

2009 HOUSE FINANCE AND TAXATION

HB 1317

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1317

House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 21, 2009

Recorder Job Number: 7437

Committee Clerk Signature

Minutes:

**Chairman Belter:** We will open the hearing on HB 1317.

**Todd Kranda, Kelsch Law Firm** I appear before you today as a lobbyist for the Charitable Gaming Association of North Dakota. **(Testimony 1), includes list of Charitable Gaming**

**Association of North Dakota Membership, a history of gaming, a summary of contributions from gaming, and proposed amendments.** I also received an e-mail from **Rick Stenseth, Gaming Manager, NPPA, Team Makers Club, (Testimony 2).** The one item I would like to bring your attention to in Mr. Stenseth's testimony, which I think is very telling of the industry, would be his fourth paragraph, beginning with this tax rate of 4.5%. He goes on to explain how this actual rate for the gaming industry is 23% of what the industry would pay before any of their expenses. This tax is extremely heavy and burdensome to this industry. Even though it seems like a 4.5% tax isn't a tremendous sum, it certainly has a tremendous effect when you look at how it is taxed on gross revenue, gross dollars—23% even before they pay any expenses. I will leave the rest of that information for you to read through on how he comes up with that calculation, but I think that is fairly significant. Mr.

Chairman, that concludes my remarks and I would be happy to try to answer any questions,

but you do have others here who are in the industry and might be able to give you better examples if there is anything specific.

**Representative Weiler:** Mr. Chairman, do we have a fiscal note on this?

**Chairman Belter:** It is \$13 million.

**Representative Kelsh:** Can you tell me what is happening with the level of gaming activity statewide? Is it up? Down?

**Todd Kranda:** I think the overall activity has certainly decreased. I think obviously the economy has affected this and there are a lot of factors that some of the witnesses will talk about like the different expenses that have continuously gone up for the industry. Also the lottery is another competitor for gaming dollars. I think the industry provided \$21 million this past biennium in taxes of all forms that have a separate gaming tax on top of this excise tax. I know Mr. Lauer was going to be here; but because the hearing ran late, he had a couple of other bills. He has the figures. Technically I think it has gone down. The competition exists and you still always have the tribal gaming entities that have the unlimited caps and table wagers and different games that are available to them that draw dollars away. Some of the witnesses may be able to give their specific experience. It is somewhat dire. You heard last session about how some of the bingo parlors were talking about closing. I think we have lost several entities to gaming. This affects everyone. This goes to the small rural locations where they are funding whatever the fire hall may need or the cub scouts or the legion program. This is across the board to all gaming so we would appreciate any support.

**Representative Weiler:** Could you just briefly state what kind of tax is at the casinos on the reservations? Is it a similar tax?

**Todd Kranda:** The state isn't collecting any tax from the tribal gaming. They are completely separate. Any dollars that go there are kept completely with the tribes.

**Representative Froseth:** This fiscal note is \$13 million. Some of the tax on gaming is dedicated to certain purposes like gambling addictions and so forth. Do you have a breakdown? I think the rest goes in the general fund. Does anybody know where that \$13 million goes?

**Todd Kranda:** I don't. Keith Lauer might have been able to give additional numbers. He was talking down the hallway before he went to the other committee hearing. I don't have those numbers and I am not sure anyone here has those specifically. I know that some of the gaming addiction monies come from the charitable uses so on the printout you will see some of it. Some of the tax revenues do go towards that. The major benefactor is the state. I thought there was a bill last session or a session ago that when the lottery came in, there was a different ratio that went into that.

**Karen A. Breiner, President of the Charitable Gaming Association of North Dakota:**  
(Testimony 3).

**Representative Froseth:** How much does gaming return to the community? Is it 5%?

**Karen A. Breiner:** If you look at the first report ending June 30, 2008, the eligible use contribution number on the bottom of the page is the number that goes back to the charities to use for eligible uses or their programming or \$17,515,919. The tax that we are talking about is just the excise tax, not the gaming tax. They are two different taxes.

**Mark Henze, CFO, Plains Art Museum: (Testimony 4).**

**Chairman Belter:** Going back here, you state that you pay 28% of your net income before taxes and in the testimony from Mr. Stenseth, it says our industry pays over 23% of what we make before we pay any expenses.

**Mark Henze:** Additional operating expenses are included from our operating P&L profit and loss statements that are excluded from our report.

**Deb Vaugen, ARC Upper Valley:** I am here in support of HB 1317. I think our past speakers have given you some overall numbers I agree with. I think what I want to do here is give you some real numbers from my organization over the past couple of quarters to give you an idea of how this is affecting us and how serious it is. First of all, I want you to understand that I have been in and out of 20 locations in the past four years. I want to break down for you what one single one to two-table site costs a quarter to run. When I start out, I start with the hours of operation, which commonly is late afternoon to closing. That means I have a certain number of hours of labor; I have to pay rent to the bar, and I have to buy pull tabs and supplies. That cost is approximately \$15,000. I can break that down for you if you need me to. Armed with this information and based on all of the data that we have collected over the course of being in gaming for 25 years, today a site needs to profit at least \$30,000 not to exceed the guidelines. Let's just say that \$15,000 comes from blackjack and \$15,000 comes from a pull tab jar. Of course, the bar wants a \$25 maximum on the blackjack tables so that means that if everything goes the way it is supposed to, you will earn \$.15 for every dollar that is wagered on that blackjack table. That means you have to have \$100,000 wagered on that table in three months in order to make \$15,000. In the pull tab jar, you need at least \$75,000 to make that \$15,000. The outcome is \$30,000 minus \$15,000 (inaudible), \$4,600 for taxes, leaving a profit of \$10,500. That's not a lot of money, but it is profit and we did not exceed any guidelines or expenses did not go over the allowable amount. This only included the onsite labor, rent and pull tabs. This does not include bookkeepers, auditors, licenses, insurance or any indiscretions like equipment failures you might have, so on and so forth. When I look back over the 20 sites in all the quarters, not very many of them pulled in \$30,000. This last quarter, one of my best sites only made \$23,000. \$154,000 walked in the door; they held 14% on the blackjack table, they were at a 99% of accuracy; both tables were open every night and they

were busy. You can't ask for much more than that. It has been a year or so since \$200,000 has walked in that door. Last quarter collectively, between all of my sites, we sent the state a check for \$8,200 for taxes. We had \$5,900 left over after the expenses and I am still reporting that I have contributed \$18,000, which comes from other sources. I was glad that we were in the black last quarter. The quarter before that I lost \$1,600 and yet the state still got my \$100. I have trimmed the excesses out of my locations; my employees have taken pay cuts; I have taken a pay cut; we have a part-time bookkeeper and a part-time auditor; I even have one volunteer but we cross our fingers every quarter and hope that nothing breaks, checks don't bounce and more dollars walk through the door instead of less. We have nowhere else to turn except to you. We are charities and the programs we support need us. The bottom line is that if we cannot stay in the black, we cannot stay in business.

**Chairman Belter:** Are there any questions? Further testimony in support of 1317? Any opposition to 1317?

**Jerry Hjelmstad, ND League of Cities:** I just wanted to point out on page 2 of the bill for the committee's information that the fees under these taxes go into what is called the gaming and excise tax allocation fund. These are distributed back to cities and counties where the gaming facilities are located, the cities and counties that do the site authorizations for these activities. According to the fiscal note here, you will notice there is an impact on cities and counties. Last biennium there was \$617,000 distributed back to cities and counties from these activities. This would reduce that down to \$240,000 so a \$377,000 loss. We have been talking about property taxes earlier today and this would be another impact—money that would have to be replaced by those cities and counties if this bill were to pass.

**Representative Pinkerton:** If these gaming operations just go out of business, then you would have to replace the entire amount of \$617,000 because if they quit operating, you won't have any money at all from them. Is that correct?

**Jerry Hjelmstad:** That is correct. If that were to be the case, we would not have those funds.

**Chairman Belter:** Any other testimony in opposition to 1317? Any neutral testimony? If not, we will close the hearing on HB 1317.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1317

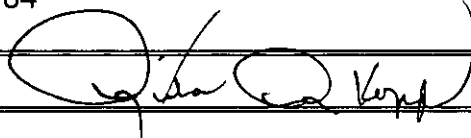
House Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: January 26, 2009

Recorder Job Number: 7784

Committee Clerk Signature



**Chairman Belter:** What are your wishes on HB 1317? Have you got amendments?

**Representative Weiler:** If we're not going to act on it, I won't pass them out.

**Chairman Belter:** I guess I was going to express my own opinion. It seems to me like we are going to have to lower the tax again so you can pass your amendments out. I don't know if anybody else has ideas on what we should do.

**Representative Weiler:** They came to me, Mr. Chairman. Basically they're taking the 4½% down to 3%. I don't know what that will run in money. They are obviously asking for a lesser excise tax.

**Representative Headland:** Is that on both pull tabs and bingo cards?

**Representative Weiler:** Yes, both pull tabs and bingo cards.

**Representative Drovdal:** You are taking 1½% off or a third off so it reduces the fiscal note by two thirds from 4½ to 3%. The fiscal note would be a third of what it is now, just divide it by three.

**Chairman Belter:** Do you want to move your amendments and then we will have our intern Jonathan get a new fiscal note before we act on it. We have a motion from Representative Weiler to approve the amendments.



**Representative Headland:** I was emailed by a person who attended the hearing and heard the discussion and how they are actually taxed relative to the pull tabs. There is an 80% payback and they are taxed on 100% so from the \$20 out of every \$100, they have left to pay the 4½% and 2% in tax, and then their operations have to come out of the rest. The thought was that maybe cutting their tax down to 2% and leaving the bingo card tax at ½% might be a way to at least alleviate some of the pain on the operations budget without having such an impact on our budget. Again I don't have any idea what the fiscal note would be.

**Chairman Belter:** Representative Weiler, who brought these amendments to you?

**Representative Weiler:** Tom Kranda from the Kelsch law firm (**Attachment 1**). Basically the bill asks for complete removal of the tax which is at 4½% now. Now they are coming back and saying they will pay 3%. I think they realize the fiscal note is pretty damaging, given our financial situation.

**Chairman Belter:** My recommendation to the committee is that when an organization asking for the cut comes back and offers you something, take it. Apparently they sat down and said that they can live with this for the next two years. It is kind of like when corn gets to \$6, sell it.

**Representative Weiler:** I did tell Todd Kranda that I would allow these amendments to be seen and voted upon, but I told him I didn't know if I could support the bill.

**Representative Wrangham:** I am familiar with the way gaming is taxed and it really is unbelievable. Basically, what happens is they buy a box of pulltabs, they pay tax on the material by paying sales tax when they buy them; then when they sell them, they pay tax on every dollar they take in. If this box has \$100 in it, they are giving \$80 back to the winners, but they are paying tax on the whole \$100. What is the actual tax rate?

Businesses don't do that. The consumer pays the tax—it's a sales tax. Down the line, they had \$100; they give back \$80 and have \$20. They pay tax on the \$100. Then they get

charged a gaming tax on top of that so they are taxed three times on the box of tickets. One of the taxes is on the \$100. I can certainly support the tax at 3%.

**Chairman Belter:** We have a second from Representative Brandenburg. Any more discussion? If not, all those in favor of the amendment, signify by saying aye. **The motion passed.** As long as we are all on the same page here, I will ask for a motion on the bill and I will have Rita hold it until we get a fiscal note before we send it to the floor. **If committee members don't like the fiscal note, we can reconsider our action. I have a motion for a "do pass as amended" from Representative Pinkerton and a second from Representative Kelsh.** Is there any discussion? If not, will the clerk read the roll for a **"do pass as amended on HB 1317. A roll call vote resulted in 12 yeas, 1 nay, and 0 absent/not voting. Hold for fiscal note. Representative Pinkerton will carry the bill.**

**Rerefer to appropriations.**

**FISCAL NOTE**  
**Requested by Legislative Council**  
04/08/2009

**REVISION**

Amendment to: Engrossed  
HB 1317

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
<b>Revenues</b>	\$0	\$0	(\$3,683,070)	\$0	(\$3,683,070)	\$0
<b>Expenditures</b>	\$0	\$0		(\$107,000)	\$0	(\$107,000)
<b>Appropriations</b>	\$0	\$0		(\$107,000)	\$0	(\$107,000)

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$10,700)	(\$96,300)		(\$10,700)	(\$96,300)	

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

The amendment to the bill reduces the 4-1/2% pulltab excise tax to 3%. The effect of the amendment is a reduction of \$3.68 million in general fund revenues.

**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.*

The 1.5% reduction in the pulltab excise tax rate decreases general fund revenues by \$3.68 million. The cities and counties local gaming enforcement special fund grants are estimated to decrease \$107,000 as result of this change.

**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.*

A reduction of \$3.68 million in general fund revenues will occur if this amended bill is passed.

**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 2009-11 biennium local gaming enforcement grants of \$617,000 will be reduced to \$510,000 a \$107,000 special funds decrease.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

See expenditures narrative above

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	04/08/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
04/07/2009

Amendment to: Engrossed  
HB 1317

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$6,170,840)	\$0	(\$6,170,840)	\$0
Expenditures	\$0	\$0		(\$178,000)	\$0	(\$178,000)
Appropriations	\$0	\$0		(\$178,000)	\$0	(\$178,000)

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$17,800)	(\$160,200)		(\$17,800)	(\$160,200)	

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

The amendment to the bill reduces the 4-1/2% pulltab excise tax to 2%. The effect of the amendment is a reduction of \$6.17 million in general fund revenues.

**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.*

The 2.5% reduction in the pulltab excise tax rate decreases general fund revenues by \$6.17 million. The cities and counties local gaming enforcement special fund grants are estimated to decrease \$178,000 as result of this change.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

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**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 2009-11 biennium local gaming enforcement grants of \$617,000 will be reduced to \$439,000 a \$178,000 special funds decrease.

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<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	04/07/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
03/13/2009

Amendment to: Engrossed  
HB 1317

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Expenditures	\$0	\$0		(\$178,000)	\$0	(\$178,000)
Appropriations	\$0	\$0		(\$178,000)	\$0	(\$178,000)

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
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A reduction of \$6.17 million in general fund revenues will occur if this amended bill is passed.

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<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	03/13/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/09/2009

Amendment to: HB 1317

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
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<b>Revenues</b>	\$0	\$0	(\$3,683,070)	\$0	(\$3,683,070)	\$0
<b>Expenditures</b>	\$0	\$0		(\$107,000)	\$0	(\$107,000)
<b>Appropriations</b>	\$0	\$0		(\$107,000)	\$0	(\$107,000)

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$10,700)	(\$96,300)		(\$10,700)	(\$96,300)	

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

The amendment to the bill reduces the 4-1/2% pulltab excise tax to 3%. The effect of the amendment is a reduction of \$3.68 million in general fund revenues.

**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.*

The 1.5% reduction in the pulltab excise tax rate decreases general fund revenues by \$3.68 million. The cities and counties local gaming enforcement special fund grants are estimated to decrease \$107,000 as result of this change.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

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<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	02/09/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/20/2009

**REVISION**

Bill/Resolution No.: HB 1317

**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.*

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Revenues	\$0	\$0	(\$13,016,268)	\$0	(\$13,016,268)	\$0
Expenditures	\$0	\$0		(\$377,000)	\$0	(\$377,000)
Appropriations	\$0	\$0		(\$377,000)	\$0	(\$377,000)

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
			(\$37,700)	(\$339,300)		(\$37,700)	(\$339,300)	

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

The bill eliminates the 4-1/2% pulltab excise tax and the 3% bingo card excise tax. The effect of the bill is a decrease of \$13 million in general fund revenues.

