- Using 2018 - 2<sup>nd</sup> quarter data 69 charitable gaming organizations would have seen an increase in the amount of taxes paid with the proposed structure.
- The proposed tax structure is a redistribution of charitable funds.
- Cohesively charities and legislators have been working toward a simplified tax structure. This proposal creates a complicated tier system.
- CGAND is working with legislators on two complementing bills addressing charitable gaming taxation. HB 1245 & HB 1533

**RESTRICTING PAYOUTS:**

- Electronic pull tab device payout restrictions have been determined through regulation. The limitation on payout percentage was thoroughly debated and adopted by the ND Gaming Commission, and reviewed and approved by the Legislative Rules Committee in 2018,
- Payout percentages on other primary game types, such as electronic quick shot bingo, live bingo, paper pull tabs, blackjack and paddlewheel are not restricted. Successful management and market factors determine appropriate payout structures.
- Statistical math packages are created to maximize play on electronic pull tabs. The 85% is not complimentary with this game type.

The Charitable Gaming Association of North Dakota would appreciate a Do Not Pass recommendation on SB 2301.



# A CHART OF COMPULSIVE GAMBLING AND RECOVERY



To: Sen. Dwight Cook  
From: Deb McDaniel, AG Gaming Division

January 29, 2019

The passage of House Bill No. 1245 in its current form would not allow the Office of Attorney General to properly account, report, or audit electronic pull tab activity.

Each deal of pull tabs, both electronic and paper, has a predetermined number of pull tab tickets that are available for sale at a set selling price, thus the total sales and ideal gross proceeds for each deal is predetermined. The game is finite and an organization knows exactly what should be generated in income from the sale of each pull tab for each game. If passed the problem would be in the accounting and reporting of each game. When an organization purchases a game of pull tabs (paper and/or electronic) the manufacture informs the organization how the game is structured. For example: number of pull tabs = 100 sold at \$1 each will Gross \$100, prizes in the game are \$90 and so ideally if the organization sells all the pull tabs it will net \$10. Gross Proceeds, \$100, less Prizes (\$90), equals \$10 net.

If passed, the question would be how would the game be reported?

The following would be three possible ways all of which are inaccurate:

- \$30 cash in the device, won \$90 of which \$70 was replays, so does the organization report a negative (\$60) as net?;
- \$100 cash in the device, won \$100 in replays, so does the organization report \$0 net?;
- \$100 cash in the device, won \$100 in replays, so does the organization report the \$100 cash in the machine as net?

Three different reporting options, with very different outcomes, none of which accurately reflects the net proceeds.

All of these options result in a lack of accountability.

Also, saying that replays are not considered gross proceeds is inaccurate because credits are cash only, but in electronic form.

The Legislature allowed for the convenience of the player to allow those credits/electronic cash to be replayed so that the player would not have to cash-out and then go back and replay their winnings.