**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.*

With the elimination of the pulltab excise tax and the bingo card excise tax general fund revenues will be reduced by \$13 million. The cities and counties local gaming enforcement grants are estimated to decrease \$377,000 as result of this change.

**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.*

A decrease of \$13 million in general fund revenues will occur if this bill is adopted.

**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 local gaming enforcement grants of \$617,000 for the 2009-11 biennium would be reduced to \$240,000, a \$377,000 special funds decrease.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The local gaming enforcement grants of \$617,000 for the 2009-11 biennium would be reduced to \$240,000, a \$377,000 special funds decrease.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	01/20/2009

**FISCAL NOTE**  
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<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

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

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**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.*

With the elimination of the pulltab excise tax and the bingo card excise tax general fund revenues will be reduced by \$13 million.

**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.*

A decrease of \$13 million in general fund revenues will occur if this bill is adopted.

**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.*

N/A

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	01/17/2009



YR  
2/3/09

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1317

Page 1, line 1, after "reenact" insert "subsection 2 of"

Page 1, line 4, replace "Section" with "Subsection 2 of section"

Page 1, replace lines 6 through 23 with:

- "2. Except as provided in subsection 3, in addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of ~~four and one-half~~ three percent on the gross proceeds from the sale at retail of pull tabs and three percent on the gross proceeds from the sale at retail of bingo cards to final users. This includes pull tabs or bingo cards provided to a player in exchange for redeemed winning pull tabs or bingo cards. The tax must be paid to the attorney general when tax returns are filed."

Page 2, remove lines 1 through 18

Renumber accordingly

Date: January 26, 2009

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1317**

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Amendment 98250.0101

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Representative Froelich		
Vice Chairman David Drovdal			Representative Kelsh		
Representative Brandenburg			Representative Pinkerton		
Representative Froseth			Representative Schmidt		
Representative Grande			Representative Winrich		
Representative Headland					
Representative Weiler					
Representative Wrangham					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: January 26, 2009

Roll Call Vote #: 1

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 1317**

House FINANCE AND TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Pinkerton Seconded By Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	/		Representative Froelich	/	
Vice Chairman David Drovdal	/		Representative Kelsh	/	
Representative Brandenburg	/		Representative Pinkerton	/	
Representative Froseth	/		Representative Schmidt	/	
Representative Grande	/		Representative Winrich	/	
Representative Headland	/				
Representative Weiler		/			
Representative Wrangham	/				

Total (Yes) 12 No 1

Absent 0

Floor Assignment Pinkerton

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

*Referred to  
approp*

**REPORT OF STANDING COMMITTEE**

**HB 1317: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1317 was placed on the Sixth order on the calendar.

Page 1, line 1, after "reenact" insert "subsection 2 of"

Page 1, line 4, replace "Section" with "Subsection 2 of section"

Page 1, replace lines 6 through 23 with:

- "2. Except as provided in subsection 3, in addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of ~~four and one-half~~ three percent on the gross proceeds from the sale at retail of pull tabs and three percent on the gross proceeds from the sale at retail of bingo cards to final users. This includes pull tabs or bingo cards provided to a player in exchange for redeemed winning pull tabs or bingo cards. The tax must be paid to the attorney general when tax returns are filed."

Page 2, remove lines 1 through 18

Renumber accordingly

2009 HOUSE APPROPRIATIONS

HB 1317

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill No. HB 1317

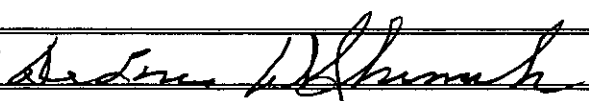
House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9314

Committee Clerk Signature



Minutes:

**Chm. Svedjan** called the meeting of the Full House Appropriations Committee to order. This is not a hearing.

**Rep. Wes Belter**, District 22 took the podium to discuss HB 1317. It deals with the gaming and excise tax. It was the feeling of the committee that the charities are experiencing a squeeze because of the decrease in the amount of activity in the gaming area. Through amendment reduced excise tax. From 4.5% to 3% on the gross proceeds from the sale of the retail of pull tabs and that amount to \$3.6 million.

**Chm. Svedjan**: the reduction in the funds that would go to the gaming enforcement grants; how big an issue is that? I know it amounts to a reduction of \$107,000.

**Rep. Belter**: That was not discussed in our committee.

**Chm. Svedjan**: That is the affect of it. That's what it says on the fiscal note.

**Rep. Bellew**: Was it discussed how it will help the charities if this will help the charities if this is reduced?

**Rep. Belter**: their tax will be \$3.6 million less and it will go down to their bottom line.

**Chm. Svedjan**: It would afford them the opportunity to put it toward their charitable interests, rather than pay it in taxes.

**Rep. Belter**: That is correct.

**Rep. Delzer:** What was the original bill?

**Rep. Belter:** The original bill would have reduced the revenues by more than \$13 million.

**Rep. Delzer:** It was totally taking the tax off?

**Rep. Kempenich:** It would have been an impact to the general fund of \$13 million. Impact to other funds of \$377,000.

**Svedjan:** Did it reduce the tax completely in the original bill.

**Rep. Kempenich:** it eliminated the excise tax.

**Svedjan:** Other questions?

**Do Pass As Amended Motion Made By Rep. Kaldor; Seconded by Rep. Hawken**

Discussion: None

**Vote: 15 yes 4 No 6 Absent Carrier: Rep. Pinkerton**

**Hearing closed.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1317

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: February 12, 2009

Recorder Job Number: 9317

Committee Clerk Signature

*Shirley Branning*

Minutes:

**Chairman Svedjan:** Brought the Committee's attention to the first bill heard. It was passed as a Do Pass as Amended when it should have been a Do Pass. We need to correct that.

**Rep. Kempenich:** Motion to bring the bill back, to reconsider HB 1317.

**Rep. Wald:** Second.

**Chairman Svedjan:** Called for a voice vote. **Voice Vote carried.**

**Rep. Kempenich:** **Move a Do Pass on HB 1317.**

**Rep. Kreidt:** **Second.**

**Chairman Svedjan:** Take a Roll Call for a **Do Pass on HB 1317** to correct the record.

**Vote Taken: Yes 14 No 3 Absent 8. Motion Carried. Carrier: Rep. Pinkerton.**

**Rep. Delzer:** (Inaudible).

**Chairman Svedjan:** You walked in as we concluded the discussion.



Date: 2/12/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1317

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken No Pass as Amended (Should not have been "as amended")

Motion Made By Kaldor Seconded By Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim		
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman		
Rep. Kreidt		✓	Rep. Metcalf		✓
Rep. Nelson	✓				
Rep. Wieland	✓				

Total (Yes) 15 No 4

Absent 6

Floor Assignment Rep. Pinkerton

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

Date: 2/12/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1317

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Motion to reconsider action on 1317

Motion Made By Kempenich Seconded By Wald

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Rep. Skarphol			Rep. Kroeber		
Rep. Wald			Rep. Onstad		
Rep. Hawken			Rep. Williams		
Rep. Klein					
Rep. Martinson					
Rep. Delzer			Rep. Glassheim		
Rep. Thoreson			Rep. Kaldor		
Rep. Berg			Rep. Meyer		
Rep. Dosch					
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew			Rep. Kerzman		
Rep. Kreidt			Rep. Metcalf		
Rep. Nelson					
Rep. Wieland					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Vote - carries*

Date: 2/12/09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1317

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein	✓				
Rep. Martinson					
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor		
Rep. Berg			Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert			Rep. Ekstrom		
Rep. Bellew		✓	Rep. Kerzman		
Rep. Kreidt	✓		Rep. Metcalf		✓
Rep. Nelson					
Rep. Wieland					

Total (Yes) 14 No 3

Absent 8

Floor Assignment Rep. Pinkerton

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

REPORT OF STANDING COMMITTEE (410)  
February 13, 2009 7:38 p.m.

Module No: HR-28-2818  
Carrier: Pinkerton  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

HB 1317, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)  
recommends **DO PASS** (14 YEAS, 3 NAYS, 8 ABSENT AND NOT VOTING).  
Engrossed HB 1317 was placed on the Eleventh order on the calendar.

2009 SENATE FINANCE AND TAXATION

HB 1317

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1317

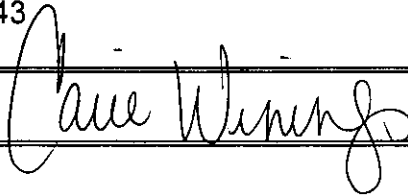
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/09/2009

Recorder Job Number: 10443

Committee Clerk Signature



Minutes:

**Senator Tony Grindberg, District 41:** Testified as sponsor and in support of the bill.

**.56 Todd Kranda, Kelsch Law Firm, Lobbyist for Charitable Gaming Association of ND:**

See Attachment #1 for testimony in support of the bill. (See Attachments #2 and #3 for

additional testimony passed out for some that could not be here.)

**8.56 Chairman Cook:** If I look at this, referring to testimony #3, he is generating \$420,000 in profit and paying \$515,000 in taxes.

**Todd Kranda:** That is what the third paragraph appears to indicate. I guess that does show that there are a number of entities across the state, gaming providers that are finding with the tough times financial difficulties in continuing their operations. Their charitable purposes are suffering and so I think with this tax relief it will keep them alive and surviving and a number of them to continue to operate and provide those funds towards their purposes and charities.

**9.33 Senator Triplett:** I think they are saying that it is saying \$420,000 of operating profit after expenses and taxes; I think there is a little bit of disconnect between the narrative and the first and second sentences.

**Todd Kranda:** I think that is right. I think what it shows are that they are paying more in taxes than they are actually generating.

10.24 **Senator Tracy Potter, District 35:** Testified as sponsor and in support of the bill.

Gaming is state stable and that is because we keep running faster to stay in place. You will hear from gaming organizations. The case I want to make is about the specific charitable function; why North Dakota has charitable gaming. Everything we do out there cost us about twice of what we actually take in revenue. (Gives examples of things that have been funded by charitable gaming) We are facing an economic crisis. For us the crisis started when gas prices went to \$4.00/ gallon. This kills tourism. One of the legs to our stool is the people visiting our state. The other stool is fund raising/charitable giving. We have been holding our own there as well. Everyone is saying that this in our current economy is going to be very difficult to continue. The third leg of the stool is charitable gaming. If the state can provide us with this bit of assistance here, this is going to smooth up the rough spots and provide us with what we need.

14.05 **Ken Karls, Cystic Fibrosis Association of North Dakota:** See Attachment #4 for testimony in support of the bill.

18.25 **Vice Chairman Miller:** Where are your gaming sights located?

**Ken Karls:** They are in Mandan and Bismarck, and one pull tab site in Bottineau.

19.46 **Senator Triplett:** If you wanted to take a different attack on this, what kind of fiscal note would that be?

**Ken Karls:** That would be fairly significant and it seems to me that it would cut that fiscal impact to us to about 80%.

**Senator Triplett:** If I wanted to pursue cutting that, how would you define that, what language would you use?

**Ken Karls:** I think that would be to find a way to convert the 4.5% and eliminate the excise tax and put everything on the gaming tax.

**Senator Triplett:** It does seem unfair. I didn't realize that you were paying taxes on the prizes essentially.

**22.10 Connie Sprynczynatyk, North Dakota League of Cities:** Testified in a neutral sense to the bill. (Considered testimony to be for and against) We would be in favor of an amendment to the bill. Our concern is the impact on the gaming enforcement grant. I think that there needs to be better enforcement and overseeing of this. That needs to be a partnership primarily with the local police department and the state Attorney General's office. We understand what goes into gaming enforcement. If you want to amend upwards the local share of what the state collects on these taxes then we have no opinion on this bill.

**24.10 Chairman Cook:** How would we do that?

**Connie Sprynczynatyk:** Someone else in the room answers (inaudible)

**25.20 Chairman Cook:** Further testimony? (no) can you explain to the committee exactly the funding for enforcement and how it is...

**25.33 Keith Lauer, Director of the Gaming Division, Attorney General's Office:** Testified in neutral capacity on the bill. The way the gaming enforcement grants work is 3% of all of the gaming and excise taxes are put into an allocation fund back to the cities and counties and it is paid back on a quarterly basis to all of the cities and counties with a cap of \$617,000 per biennium, although we have never paid out that much because 3% of the gaming and excise tax never hit that \$617,000 dollar amount. If a city is not going to get at least \$200 the money goes back into the pool and is given out, so really the larger cities and counties are the ones who get the impact from the payback.

**Chairman Cook:** The amount of money that is, you say they never reached the cap of \$617,000. Is the money sufficient?



**Keith Lauer:** That money just goes back to the counties. It is a gaming enforcement grant to the cities and counties. They don't have to use it for that. Each city does things differently (gives some examples). Nothing says they have to use that money for gaming enforcement.

**Chairman Cook:** What types of charitable gambling do we have? Charitable, Indian Casinos, Lottery, Para mutual Betting, Local Raffles, what else?

**Keith Lauer:** That is about it, the local permits. There are about 2000 local permits that are issued. Last year the total wagering on charitable gaming was \$264 million dollars. As was pointed out 80% of it goes back in prizes to the players.

**Chairman Cook:** Do you have the numbers for all of the gaming organizations?

**Keith Lauer:** The only thing we wouldn't have is the local permits, but we can get you the numbers on everything else. Tribal Gaming amounts are confidential.

**Chairman Cook:** Do we get any revenue from the tribes?

**Keith Lauer:** The only revenue we get from the tribes is we get a direct reimbursement of our costs. We have investigators that go out to those tribal facilities on a monthly basis, and we get a direct reimbursement of all of those costs.

**Chairman Cook:** Can you get us the figures on the gaming organizations?

**Keith Lauer:** I can do that.

31.15 **Senator Anderson:** Also to add on to that, how the percentages would have to change so that the loss would be negated on this.

**Keith Lauer:** OK

**Senator Oehlke:** I think that you said that the 3% was on the adjusted gross how was that arrived at?

**Keith Lauer:** It is 3% of the taxes collected. So last year we collected about 10.5 million dollars off of charitable gaming. So 3% of that amount would be paid out to the cities and counties. It is based on adjusted gross after the prizes are handed out.

**Senator Oehlke:** If a gaming sight had a problem, if they were losing money, they wouldn't get as much money back for enforcement would they? That would affect how much money they get.

**Keith Lauer:** Not really. If there was a theft going on, the charity is still going to be paying. They still pay the 4.5% excise tax. What that excise tax is in lieu of a sales tax. It does not make sense to sell a pull tab for a dollar, so the excise tax was placed on that dollar. It comes off the gross.

**33.45 Chairman Cook:** Is there a bill this session that is dealing with the tax distribution of the initial betting?

**Keith Lauer:** Yes, I believe it is still alive.

**Senator Dotzenrod:** Is there any way to know what is going to happen to those 3.68 million dollars? Is there a way to know if 100% of that will go to the charities? Or half to charities and half to the organizations?

**Keith Lauer:** It is kind of complicated because the excise tax is removed before you come up with the adjusted gross proceeds, and then the allowable expenses and gaming tax is based on the adjusted gross. If you reduce the excise tax, you are increasing the adjusted gross. You are going to increase the expenses for the organization, you are going to increase the gaming tax that they pay, that is why the effect of this is going to be a little bit less because what you are doing is you are shifting some of that tax from an excise tax to an increased gaming tax, because the adjusted gross just went up. They are going to get a little bit more expense money, they are going to pay a little bit higher gaming tax, but there is going to be

some more left over for the charity. In the end there would be more for the charitable organization.

**Senator Triplett:** If I put in an amendment that said to take the overstrikes off the 4.5 and remove the 3 so that it left the tax the same, but then insert the adjusted gross proceeds, you are saying that that would automatically increase the gaming tax because of the order of how things are figured?

**Keith Lauer:** I am not sure that would be the way to do this. You would be better to eliminate the excise tax and do something with the gaming tax.

37.06 **Senator Anderson:** I will probably want to put an amendment on this so that the cities and counties are neutral on this as far as money lost or gain.

**Senator Dotzenrod:** You mentioned that the gaming is capped and we have not gotten there, how close are we?

**Keith Lauer:** Probably we are the closest this biennium. We are closer because of last session rather than the sales tax, which went to the state tax department; we are getting a 3% excise tax on Bingo now.

**Chairman Cook:** So even though this is a hundred some thousand hit on them, last session we passed a bill that gave them a pretty good increase for local.

**Keith Lauer:** Yes.

**Chairman Cook:** Closed hearing on HB 1317.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1317

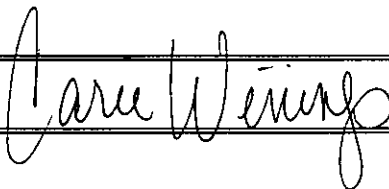
Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Hearing Date: 03/11/2009

Recorder Job Number: 10734

Committee Clerk Signature



Minutes:

**Chairman Cook:** Reopened discussion on HB 1317.

**Committee:** Reviews bill.

**Senator Triplett:** The presenters did such an excellent job that they convinced me to go back to the original bill on the House side that simply would have eliminated this tax. Before I make that kind of emotion I would defer to the wisdom of the group as to whether or not we should do battle within the conference committee. I suppose the easy thing would be to approve it in the same form it is in.

**Chairman Cook:** I am comfortable with taking this step and it is kind of a job security check for certain individuals to come back next session with another bill.

**Senator Triplett:** I think we should leave it the way it is.

**Chairman Cook:** See Attachment #1 for additional information provided to the committee.

**Senator Dotzenrod:** Moved a Do Pass.

**Senator Oehlke:** Seconded.

**Chairman Cook:** Discussion?

**Senator Hogue:** Senator Triplett made a compelling case, but I was not persuaded, so I am going to vote against the motion.

**Chairman Cook:** There was a time when this was the only gambling we had. They were very profitable and of course it was justified to the people that we allow this type of gambling because we are going to tax it. I think we taxed it quite well. Then along comes Indian Casinos and they certainly made a big hit on the amount of revenue that local charitable gambling was able to receive. I have seen many places close and organizations that received a lot of money from charities that raise their money off of pull tab have their money dwindle. I think that it is a changed environment out there. The citizens put in the lottery and that put a hit on charitable gambling. I think that the one game of chance that we have that 100% of the money stays in the state of North Dakota is local charity pull tabs. I am much more sympathetic to these types of games of chance then I am to others.

**Senator Dotzenrod:** I would point out that they had a tax of 2% and then it was raised to 4.5%, and I think that many examples were provided to us that the charities get about half the money and the rest goes to taxes. I just seems to me that that is not really right. All the work these people put into making this go in their communities and I think they made a good case to get this back down some.

**Chairman Cook:** I thought there was a bill introduced this session that is going to reduce the amount of state revenue that we got from Para mutual betting from horse racing. I haven't found it, but I would double that rate if I had a chance.

**Senator Triplett:** I have an idea that we go from 3% to 2% if we are all so sympathetic to the idea.

**Senator Dotzenrod:** That would probably add \$50,000 on to the other funds that is supposed to go to the cities and counties.

**Senator Triplett:** You can vote against it if you want.

**Chairman Cook:** I am comfortable with that. It passed the house rather comfortably. It will go to the conference committee and to a vote on both floors.

**Senator Dotzenrod:** Withdrew prior motion.

**Senator Oehlke:** Withdrew second.

**Senator Triplett:** Moved to amend by change the 3 on line 8 to a 2.

**Senator Dotzenrod:** Seconded.

**Discussion:** The committee discussed gross proceeds and what affects that, and exactly how things are taxed. The 3% is levied on the total amount that is wagered, not on the wagers minus the prizes.

**Chairman Cook:** Any further discussion?

**A Roll Call vote was taken: Yea 4, Nay 3, Absent 0.**

**Motion Passed.**

**Senator Triplett:** Moved Do Pass As Amended and Re-Refer to Appropriations.

**Senator Dotzenrod:** Seconded.

**Chairman Cook:** Discussion?

**A Roll Call vote was taken: Yea 6, Nay 1, Absent 0.**

**Senator Triplett will carry the bill.**

Roll Call Vote #: |

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.: 1317

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Senator Dotzenrod Seconded By Senator Oehlke

[illegible]

Total:	Yes	No
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Absent \_\_\_\_\_

### Floor Assignment

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

Date: 03/11/09

Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. :

1317

Senate Finance and Taxation

Committee

☐ Check here for Conference Committee

Amend, line 8

Legislative Council Amendment Number

change 38 to 22

Action Taken

☐ Do Pass

☐ Do Not Pass

☐ Amended

Motion Made By

Senator Triplett

Seconded By

Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman		✓	Sen. Arden Anderson	✓	✓
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue		✓	Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes

4

No

3

Absent

0

Floor Assignment

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



Date: 03/11/09

Roll Call Vote #: 3

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.: 1317

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Re-Referred to Approp.

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended <sup>AS</sup>

Motion Made By Senator Triplett Seconded By Senator Dotzenrod

Senators	Yes	No	Senators	Yes	No
Sen. Dwight Cook - Chairman	✓		Sen. Arden Anderson	✓	
Sen. Joe Miller - Vice Chairman	✓		Sen. Jim Dotzenrod	✓	
Sen. David Hogue		✓	Sen. Constance Triplett	✓	
Sen. Dave Oehlke	✓				

Total: Yes 6 No 1

Absent 0

Floor Assignment Senator Triplett

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

**REPORT OF STANDING COMMITTEE**

**HB 1317, as engrossed: Finance and Taxation Committee (Sen. Cook, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS,  
1 NAY, 0 ABSENT AND NOT VOTING). Engrossed HB 1317 was placed on the Sixth  
order on the calendar.

Page 1, line 8, replace "three" with "two"

Renumber accordingly

2009 SENATE APPROPRIATIONS

HB 1317

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1317

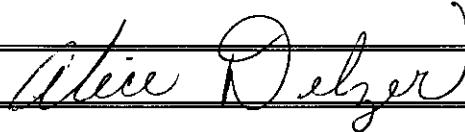
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-18-09

Recorder Job Number: 11178

Committee Clerk Signature



Minutes:

**Chairman Holmberg** called the committee to order in reference to HB 1317 in regards to relating to gaming and excise taxes.

**Todd Kranda** Attorney for Kelsch Law Firm and lobbyist For the Charitable Gaming Association of ND (CGAND). Spoke in support of 1317. See attachment #1.

**Senator Seymour** How will this bill increase the number of people participating in gaming?

**Kranda** I'm not sure if this will impact the number of people gaming. If you relieve the money burden, these programs might not go under. It not that we are trying to increase gaming, these organizations are struggling in the current economy and we want to continue to offer the valuable services available through these programs.

**Karen Breiner** President of CGAND testified in favor of 1317. See attachment # 2.

**Senator Krauter** Of the registered charitable programs, how many belong to your organization?

**Kranda** The numbers are in his testimony.

**Breiner** Of these 300 some charities some just do raffles and don't have a gaming site.

**Senator Kilzer** You and Todd mentioned some of the reasons for the decrease in gaming; I am surprised that the smoking status was not mentioned by someone. Has that been a big factor?

**Breiner** I believe that the city of Fargo is the only one that has banned smoking in the bars and we have seen a decline in gaming. Whether we can attribute that all to smoking or partly to the economy, we don't know.

**Senator Kilzer** How about the areas where smoking was banned, for example the bingo parlors? Did they come back?

**Breiner** I can only speak for our bingo hall. It has not been as the same level as before the smoking ban but we have seen an improvement in the numbers.

**Senator Fischer** I am on the board of a nonprofit that has gaming sites; the one in the rural area of Fargo that allows smoking has flourished. One that is not making money is one that has a cover charge to get in. There are a lot of factors, the smoking one is definitely a factor.

**Diane Shepherd** Executive Director for the Arc of the Upper Valley in GF. Our organization has participated in charitable gaming for over 25 years. Within the last 4 years we have closed 17 sites across ND. We have gone from being in the upper 8% of charitable gaming to dropping below the 20% percentile. Charitable gaming is not what it used to be. We need your support to stay in gaming. Our organization is operating on a month to month basis. I encourage you to pass the engrossed HB 1317.

**Mark Henze** Lobbyist for the Plains Art Museum. Testified in favor of 1317 and provided written testimony # 3.

**Kent Karls** Cystic Fibrosis Association of Bismarck. We have charitable gaming here in Mandan. I want to touch on one issue and that is the level of taxation. When someone walking into a gaming site and buys \$100 worth of pull tabs games, \$80 of that walks out the door before our charity touches anything. Because pull tabs pay out 70-80%. The present tax that we are paying applies to the \$20 we get to keep. That \$20 is then taxed on a sliding scale from 5-205 depending on our gross adjusted proceeds. So that leaves us with about \$13 to pay for

the pull tabs, labor, rent and pay for the program services we provide. So the effective rate of 4½ % plus the gaming tax comes to better than 30% on that \$20. That is a high rate given any industry in ND. That is why we are asking for your support for this bill.

**V. Chair Bowman** The reason I signed on to this bill is because of what I've seen in rural ND. The charity that you are working for is really the state because you are making more money for the state than for yourself. When that happens, why do we have charities? They are supposed to help out locally. This is not a total loss to the state if we make this change because the money stays in the state and goes back into the economy.

**Chairman Holmberg** We won't take up the bill today. Closed the hearing on HB 1317.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1317

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-03-09

Recorder Job Number: 11725 (also HB 1481 is on this job)

Committee Clerk Signature



Minutes:

**Chairman Holmberg** called the committee to order in reference to HB 1317 relating to gaming and excise tax. I believe everyone has received a copy of 1317 as it has been engrossed with Senate amendments.

**Senator Christmann** When I've been talking to people involved it is my feeling there could be a compromise position here and a great deal of satisfaction for the people in the gaming industry at the 3% the way the bill was originally trimming the tax from 4½ to 3 instead of 4½ to 2 as the bill proposes. **Senator Christmann moved that 2 on line 8 be changed to 3.**

**Seconded by V. Chair Grindberg.**

**Chairman Holmberg** This is what the industry had asked for, is that correct? He was told yes.

**V. Chair Grindberg** The comprehensive study for charitable gaming that both Senate and House passed continued to look at ways for the future for the gaming industry in North Dakota so I think that's also a good plus. I would support the 3% as well.

**Chairman Holmberg** All in favor of that amendment say aye. It carried.

**SENATOR CHRISTMANN MOVED A DO PASS AS AMENDED. SECONDED BY VICE-CHAIRMAN GRINDBERG. A ROLL CALL VOTE WAS TAKEN RESULTING IN 14YEAS, 0 NAYS, 0 ABSENT. VICE-CHAIRMAN BOWMAN WILL CARRY THE BILL.**

**Chairman Holmberg** closed the hearing on HB 1317 (2.48)

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1317

In lieu of the amendments adopted by the Senate as printed on page 739 of the Senate Journal, Engrossed House Bill No. 1317 is amended as follows:

Page 1, line 12, overstrike "when" and insert immediately thereafter "at the time"

Renumber accordingly



Date: 4/3/09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1319

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98250-0202  
Wait for Amend

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By \_\_\_\_\_ Seconded By \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	<input checked="" type="checkbox"/>		Sen. Tim Mathern	<input checked="" type="checkbox"/>	
Sen. Tony S. Grindberg, VCh	<input checked="" type="checkbox"/>		Sen. Aaron Krauter	<input checked="" type="checkbox"/>	
Sen. Bill Bowman, VCh	<input checked="" type="checkbox"/>		Sen. Larry J. Robinson	<input checked="" type="checkbox"/>	
Sen. Randel Christmann	<input checked="" type="checkbox"/>		Sen. John Warner	<input checked="" type="checkbox"/>	
Sen. Rich Wardner	<input checked="" type="checkbox"/>		Sen. Elroy N. Lindaas	<input checked="" type="checkbox"/>	
Sen. Ralph L. Kilzer	<input checked="" type="checkbox"/>		Sen. Tom Seymour	<input checked="" type="checkbox"/>	
Sen. Tom Fischer	<input checked="" type="checkbox"/>				
Sen. Karen K. Krebsbach	<input checked="" type="checkbox"/>				

Total Yes 14 No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Bowman

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

**REPORT OF STANDING COMMITTEE**

HB 1317, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1317, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on page 739 of the Senate Journal, Engrossed House Bill No. 1317 is amended as follows:

Page 1, line 12, overstrike "when" and insert immediately thereafter "at the time"

Renumber accordingly

2009 TESTIMONY

HB 1317

**Testimony in Support of HB 1317**  
**House Finance and Taxation Committee**  
**January 21, 2009**

Chairman Belter, House Finance and Taxation Committee members, my name is Todd D. Kranda. I am an attorney with the Kelsch Law Firm in Mandan and I appear before you today as a lobbyist on behalf of the Charitable Gaming Association of North Dakota (CGAND) to express support for HB 1317.

Initially I would like to provide you with some brief background information on CGAND which is a statewide association of charitable gaming organizations. CGAND has a diverse membership varying from clubs to small organizations in all regions of the state and represents about 70% of the charitable gaming in North Dakota. The mission of CGAND is to "Preserve gaming as a funding source for charitable purposes." Attached is a copy of the CGAND Membership List showing the different organizations across North Dakota that are members.

Several individuals from CGAND and its member organizations are here this morning to testify in support of HB 1317. However, before they do I would like to briefly identify the change that is being requested in HB 1317 and provide some additional information.

The primary change within HB 1317 is the elimination of the excise tax that is being applied to pull tabs and bingo cards. I have attached an outline that was prepared previously by Keith Lauer the Director of the North Dakota Attorney General Gaming Division showing the History on Gaming Taxes.

There are numerous benefits from and worthy causes supported by charitable gaming. HB 1317 will help assist and provide the needed financial support for the worthwhile programs, services and causes that are supported by charitable gaming. For your reference I have included a handout with a Summary of Eligible Use Contributions for the 2008 Fiscal Year. This information was obtained from the ND Attorney General Gaming Division.

Finally, I understand from Keith Lauer of the Attorney General Gaming Division that there were some cross referenced sections of the code that would need to be revised in order to strike out references to "excise taxes" and those amendments are also attached.

In conclusion, on behalf of CGAND I ask for your favorable consideration of this legislation and in doing so, I also ask for your support of the local charities that would benefit from this legislation. As stated others are here from the charitable gaming industry to testify and respond to any specific questions. However, I would be willing to try answer any questions at this time.

Please give **HB 1317** a **DO PASS** recommendation.

# Charitable Gaming Association of North Dakota Membership List

Same  
number to  
given to  
Linda Lee.

Organization Name	Last Name First	Address	City	State	Postal	e-mail address	Phone
American Legion	Twete Curtis	116 E. McDougall	McVie	ND	58254		
Amvets Post 9	Wagner Vicki	2402 Railroad Ave	Bismarck	ND	58501-	amvetspost9@aol	258-8324
* Arrow International	Nagel Kirsten	9900 Clinton Rd	Cleveland	OH	44144-	knagel@arrowinternational.com	
Arthur W. Jones Dist 756-4	Nesland Terry	308 Sheyenne St	West Fargo	ND	58078-		
Bartlette Resler Post #62	Anderson Dale	PO Box 244	Wallula	ND	58282-	none	
Bison Booster Club of Minner, ND	Knutson Marvin	PO Box 385	Miner	ND	58060-0385	markrk61@drtel.net	549-3370--549-3412 427-9481--427-9218
* Borchert Distributing	Borchert Jim	811 8th Ave N	Fargo	ND	58102-3616	horehertdist.igsbglobal.net	701-799-8401
Bowman County Development Corp	Bueholz Debra	PO Box 1143	Bowman	ND	58623-	bowcodev@ndsupernet.com	523-5880--523-5011
Buffalo Community Club Gaming	Kasowski Flint	PO Box 23	Buffalo	ND	58011-	none	633-5121
Development Homes	Odegaard Kara	3880 S Columbia Rd	Grand Forks	ND	58701-	kodegaard@developmenthomes.org	335-4000--741-6112
Devils Lake Youth Activities	Kushel Gloria	PO Box 584	Devils Lake	ND	58301-	gkushel58301@yahoo.com	
Dickinson Charities	Klemm Carol	67 21st St E	Dickinson	ND	58601-	charities@ndsupernet.com	483-3562
Drayton Curling Club	Olson Ardis	PO Box 252	Drayton	ND	58225-	ardis@polarcomm.com	454-6433
Fargo VFW	Rusch Allen	202 Broadway	Fargo	ND	58102-	allenrusch@hotmail.com	
Fargo Youth Commission	Kuennenman Rob	2500 18th St S	Fargo	ND	58103-	rob@youthcommission.com	235-2147
Fraternal Order of Eagles- Aerie #2749	Keys Perl	PO Box 875	Walpeton	ND	58074-0875	mgrunfar@wah.midco.net	642-2414
Friends of the Neche Firemen	Douville Jackie	PO Box 207	Neche	ND	58265-	tinanorth@polarcomm.com	886-7333--886-7611
Fr Ransom Rural Fire Dist. Support Corp.	Ose Traci	PO Box 785	Lisbon	ND	58054-		973-4521--683-5538
Grafton Curling Club	Deustcher Corey	2339 S 17th St #17	Grand Forks	ND	58201-	cfdeustcher@gra.midco.net	

# Organization Name

Organization Name	Last Name	First	Address	City	State	Postal	e-mail address	Phone
Grand Forks Blue Line Club	Weber	Sharon	2525 S Washington	Grand Forks	ND	58201-	none	775-6174
Grand Forks CVB	Rygg	Julie	4251 Gateway Dr	Grand Forks	ND	58203-	julie@visitgrandforks.com	746-0444
Greater GF Senior Citizens	Vorland	Betty Lou	620 4th Ave S	Grand Forks	ND	58201-	none	772-7245
Harley Salzman Post #5	Heckman	Tom	Box 543	Beach	ND	58621-	hpeterson@midstate.net	701-872-3716
Harwood Area Fire & Rescue	Spiesz	Jennifer	39 Lind Circle	Harwood	ND	58042	none	281-0792--282-0709
Horace Lions Club	Rustad	Roger	319 Mickey Mouse Ave	Horace	ND	58047-	none	662-3701--331-2500
Lake Region Corporation	Eickenbrock	Sharon	224 3rd St NW	Devils Lake	ND	58301-	edavidson@lakeregioncorp.com	1-800-342-7755
Lake Region Heritage Center	Hornier	Dick	PO Box 245	Devils Lake	ND	58301-	none	746-7840--775-5166
*Lien Games	Lien	Ken	PO Box 564	Fargo	ND	58107-	liengames@aol.com	839-1337--720-6566
Listen Inc.	Steffan	Rusty	1407 24th Ave S #100	Grand Forks	ND	58201-	rusty@firstcollections.com	838-3355--838-3377
Minot Junior Golf	Fotiz	Jim	1344 S Main	Minot	ND	58701-	weelinks@srt.com	839-9592--721-1958
Minot Catholic Schools Corp.	Hattelid	James	316 11th Ave NW	Minot	ND	58703-	hattelid@brts.com	1-800-828-1319
Minot Hockey Boosters	Kelly	Mike	1524 S Broadway Ste 3	Minot	ND	58701-	mikekly@srt.com	223-3313
*Mr. Eds Bingo	Borowicz	Shelly	PO Box 848	Fargo	ND	58107-	shelly@nureds.net,kristi@nureds.net	775-5577
ND Hospitality Education Foundation	Weissman	Niccollette	PO Box 428	Bismarck	ND	58502-	nicki.ndha@htinet.net	
North Dakota Assoc. Disabled	LaDouceur	Traci	2660 S Columbia Rd	Grand Forks	ND	58201-	tladouceur@ndad.org	
New Rockford Lions Club	Kanzelman	Darwyn		New Rockford	ND	58356-	director@buffalomuseum.com	252-8648--320-6242
North Dakota Buffalo Assn	Steffan	Jodi	500 17th St SE	Jamestown	ND	58401-	rds9130@cableone.net	235-1901--241-9130
Northern Prairie Performing Arts	Stenseth	Rick	333 4th St S	Fargo	ND	58102-	none	465-3376--465-3060
Oswald Wohl Post #6831 V.F.W.	Stolz	Elroy	PO Box 68	Anamoose	ND	58710-	none	232-3821--232-2019
Plains Art Museum	Breiner	Karen	PO Box 2338	Fargo	ND	58108-	kbreiner@plainsart.org	241-6900
Prairie Public Broadcasting	Haugen	Karen	PO Box 3240	Fargo	ND	58108-	khaugen@prairiepublic.org	

Organization Name	Last Name	First	Address	City	State	Postal	e-mail address	Phone
Red River Human Service Foundation	Lenertz	Lorissa	2506 35th Ave S	Fargo	ND	58103-	llenertz@rrhsr.org	
Share House Inc.	Madsen	Donna	4227 9th Ave SW	Fargo	ND	58103-		282-6561
Special Olympics ND	Meagher	Kathy	2616 S 26th St	Grand Forks	ND	58201-	gfindso@corpcommi.net	
St. Thomas Booster Club	Olson	Ardis	PO Box 66	Drayton	ND	58225-	ardis@polarcommi.com	454-6433
*Statewide Gaming	Slivicki	Robert	630 S 15th St	Grand Forks	ND	58201-	brooks157@yahoo.com	1-800-732-1090
Team Makers	Stenseth	Rick	2220 E Main Ave, Suite S	West Fargo	ND	58078-	Teammakers@linkup.net	277-9271--304-2224
The Arc, Upper Valley	Vaagen	Deb	2500 DeMers Ave	Grand Forks	ND	58201-	dsheppard@arcuv.com,debvi@cable one.net	772-6191--261-2741
*Universal Manufacturing	Wilner	Joe	5450 Deramus Ave	Kansas City	MO	64120-	universal@jarcdo.com	816-231-2771
Velva Fire Dept.	Jungeters	Rose	P.O. Box 139	Velva	ND	58790		
West Fargo Hockey	Madsen	Steve	5154 9th Ave SW	Fargo	ND	58103-	matblaster@yahoo.com	281-4791--388-8788
*Western Distributing			PO Box 832	Bismarck	ND	58502-		
Williston CVB	Attizu	Jeff	10 Main St	Williston	ND	58801-	CVBsales@C1.williston.nd.us	
Williston State College Foundation	Stevens	Garvin	PO Box 1204	Williston	ND	58801-	wscfoundation@mcomnt.net	572-1472

\*Distributors and Manufacturers



House Bill No. 1317  
History of Gaming Taxes  
January 21, 2009

*Same  
handout given  
to Senate.*

Prepared by the Office  
of Attorney General

**1977**

Gaming tax established at 3% of adjusted gross proceeds.

**1979**

Gaming tax rate increased from 3% to 5% of adjusted gross proceeds.

**1983**

The gaming tax rate changed from 5% of adjusted gross proceeds to 5% on the first \$600,000 of adjusted gross proceeds and 20% on adjusted gross proceeds over \$600,000 per quarter.

**1989**

The gaming tax rate was changed to 5% up to \$200,000, 10% on \$200,000 up to \$400,000, 15% on \$400,000 up to \$600,000, and 20% on amounts over \$600,000 on adjusted gross proceeds per quarter. In addition, a 2% excise tax was imposed on pull tab gross proceeds and sales tax was imposed on bingo cards.

**1993**

The excise tax on pull tab gross proceeds was increased from 2% to 4½%.

**2001**

The 4½% excise tax on pull tab gross proceeds was eliminated for organizations whose gross proceeds did not exceed \$4,000 for a quarter.

**2007**

Sales tax was no longer imposed on bingo cards but it was replaced with a 3% excise tax on the gross sales of bingo cards.

North Dakota Office of Attorney General  
Summary of Eligible Use Contributions

Page:  
01/20/09 09:28:31

User: DMCDANIE

Fiscal Year: 2008

Quarter: All

Eligible Code	Description	Check Amount	% of Grand Total
A-02	THE ABUSED	52,700	0.3
A-03	ALCOHOL AND DRUG ABUSE	887,663	5.0
A-04	ANIMAL PROTECTION	8,612	0.0
A-05	ALZHEIMERS	1,050	0.0
A-07	THE BLIND	20,294	0.1
A-08	CANCER	71,719	0.4
A-11	CYSTIC FIBROSIS	204,536	1.2
A-12	DIABETES	6,025	0.0
A-15	THE DISABLED	1,770,226	10.1
A-18	HEART DISEASE	2,950	0.0
A-20	LEARNING DISABILITIES	900	0.0
A-24	MENTAL HEALTH	156,062	0.9
A-25	MULTIPLE SCLEROSIS	124,524	0.7
A-26	MUSCULAR DYSTROPHY	6,611	0.0
A-27	THE NEEDY	86,155	0.5
A-28	PARALYSIS	1,200	0.0
A-29	DEVELOPMENTALLY DISABLED CITIZENS	1,147,323	6.5
A-30	SENIOR CITIZENS	218,115	1.2
A-32	TERMINALLY ILL	24,404	0.1
A-36	WILDLIFE	355,841	2.0
A-37	YOUTH ACTIVITIES	2,664,683	15.1
A-46	ADULT ACTIVITIES	169,418	1.0
A-47	HEAD INJURIES	2,988	0.0
A-58	HOME ON THE RANGE	12,282	0.1
A-61	MARCH OF DIMES	2,150	0.0
A-64	MEALS ON WHEELS	7,919	0.0
A-65	MEDICAL FACILITIES NON-PROFIT	65,418	0.4
A-67	MEMORIAL FUNDS	6,532	0.0
A-70	NURSING HOMES NON-PROFIT	24,204	0.1
A-80	RONALD MCDONALD HOUSE	1,725	0.0
A-81	RED CROSS	1,800	0.0
A-82	SALVATION ARMY	8,980	0.1
A-88	SPECIAL OLYMPICS	242,524	1.4
A-90	DISASTER RELIEF ORGANIZATIONS	10,805	0.1
A-91	UNITED FUND/UNITED WAY	15,785	0.1
A-94	YMCA/YWCA	3,845	0.0
A-97	VOLUNTEER SERVICES	9,230	0.1
A-98	GAMBLING ADDICTION	7,800	0.0
A-99	OTHER	81,110	0.5

*Same to given donor.*

Subtotal Of Contributions: \$8,486,108 Percent to Grand Total: 48.2%

North Dakota Office of Attorney General  
Summary of Eligible Use Contributions

User: DMCDANIE

Fiscal Year: 2008

Quarter: All

Eligible Code Description	Check Amount	% of Grand Total
B-10 RELIGIOUS USES	130,317	0.7

Subtotal Of Contributions: \$130,317 Percent to Grand Total: 0.7%

Eligible Code Description	Check Amount	% of Grand Total
C-10 AGRICULTURE	71,218	0.4
C-20 THE ARTS	1,574,485	9.0
C-25 EDUCATIONAL PUBLIC SERVICES	768,181	4.4
C-30 SAFETY	49,349	0.3
C-40 4-H ACTIVITIES	28,811	0.2
C-50 EDUCATIONAL INSTITUTIONS AND ACTIVITIES	447,097	2.5
C-75 PRESERVATION OF CULTURAL HERITAGE	335,793	1.9
C-80 SCHOLARSHIPS	965,329	5.5
C-90 VOCATIONAL WORKSHOPS	8,995	0.1
C-99 OTHER	46,548	0.3

Subtotal Of Contributions: \$4,295,806 Percent to Grand Total: 24.4%

Eligible Code Description	Check Amount	% of Grand Total
D-10 CAMP GRASSICK	3,710	0.0
D-20 FRATERNAL FOUNDATIONS	49,951	0.3
D-30 LEGION BASEBALL	310,593	1.8
D-40 VETERAN'S CEMETARY	15,900	0.1
D-50 DISABLED OR INJURED VETERANS ASSISTANCE	46,394	0.3
D-60 MILITARY FAMILY SUPPORT	43,220	0.2
D-99 OTHER	160,536	0.9

Subtotal Of Contributions: \$630,304 Percent to Grand Total: 3.6%

North Dakota Office of Attorney General  
Summary of Eligible Use Contributions

Page: 3  
01/20/09 09:28:34

User: DMCDANIE

Fiscal Year: 2008

Quarter: All

Eligible Code Description	Check Amount	% of Grand Total
E-10 SCOUTING ACTIVITIES AND BOYS OR GIRLS STATE	52,063	0.3
E-30 COMMUNITY BANDS, COLOR AND HONOR GUARDS, FLAGS, & PARADES CELEBRATIONS	233,343	1.3
E-99 OTHER	34,107	0.2
Subtotal Of Contributions:	\$319,513	Percent to Grand Total: 1.8%

Eligible Code Description	Check Amount	% of Grand Total
F-10 ERECTION OR MAINTENANCE OF PUBLIC BUILDINGS	193,536	1.1
Subtotal Of Contributions:	\$193,536	Percent to Grand Total: 1.1%

Eligible Code Description	Check Amount	% of Grand Total
G-10 COMMUNITY EMERGENCY SERVICES	638,403	3.6
G-15 DISBURSEMENTS DIRECTLY TO A CITY, COUNTY, OR STATE	241,461	1.4
G-25 IMPROVEMENT OF PUBLIC AREAS	101,693	0.6
G-50 PARKS AND RECREATION	680,929	3.9
G-60 LAW ENFORCEMENT	9,351	0.1
G-99 OTHER	23,692	0.1
Subtotal Of Contributions:	\$1,695,529	Percent to Grand Total: 9.6%

Eligible Code Description	Check Amount	% of Grand Total
H-00 LOSS OF THE HOME VICTIMS	18,360	0.1
Subtotal Of Contributions:	\$18,360	Percent to Grand Total: 0.1%

North Dakota Office of Attorney General  
Summary of Eligible Use Contributions

Page: 4  
01/20/09 09:28:34

User: DMCDANIE

Fiscal Year: 2008

Quarter: All

Eligible Code Description	Check Amount	% of Grand Total
I-00	559,089	3.2

Subtotal Of Contributions: \$559,089 Percent to Grand Total: 3.2%

Eligible Code Description	Check Amount	% of Grand Total
K-10	206,333	1.2
K-30	903,393	5.1
K-99	152,299	0.9

Subtotal Of Contributions: \$1,262,025 Percent to Grand Total: 7.2%

Eligible Code Description	Check Amount	% of Grand Total
V-00	-500	0.0

Subtotal Of Contributions: (\$500) Percent to Grand Total: 0.0%

Total Of All Contributions: \$17,590,087

--- End of Report ---

PROPOSED AMENDMENT TO HOUSE BILL 1317

Page 1, line 6, overstrike "and excise"

Page 2, line 10, overstrike "and excise"

Page 2, after line 18, insert

**SECTION 2. AMENDMENT.** Subsection 1 of section 53-06.1-01 of the North Dakota Century code is amended and reenacted as follows:

1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of merchandise prizes, ~~binge cards excise tax, pull tab excise tax,~~ and federal excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C. 4401].

**SECTION 3. AMENDMENT.** Subsections 3 and 4 of section 53-06.1-12.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The attorney general may require a licensed organization to make monthly estimated gaming ~~and excise~~ tax payments if the attorney general determines that the organization is in poor financial condition. If an organization fails to pay any tax or estimated tax, interest, or penalty by the original due date or date set by the attorney general, the attorney general may bring court action to collect it and may suspend the organization's license. The attorney general may for good cause waive all or part of any interest or penalty and may waive any minimal tax.
4. If an organization has failed to file a tax return, has been notified by the attorney general of the delinquency, and refuses or neglects within thirty days after the notice to file a proper return, the attorney general shall determine the adjusted gross proceeds and gaming ~~and excise~~ taxes due according to the best information available and assess the taxes at not more than double the amount. Interest and penalty also must be assessed.

Renumber accordingly

TESTIMONY ON HB 1317 – HOUSE COMMITTEE ON FINANCE AND TAXATION

Chairman Belter, Members of the Committee

I regret being unable to attend the hearing on this bill. Please accept this testimony.

In HB1317 we ask that this Committee and the Legislature consider the current level of taxation levied on the revenue our industry produces for many necessary and worthwhile programs and services around our state.

The Excise Tax of approximately 4.5% is currently assessed on the Gross Proceeds from pull-tabs sales and collected as part of the \$1.00 cost for each pull-tab. It has always been impractical for us to add the tax on to the price of a pull-tab. As such, we absorbed the tax by taking it from our revenue rather than passing it on to our patrons.

This tax rate of 4.5% on Gross dollars translates into an effective tax rate of 20% on our revenues after prizes and BEFORE any expenses are deducted. Starting with a \$100 in Gross sales, we pay back about \$76-\$77 to the players in prizes, leaving us \$24 to pay our staff, rent to our host establishments, the cost of the games, equipment, and recordkeeping, along with Excise AND Gaming taxes. If the Excise tax is \$4.50, the effective tax rate is 18.75%. Add to that the 5% Gaming Tax (after prizes) and our industry pays over 23% of what we make BEFORE we pay any expenses.

When Charitable Gaming began in the late 70s, early 80s, the Gaming Tax was levied to cover the costs of enforcing the laws and rules enacted. As the industry grew, an Excise Tax of 2% was added to pull-tabs in 1989. When the State was in deficit situation in 1993, the legislature again voted to increase the taxes on Gaming by raising the Excise Tax to 4.5%. Those tax funds have always gone directly into the General Fund without any specified use attached.

In this time when the State finds itself with a significant budget surplus, we ask that you consider rescinding the Excise Tax and return substantial funds to the many charitable organizations in our State who conduct gaming as a funding source. As other funding sources become scarcer and individuals cut back on their contributions to charity, funds generated by gaming operations become more and more critical. We have seen a noticeable drop in activity over the last two quarters and it appears that trend will continue well into the New Year.

Should you see fit to reduce the amount of Excise Tax that we remit, it will have a very positive effect on each and every organization conducting gaming in North Dakota. The dollars that will be saved in tax will not only benefit everything from fire halls to disabled individuals to arts groups, but they will definitely keep funds coming to many organizations whose Gaming operations are currently operating on the thinnest of margins.

I respectfully ask that you hear our voices and consider our need. We are all in the business of helping the citizens of North Dakota. When the legislature needed additional funding, our Excise Tax went up. Now that the State is in a solid financial position and our organizations are in need, it is the time to give that revenue back so we can continue to do for the people of our State.

Thank you for your consideration.

Respectfully submitted,

Rick Stenseth

Gaming Manager: NPPA, Team Makers Club, Inc

TESTIMONY IN SUPPORT TO  
HOUSE BILL NO. 1317  
HOUSE FINANCE AND TAX COMMITTEE  
JANUARY 21, 2009

Chairman Belter, House Finance and Tax Committee members, my name is Karen A. Breiner and I appear before you today as President of the Charitable Gaming Association of North Dakota (CGAND) in support of HB 1317.

Initially, I would like to provide some background information. In 1993, HB 1516 increased the tax on charitable gaming tickets from two percent (2%) to four and one-half percent (4 ½ %) on the gross receipts of charitable gaming ticket sales. In 1993, the projected gross proceeds for charitable gaming were 600 million dollars per year. The number of active gaming sites was 990. The number of licensed charitable gaming organizations was 349.

Today the picture is quite different. In fiscal year ending June 30, 2008 the total gross proceeds from charitable gaming, according to the ND Gaming Update dated December 2008 (see attachment), was less than \$300 million. The number of active gaming sites has dropped from 990 to 949 (41 sites). The number of licensed charitable gaming organizations has dropped from 349 to 327 (22 charities). Charitable gaming is not the growing industry that it once was.

I have heard from several gaming managers that due to increasing expenses, especially the increase in minimum wage, and the decrease in gaming activity, that they will be making decisions soon to close even more gaming sites.

According to data from ND Gaming Update dated March 2008 (see attachment), for fiscal year ending June 30, 2007, four percent (4%) of charitable gross proceeds were taxes. In comparison, according to data from National Association of Fundraising Ticket Manufacturers (see attachment); on a national level only three percent of charitable gaming proceeds go toward taxes and fees. The state of North Dakota takes in over 10 million dollars per year in charitable gaming taxes and an additional 5 to 6 million dollars per year from the Lottery (see attachment), which is in direct competition for gaming dollars with charitable operations.



Many communities, small and large, depend on charitable gaming dollars to help with various charitable services and uses such as education, health care, arts, disadvantaged individuals, alcohol addiction, and sporting activities.

Without these charitable gaming dollars many programs, projects, and services would end. This tax reduction will help all charitable gaming operations offset their increasing expenses so charities can maintain the level of programming and services that they currently offer.

In 1989 when the first excise tax was instituted, and then in 1993 when it was raised four and one-half percent (4 ½ %), the charitable gaming industry was growing and vibrant. This is no longer the state of the charitable gaming industry. The charitable gaming industry needs help and we need it now.

We respectfully request that you please support your local charities and that you give HB 1317 a **Do Pass** recommendation.

Thank you for this opportunity to testify before your committee, and I would be willing to try to answer any questions you may have.



# NAFTM

2007 ANNUAL REPORT

## CHARITY GAMING IN NORTH AMERICA



*Celebrating 25 Years!*

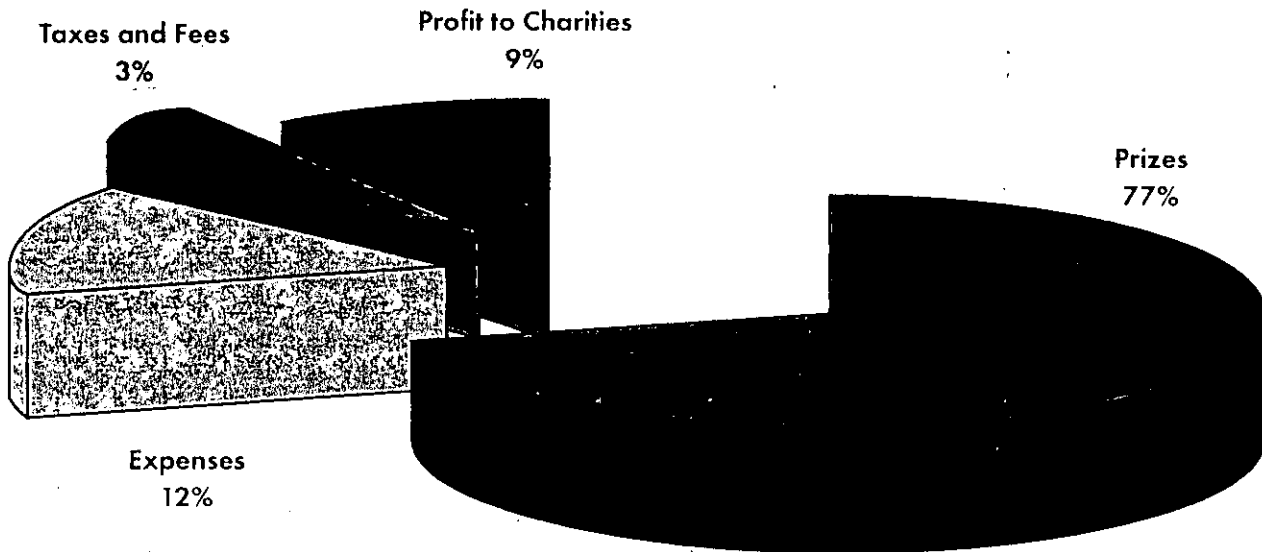
NATIONAL ASSOCIATION OF FUNDRAISING TICKET MANUFACTURERS

# DISTRIBUTION/TOP 10 STATES



*Same  
handouts  
given to  
Senate.*

Average Distribution of Dollars Raised Through Charitable Gaming in the U.S.



The data used in this chart is limited to those states that collect the information listed in each of the identified categories. Due to integer rounding, pie chart totals are slightly higher than 100%.

## Top Ten States by Gross Receipts

State	Total Gross Receipts
Minnesota	\$1,224,462,000
Ohio	\$1,085,845,482
Washington	\$712,463,107
Texas	\$666,283,297
Indiana	\$527,117,759
Kentucky	\$487,425,847
Michigan	\$431,280,445
Alaska	\$350,944,092
New York	\$350,401,749
Virginia	\$325,218,000

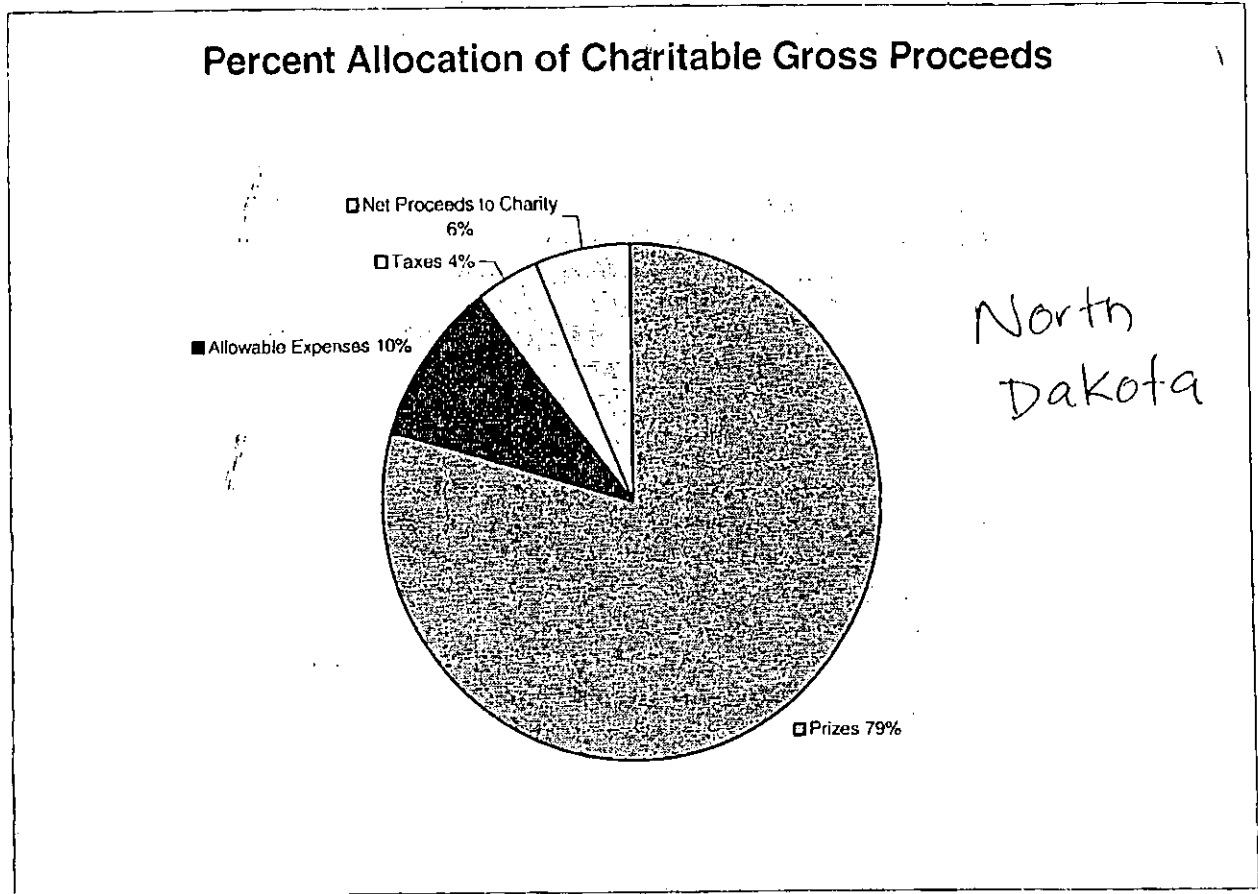
## Top Ten States by Net Receipts

State	Net Receipts
Minnesota	\$103,181,000
Michigan	\$70,423,844
Virginia	\$68,027,000
Indiana	\$66,723,782
New York	\$57,743,789
Kentucky	\$51,921,319
New Jersey	\$39,601,654
Wisconsin	\$38,097,973
Texas	\$37,998,862
Alaska	\$31,869,556

Top ten based on available reported statistics.

# Allocation of Charitable Gross Proceeds

Have you ever wondered where Gross Proceeds (total amount of money spent on charitable games by participants) from charitable games of chance go? The Office of Attorney General recently developed a pie chart of the Percent Allocation of Charitable Gross Proceeds. During the most recent fiscal year ended June 30, 2007, Gross Proceeds were allocated to four primary categories as follows:



Note: 1% rounding difference due to Federal Excise Tax paid and additional income earned from Cash Long/Interest.

## Lottery Update

The North Dakota Lottery recently introduced the **Hot Lotto Triple Sizzler** feature. For an extra \$1, players triple all Hot Lotto non-jackpot prizes.

On February 22, 2008, the Lottery added three new features to its **2by2** game. Two of the features include increasing the jackpot from \$20,000 to \$22,000, and giving players the option to play every day of the week. A third feature – the Tuesday Double Prize feature – gives players the option to double all prizes won on Tuesdays with the purchase of a seven-day multi-draw ticket.

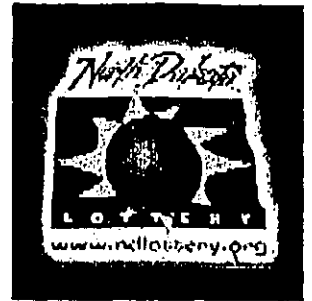
More information about the Lottery's games and new game features is at: [www.lottery.nd.gov](http://www.lottery.nd.gov).



source: ND Gaming update March 2008

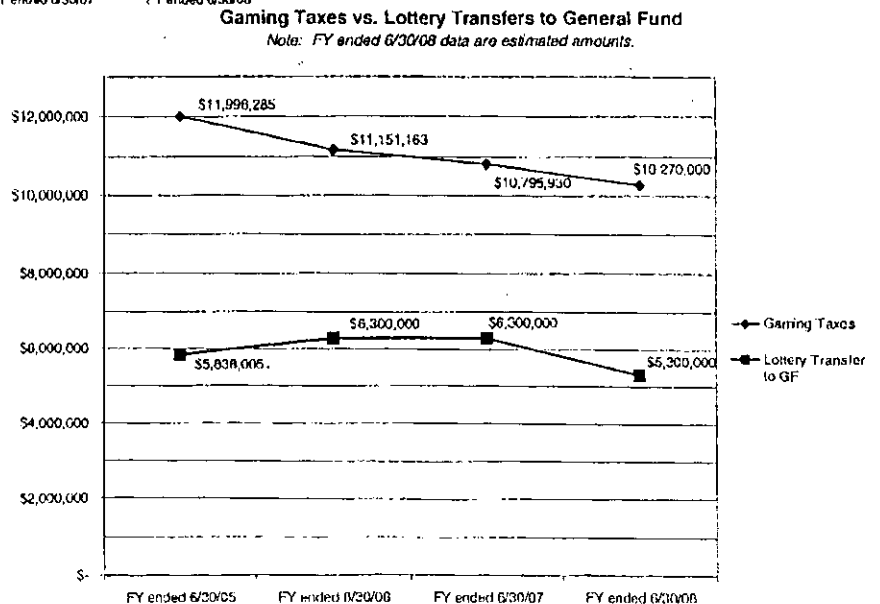
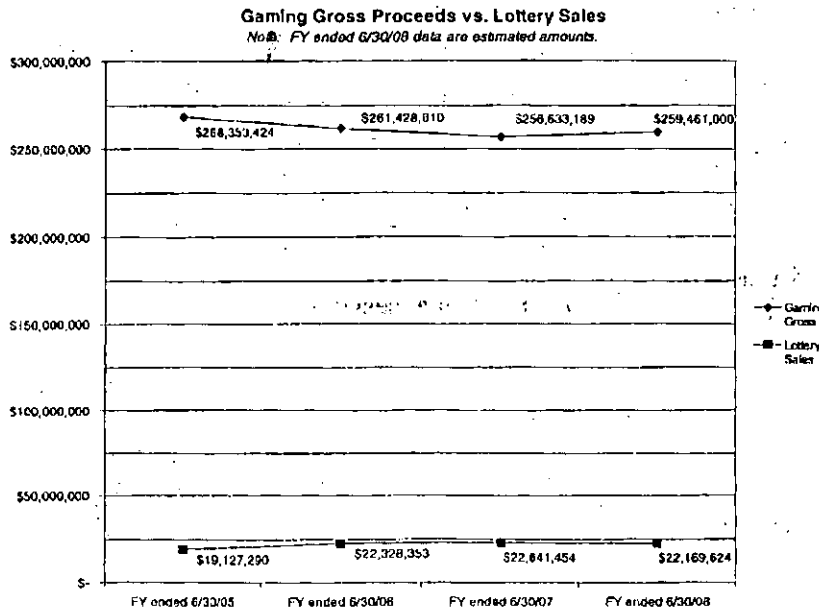
# Lottery Update

The Office of Attorney General provided the Legislative Council with a comparison of estimated gross wagers from charitable gambling (\$259,461,000) to the total sales of lottery products (\$22,169,624) during fiscal year July 1, 2007 – June 30, 2008.



Based on the estimated numbers, charitable gaming will have an increase of about \$2.8 million (1%) in gross wagers from the prior year while the lottery showed a \$471,000 (2.1%) decrease in total lottery sales.

Estimated total tax revenue to the State of North Dakota during the same fiscal year showed charitable gambling organizations paying \$10,270,000 which is \$525,930 (4.9%) less in total taxes based on the new 3% bingo excise tax which replaced the 5% state sales tax on bingo card sales. The lottery transferred \$5.3 million to the state general fund, which was \$1 million less than the previous year but did not include the \$200,000 transferred to a Compulsive Gambling Fund and \$422,500 transferred to the Multi-Jurisdictional Drug Task Force Grant Fund. Following are charts detailing the last four fiscal years:



Source: ND  
 Gaming Update  
 September  
 2008

# Gaming Activity - Fiscal Year Ended June 30, 2008

The amount of money wagered on charitable games of chance for the fiscal year ended June 30, 2008, was up by 2.9% or \$7,400,242 when compared to the year ended June 30, 2007. The largest dollar increases were in pull tabs \$3,561,165 or 4.2% and twenty-one with an increase of \$2,170,811 or 2.9%, while bingo declined slightly by (\$242,109) or a negative .7%. Prize Boards had the largest percentage increase in the fiscal year ended June 30, 2008, with an increase of \$325,487 or 34.4% when compared with the year ended June 30, 2007.

## Fiscal Year End June 30, 2008

	Gross Proceeds	Prizes	Adjusted Gross Proceeds
Bingo	\$33,119,959	\$25,581,214	\$7,538,745
Raffles	4,094,132	1,672,120	2,422,012
Pull Tabs	88,721,705	69,860,265	18,861,440
Pull Tabs - Dispensing	53,476,742	41,362,599	12,114,143
Club Specials, Tip, Seal & Prize Boards	1,271,646	953,509	318,137
Punch Boards	16,441	12,497	3,944
Sports Pools	115,132	92,606	22,526
Twenty-One	77,014,739	64,778,841	12,235,898
Calcuttas	144,326	120,999	23,327
Paddlewheels	153,790	79,414	74,376
Paddlewheels - with Table	4,904,799	3,624,391	1,280,408
Poker	1,000,020	798,469	201,551
<b>Totals:</b>	<b>\$264,033,431</b>	<b>\$208,936,924</b>	<b>\$55,096,507</b>

Plus: Other (Cash Long/Interest/Poker) \$59,722

Less: ND Excise Tax \$6,181,651

Federal Excise Tax 97,061

Bingo Excise Tax 963,793

**Total Adjusted Gross Proceeds \$47,913,724**

Less: Gaming Tax \$3,273,863

Total Allowed Expenses 27,646,865

Total Deductible Expenses \$30,920,728

Net Proceeds Earned \$16,992,996

Eligible Use Contributions \$17,515,919



Source  
ND Gaming update Dec 2008

TESTIMONY IN SUPPORT OF  
HOUSE BILL NO. 1317  
HOUSE FINANCE AND TAX COMMITTEE  
JANUARY 21, 2009

Chairperson Rep. W. Belter, House committee members, my name is Mark D Henze I am the CFO at the Plains Art Museum and I'm appearing before you here today as a lobbyist for my employer the Plains Art Museum to express our support for HB 1317.

Plains Art Museum has been involved in North Dakota charitable gaming for the past 26 years. The initial taxation of gaming started in 1989 with a portion of that tax being an excise tax of two percent. In 1993, that excise tax was raised to four and one half percent. For the year ended June 2008, the State of North Dakota received over nine million dollars in gaming taxes. This amount is in addition to the six million dollars generated by the state lottery.

As a gaming organization, we anticipate that over 50 percent of our gaming revenue before tax will be paid to the state of North Dakota as gaming or excise tax for the year ending June 2009. We estimate the excise tax we pay to the state of North Dakota will be over 28 percent of our net income before taxes.

Non profits are feeling the effects of our current economic situation, having to make similar staffing cuts and expense management decisions that many other businesses and organizations have had to make in recent months. The individuals, businesses, and foundations that we rely on for our operational support are feeling this economic stress, and are contributing less to programming.

Without some tax relief for our gaming operations, even more programming will need to be cut for Plains Art Museum to survive. These cuts will include our educational and outreach efforts, programming and community events, and accepting new art work and exhibitions. As one of only 700 accredited Museums in the United States we are able to secure exhibitions that museums without accreditation may not be able to bring to North Dakota. Educators, parents, children, students, area professionals and community institutions all reap the benefits of the resources and experiences that we have to offer.

Your support of HB 1317 can help Plains Art Museum and other North Dakota charitable organizations handle the economic pressures currently affecting non-profit organizations.

Accordingly, I would urge a DO PASS recommendation for HB 1317

Mark Henze  
CFO, Plains Art Museum

**Testimony in Support of Engrossed House Bill 1317**

**Senate Finance & Taxation Committee**

**March 9, 2009**

Chairman Cook, Senate Finance & Taxation Committee members, my name is Todd D. Kranda. I am an attorney with the Kelsch Law Firm in Mandan and I appear before you today as a lobbyist on behalf of the Charitable Gaming Association of North Dakota (CGAND) to express support for Engrossed House Bill 1317.

Initially, I would like to provide you with some brief background information on CGAND which is a statewide association of charitable gaming organizations. CGAND has a diverse membership varying from clubs to small organizations in all regions of the state and represents about 70% of the charitable gaming in North Dakota. The mission of CGAND is to "Preserve gaming as a funding source for charitable purposes." Attached is a copy of the CGAND Membership List showing the different organizations across North Dakota that are members.

Several individuals from CGAND and its member organizations are here this morning to testify in support of Engrossed HB 1317. However, before they do, I would like to briefly explain the change that is being requested in Engrossed HB 1317 and provide some additional information.

Initially, House Bill 1317, as introduced, would have completely eliminated the excise tax that is being applied to pull tabs and bingo cards. However, because the fiscal impact would have been in excess of \$13M we amended the bill in the House Finance and Taxation Committee. Now, Engrossed HB 1317 simply reduces the excise tax on pull



tabs from the current rate of 4.5% to 3% which results in a fiscal impact of \$3.68M.

Please remember that in addition to the excise tax there still remains the overall gaming tax that is imposed on gross proceeds of charitable gaming as provided for within subsection 1 of section 53-06.1-12 NDCC. That gaming tax rate remains at 5% on gross proceeds up to \$250K, 10% from \$250K up to \$400K, 15% from \$400K up to \$600K and 20% on amounts above \$600K. I have attached an outline that was prepared previously by Keith Lauer the Director of the North Dakota Attorney General Gaming Division showing the History on Gaming Taxes.

There are numerous benefits from and worthy causes supported by charitable gaming. Engrossed HB 1317 will help assist and provide the needed financial support for the worthwhile programs, services and causes that are supported by charitable gaming.

For your reference, I have included a handout with a Summary of Eligible Use Contributions for the 2008 Fiscal Year. This information was obtained from the ND Attorney General Gaming Division.

In conclusion, on behalf of CGAND I ask for your favorable consideration of this legislation and in doing so, I also ask for your support of the local charities that would benefit from this legislation. As stated, others are here from the charitable gaming industry to testify and respond to any specific questions. However, I would be willing to try to answer any questions at this time.

Please give **Engrossed House Bill 1317** a favorable **Do Pass** recommendation.

#2

TESTIMONY IN SUPPORT TO  
HOUSE BILL NO. 1317  
FINANCE AND TAXATION  
MARCH 9, 2009

*same given to senate appx*

Chairman, Finance & Tax Committee members, my name is Karen A. Breiner and I appear before you today as President of the Charitable Gaming Association of North Dakota (CGAND) in support of HB 1317.

Initially, I would like to provide some background information. Charitable gaming industry has been one of the highest taxed industries in North Dakota (ND). There are two types of taxes that charitable gaming organizations incur, excise tax, which is a tax imposed on the gross sales of pull tabs and bingo paper, and gaming tax which is a tax imposed on the revenue after prizes. In essence a charity can operate a gaming site and have a net loss, but the state will still receive both excise and gaming taxes. Fiscal year ended June 30, 2008 the state of North Dakota took in over six million dollars in excise tax and over 3 million in gaming tax resulting in total taxes transferred to the general fund from charitable gaming exceeding ten million dollars. HB 1317 will only affect the excise tax which is the tax imposed on the gross sales of pull tabs with a fiscal impact of 3.68 million per biennium or 1.84 million per year.

In 1993, HB 1516 increased the tax on charitable gaming tickets from two percent (2%) to four and one-half percent (4 ½ %) on the gross receipts of charitable gaming ticket sales. In 1993, the projected gross proceeds for charitable gaming were 600 million dollars per year. The number of active gaming sites was 990. The number of licensed charitable gaming organizations was 349.

Today the picture is quite different. In fiscal year ending June 30, 2008 the total gross proceeds from charitable gaming, according to the ND Gaming Update dated December 2008 (see attachment), was less than \$300 million. The number of active gaming sites has dropped from 990 to 949 (41 sites). The number of licensed charitable gaming organizations has dropped from 349 to 327 (22 charities). Charitable gaming is not the growing industry that it once was.

I have heard from several gaming managers that due to increasing expenses, especially the increase in minimum wage and a recent increase in pull tab prices, and the decrease in gaming

activity, that they will be making decisions soon to close even more gaming sites. This translates into reduce tax revenue for the state as well as lost jobs.

According to data from ND Gaming Update dated March 2008 (see attachment), for fiscal year ending June 30, 2007, four percent (4%) of charitable gross proceeds were taxes. In comparison, according to data from National Association of Fundraising Ticket Manufacturers (see attachment); on a national level only three percent (3%) of charitable gaming proceeds go toward taxes and fees. Please note that North Dakota on average has higher taxes on charitable gaming activity, but ND is not in the "Top Ten" states for charitable gaming gross proceeds or net proceeds. ND charitable organization's net proceeds are only six percent (6%) of all gross proceeds. Fiscal year ended June 30, 2008 the amount available for eligible use by charities was \$17.5 million and the taxes paid to the State of North Dakota by charities were \$10.5 million.

Many communities, small and large, depend on charitable gaming dollars to help with various charitable services and uses such as education, health care, arts, disadvantaged individuals, child care, alcohol addiction, and sporting activities.

Without these charitable gaming dollars many programs, projects, and services would end. This tax reduction will help all charitable gaming operations offset their increasing expenses so charities can maintain the level of programming and services that they currently offer.

In 1989 when the first excise tax was instituted, and then in 1993 when it was raised four and one-half percent (4 ½ %), the charitable gaming industry was growing and vibrant. This is no longer the state of the charitable gaming industry. The charitable gaming industry needs help and needs it now.

We respectfully request that you please support your local charities and that you give HB 1317 a Do Pass recommendation.

Thank you for this opportunity to testify before your committee, and I would be willing to try to answer any questions you may have.



1113 MAIN AVENUE  
POST OFFICE BOX 564  
FARGO, NORTH DAKOTA 58107  
PHONE (701) 232-7755

January 30, 2009

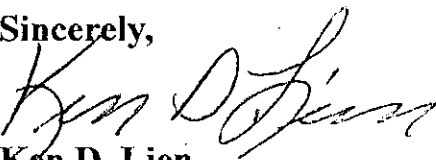
To Our Valued Customers,

On January 1, 2009 Lien Games was notified by many of the factories of a pending price increase on Pull Tabs, Jar Tickets and Bingo Paper. This increase is due to increasing costs of paper, transportation and other related costs with manufacturing. Lien Games was notified of this increase and was effective January 15, 2009.

In the past Lien Games has been able to absorb many of these increases. The increases in cost of operation and the cost of product is forcing us to pass these increases along to you our valued customers. The increases will be the same as the increase to Lien Games and will be effective February 15, 2009.

Thank you for your understanding and continued support of Lien Games and the Charitable gaming industry.

Sincerely,

  
Ken D. Lien  
Lien Games, Inc.

80% of  
Market

Call Toll Free 1-800-342-7755

#3

TESTIMONY IN SUPPORT OF  
HOUSE BILL NO. 1317  
SENATE FINANCE AND TAX COMMITTEE  
MARCH 9, 2009

Chairperson Sen. Dwight Cook, appropriations committee members, my name is Mark D Henze I am the CFO at the Plains Art Museum and I'm appearing before you here today as a lobbyist for my employer the Plains Art Museum to express our support for HB 1317.

The Plains Art Museum has been involved in charitable gaming North Dakota for the past 26 years. The initial taxation of gaming started in 1989 with a portion of that tax being an excise tax of two percent. In 1993, that excise tax was raised to four and one half percent.

As an organization we are forecasting that for the year ending June 30, 2009 our gaming operations will generate \$420,000 of operating profit after expenses and taxes to go to the Museum for the purpose of supporting programming. During this same time period we forecast paying over \$515,000 in excise and gaming tax. Decreasing the excise tax on Pull Tabs from 4.5% to 3% will increase Net Museum support from gaming by decreasing the excise tax \$58,000.

Non profits are feeling the effects of the current economic situation, having to make staffing cuts that many other businesses and organizations have had to make in recent months. The individuals, businesses, and foundations that we rely on for our operational support are feeling this economic stress, and are contributing less to programming.

Without some tax relief for our operations, even more programming will need to be cut in order for the Plains Art Museum to survive. These cuts will include our educational and outreach efforts, programming and community events. As one of only 700 accredited Museums in the United States we are able to secure exhibitions that museums without accreditation may not be able to bring to our state. Educators, parents, students, professionals and community institutions all reap the benefits of these resources and experiences. Without adequate funding we may not be able to meet the high standards required to retain our accreditation by the American Association of Museums.

Your support of HB 1317 can help Plains Art Museum and other North Dakota charitable organizations handle the economic pressures affecting all non-profit organizations and ultimately impacting the communities we serve.

Accordingly, I would urge a DO PASS recommendation for HB 1317

Mark Henze  
CFO, Plains Art Museum

#4

## HB 1317

### Ken Karls, Cystic Fibrosis Association ND

March 9, 2009

I represent the Cystic Fibrosis Association of North Dakota (CFA). The association receives a portion of its income from charitable gaming. I would like to offer a simplified explanation of the present tax to support my rationale that some tax relief is justified in this case.

If CFA sells 100 pull tabs (\$100), it is presently taxed \$4.50 on those sales (Excise Tax). By itself, that doesn't seem too extreme, but that is taking it out of context. **\$80 of that \$100 sale walks out the door** each time the sale is made because the pull tab games are set to payout approximately 77-80%.

**That means that the \$4.50 tax actually applies to the remaining \$20** CFA receives (Adjusted Gross Proceeds). That leaves CFA with \$15.50 before any expenses. CFA is then taxed on the remaining \$15.50 on a graduated scale of 5-20% depending on the amount of quarterly adjusted gross proceeds (Gaming Tax). At 15%, CFA would pay another \$1.83 in gaming tax on that \$15.50, leaving the association with \$13.17 before expenses. (I have not considered allowable expenses in this example, which would also affect the final amount of Gaming Tax.)

**When you figure tax rate on that original \$20 CFA received, you find that it is 31.65%.** That is a very high rate given any measure of North Dakota taxation when compared to any other segment of economic activity in the state.

Granted, CFA does not pay the excise tax on blackjack proceeds, but it does still pay the **graduated 5-20% gaming tax** on it. It would also pay the graduated gaming tax on any money it recouped from an excise tax reduction on pull tabs. As an aside, CFA also pays excise tax on the sale of bingo cards, which has not been considered in this discussion.

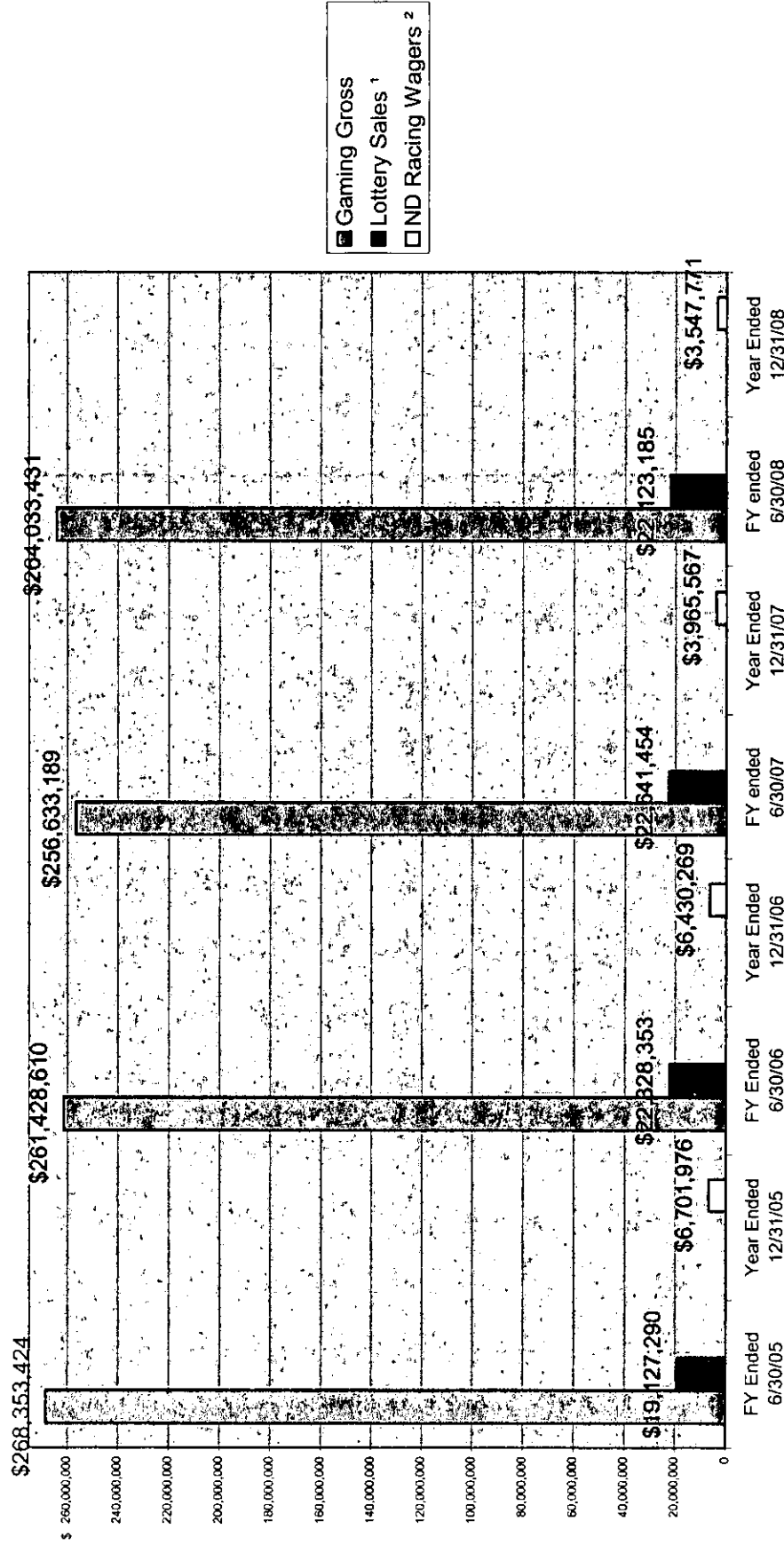
These tax dollars paid by CFA would otherwise be spent helping young North Dakotans born with a fatal disease. The out-of-pocket medical costs paid by families who have a member or members with cystic fibrosis are extensive. Many young people with cystic fibrosis reach a \$1 million insurance limit by the time they turn 21. They would reach it earlier except for the large deductibles and co-pays that in turn cause extreme hardship. That's where CFA steps in to help. We help them with costs of medications, therapeutic equipment and lung transplants. We also offer a scholarship program and support groups. Please help us to help them.

Thank you. I am willing to answer any questions you may have.

Ken Karls  
Cystic Fibrosis Association of North Dakota

**OFFICE OF ATTORNEY GENERAL**  
**Gaming Division**  
**March 2009**

**Gaming Gross Proceeds vs. Lottery Sales & ND Racing Wagers**



<sup>1</sup> Lottery Sales provided by the North Dakota Lottery Division.

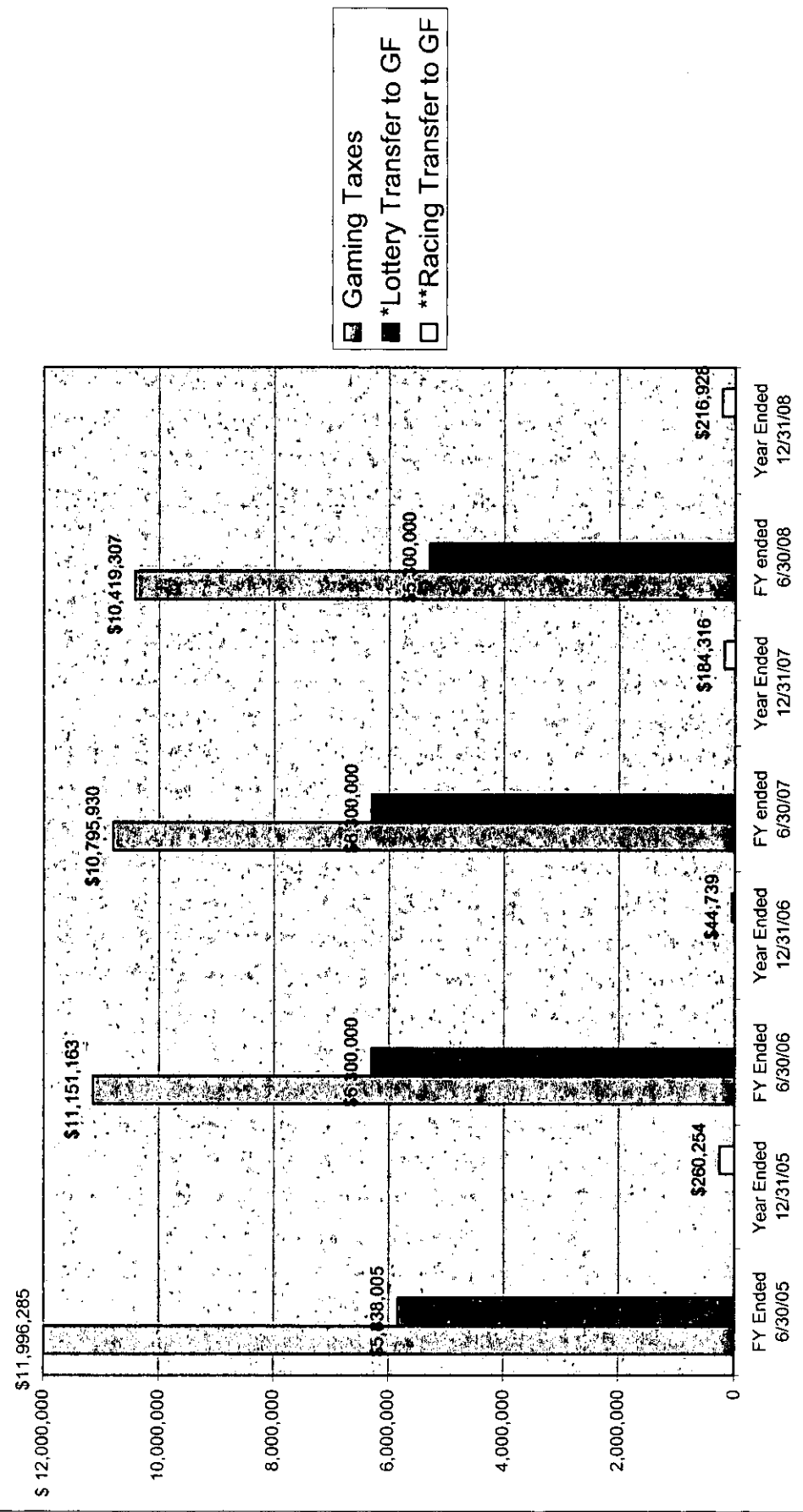
<sup>2</sup> Racing Wagers provided by the North Dakota Racing Commission on ND wagers only.

# OFFICE OF ATTORNEY GENERAL

## Gaming Division

March 2009

Gaming Taxes vs. Lottery & Racing Transfers to General Fund



\* These transfers from the Lottery do not include a \$200,000 per year transferred to a Compulsive Gambling Fund. In the July 1, 2007 - June 30, 2008 year the Lottery also started transferring \$422,500 per year to the Multi-Jurisdictional Drug Task Force Grant Fund.

\*\* General Fund transfers on total account wagering excluding promotion, breeders', and purse fund transfer amounts.



**53-06.1-12. Gaming and excise taxes - Exception - Deposits and allocations.**

1. A gaming tax is imposed on the total adjusted gross proceeds earned by a licensed organization in a quarter and it must be computed and paid to the attorney general on a quarterly basis on the tax return. This tax must be paid from adjusted gross proceeds and is not part of the allowable expenses. The tax rates are:
  - a. On adjusted gross proceeds not exceeding two hundred thousand dollars, a tax of five percent.
  - b. On adjusted gross proceeds exceeding two hundred thousand dollars but not exceeding four hundred thousand dollars, a tax of ten percent.
  - c. On adjusted gross proceeds exceeding four hundred thousand dollars but not exceeding six hundred thousand dollars, a tax of fifteen percent.
  - d. On adjusted gross proceeds exceeding six hundred thousand dollars, a tax of twenty percent.
2. Except as provided in subsection 3, in addition to any other tax provided by law and in place of sales or use taxes, there is imposed an excise tax of four and one-half percent on the gross proceeds from the sale at retail of pull tabs and three percent on the gross proceeds from the sale at retail of bingo cards to final users. This includes pull tabs or bingo cards provided to a player in exchange for redeemed winning pull tabs or bingo cards. The tax must be paid to the attorney general when tax returns are filed.
3. For organizations whose gross proceeds of pull tabs do not exceed four thousand dollars per calendar quarter, no excise tax may be imposed on the gross proceeds from the sale at retail of pull tabs to final users.
4. Except as provided in subsection 5, the state treasurer shall deposit gaming and excise taxes, monetary fines, and interest and penalties collected in the general fund in the state treasury.
5. The state treasurer shall deposit three percent of the total taxes, less refunds, collected under this section into a gaming and excise tax allocation fund. Pursuant to legislative appropriation, moneys in the fund must be distributed quarterly to cities and counties in proportion to the taxes collected under this section from licensed organizations conducting games within each city, for sites within city limits, or within each county, for sites outside city limits. If a city or county allocation under this subsection is less than two hundred dollars, that city or county is not entitled to receive a payment for the quarter and the undistributed amount must be included in the total amount to be distributed to other cities and counties for the quarter.

**OFFICE OF ATTORNEY GENERAL  
LOCAL GAMING ENFORCEMENT GRANTS**

2003 - 2005 biennium

<b>Tax Due &amp; Refund Period</b>	<b>Abstract</b>	<b>Limit</b>	<b>Cumulative Amount Over/(Under) Limit</b>
July 1 - September 30, 2003	73,710	77,125	(3,415)
October 1 - December 31, 2003	71,284	77,125	(9,256)
January 1 - March 31, 2004	74,812	77,125	(11,569)
April 1 - June 30, 2004	76,735	77,125	(11,959)
July 1 - September 30, 2004	73,488	77,125	(15,596)
October 1 - December 31, 2004	71,400	77,125	(21,321)
January 1 - March 31, 2005	71,997	77,125	(26,449)
April 1 - June 30, 2005	75,329	77,125	(28,245)
	588,755	617,000	(28,245)

2005 -2007 biennium

<b>Tax Due &amp; Refund Period</b>	<b>Abstract</b>	<b>Limit</b>	<b>Cumulative Amount Over/(Under) Limit</b>
July 1 - September 30, 2005	73,565	77,125	(3,560)
October 1 - December 31, 2005	68,356	77,125	(12,329)
January 1 - March 31, 2006	68,256	77,125	(21,198)
April 1 - June 30, 2006	72,287	77,125	(26,036)
July 1 - September 30, 2006	58,528	77,125	(44,633)
October 1 - December 31, 2006	68,487	77,125	(53,271)
January 1 - March 31, 2007	66,808	77,125	(63,588)
April 1 - June 30, 2007	71,899	77,125	(68,814)
	548,186	617,000	(68,814)

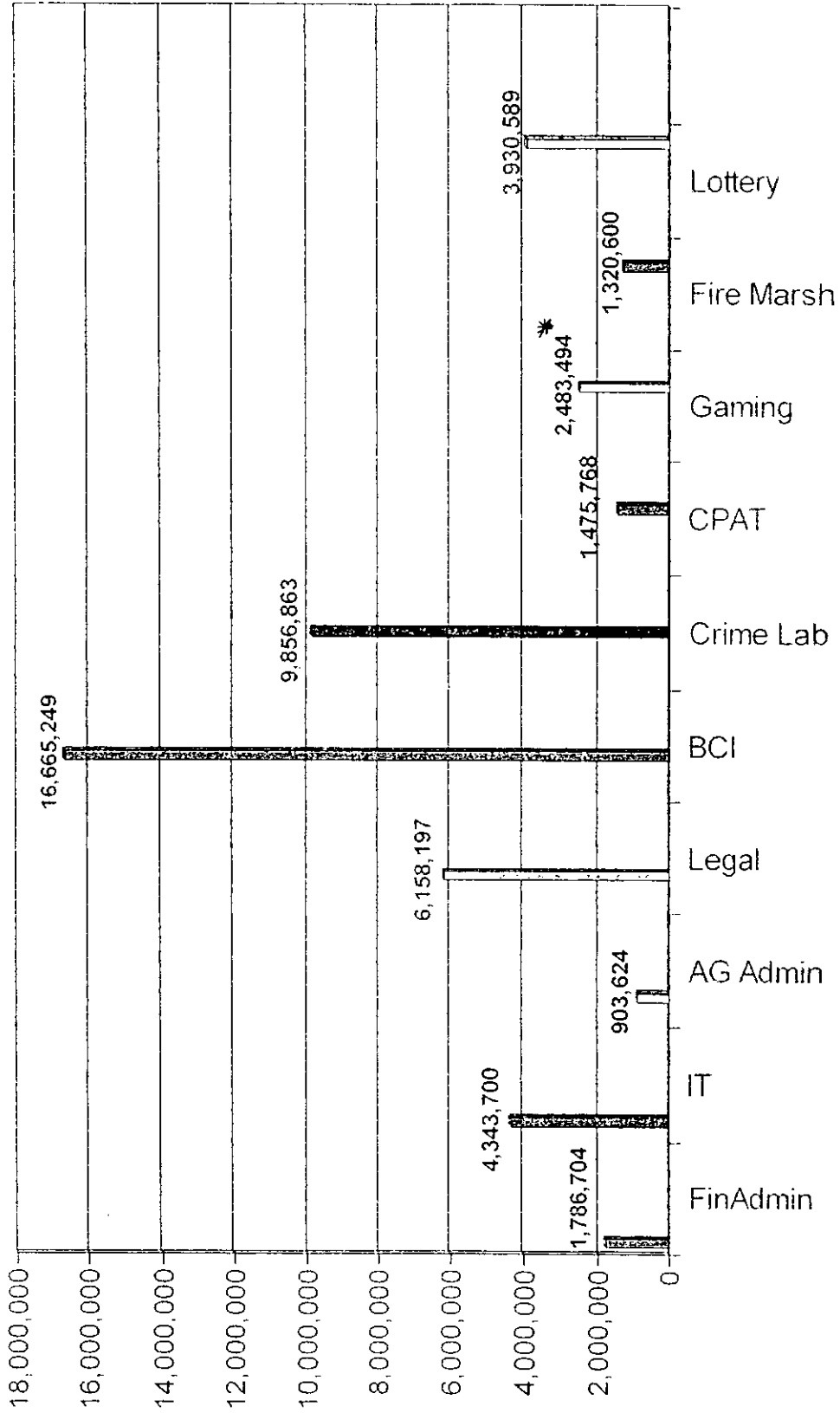
2007 - 2009 biennium

<b>Tax Due &amp; Refund Period</b>	<b>Abstract</b>	<b>Limit</b>	<b>Cumulative Amount Over/(Under) Limit</b>
July 1 - September 30, 2007	65,927	77,125	(11,198)
October 1 - December 31, 2007	65,314	77,125	(23,009)
January 1 - March 31, 2008	76,664	77,125	(23,470)
April 1 - June 30, 2008	81,990	77,125	(18,605)
July 1 - September 30, 2008	82,111	77,125	(13,619)
October 1 - December 31, 2008	77,338	77,125	(13,406)
January 1 - March 31, 2009	0	77,125	(90,531)
April 1 - June 30, 2009	0	77,125	(167,656)
	449,344	617,000	(167,656)

\* General Fund Appropriation  
 \$1,460,487  
 Special Fund Appropriation  
 \$1,023,007

Including Local Tax Payback \$617,000;  
 Operating fund \$67,784, Racing auditor  
 \$60,988, and Indian Gaming \$277,235.

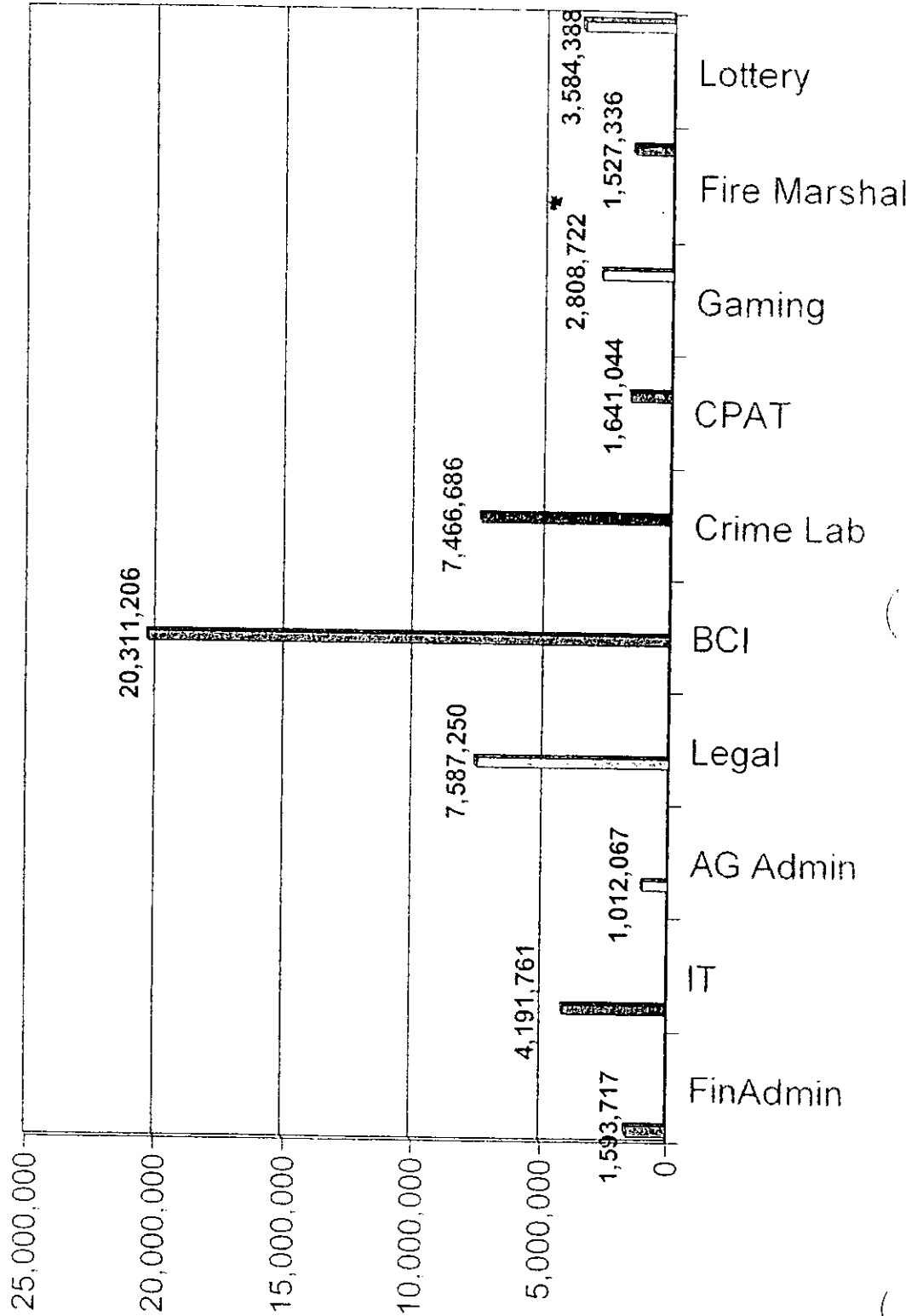
# Office of Attorney General 2007-2009 Biennium Appropriation By Division - Total \$48,924,788



\* General Fund Appropriation  
\$1,820,329  
Special Fund Appropriation  
\$988,393

Including Local Tax Payback \$617,000,  
Operating fund \$67,784, Racing auditor  
\$60,988, and Indian Gaming \$242,621.

Office of Attorney General  
2009-2011 Biennium Recommendation  
By Division  
Total \$51,724,177



# **Testimony in Support of Engrossed House Bill 1317**

## **Senate Appropriations Committee**

**March 18, 2009**

Chairman Holmberg, Senate Appropriations Committee members, my name is Todd D. Kranda. I am an attorney with the Kelsch Law Firm in Mandan and I appear before you today as a lobbyist on behalf of the Charitable Gaming Association of North Dakota (CGAND) to express support for Engrossed House Bill 1317.

Initially, I would like to provide you with some brief background information on CGAND which is a statewide association of charitable gaming organizations. CGAND has a diverse membership varying from clubs to small organizations in all regions of the state and represents about 70% of the charitable gaming in North Dakota. The mission of CGAND is to "Preserve gaming as a funding source for charitable purposes." Attached is a copy of the CGAND Membership List showing the different organizations across North Dakota that are members.

Several individuals from CGAND and its member organizations are here this morning to testify in support of Engrossed HB 1317. However, before they do, I would like to briefly explain the change that is being requested in Engrossed HB 1317 and provide some additional information.

Initially, House Bill 1317, as introduced, would have completely eliminated the excise tax that is being applied to pull tabs and bingo cards. However, because the fiscal impact would have been in excess of \$13M we amended the bill in the House Finance and Taxation Committee. As amended by the House, HB 1317 reduced the excise tax on pull tabs from the current rate of 4.5% to 3% which resulted in a fiscal impact of \$3.68M. Now, after the recent amendment from the Senate Finance and Taxation Committee, the

excise tax on pull tabs was further reduced to 2% which results in a fiscal impact of \$6.17M. The 2% rate was the excise tax rate in 1993 before it was increased to the 4.5% rate that exists today in order to provide additional tax revenues for the State.

Please remember that in addition to the excise tax there still remains the overall gaming tax that is imposed on gross proceeds of charitable gaming as is provided for within subsection 1 of section 53-06.1-12 NDCC. That gaming tax rate remains at 5% on gross proceeds up to \$250K, 10% from \$250K up to \$400K, 15% from \$400K up to \$600K and 20% on amounts above \$600K. I have attached an outline that was prepared previously by Keith Lauer the Director of the North Dakota Attorney General Gaming Division showing the History on Gaming Taxes.

There are numerous benefits from and worthy causes supported by charitable gaming. Engrossed HB 1317 will help assist and provide the needed financial support for the worthwhile programs, services and causes that are supported by charitable gaming. For your reference, I have included a handout with a Summary of Eligible Use Contributions for the 2008 Fiscal Year. This information was obtained from the ND Attorney General Gaming Division.

In conclusion, on behalf of CGAND I ask for your favorable consideration of this legislation and in doing so, I also ask for your support of the local charities that would benefit from this legislation. As stated, others are here from the charitable gaming industry to testify and respond to any specific questions. However, I would be willing to try to answer any questions at this time.

Please give **Engrossed House Bill 1317** a favorable **Do Pass** recommendation.

TESTIMONY IN SUPPORT OF  
HOUSE BILL NO. 1317  
SENATE APPROPRIATIONS COMMITTEE  
MARCH 18, 2009

Chairman Sen. Ray Holmberg, appropriations committee members, my name is Mark Henze and I'm appearing before you here today as a lobbyist for the Plains Art Museum to express our support for HB 1317.

The Plains Art Museum has been involved in charitable gaming North Dakota for the past 26 years. The initial taxation of gaming started in 1989 with a portion of that tax being an excise tax of two percent. In 1993, that excise tax was raised to four and one half percent.

As an organization we are forecasting that for the year ending June 30, 2009 our gaming operations will generate \$420,000 of operating profit after expenses and taxes to go to the Museum for the purpose of supporting programming. During this same time period we forecast paying over \$515,000 in excise and gaming tax. Decreasing the excise tax will increase Net Museum support from gaming and allow us to continue programming for the communities in North Dakota we serve.

Non profits are feeling the effects of our current economic situation, having to make the same staffing cuts that other businesses and organizations have had to make. The individuals, businesses, and foundations that we rely on for our operational support are feeling this economic stress, and are contributing less to programming.

Without tax relief for our gaming operation, even more programming will need to be cut in order for the Plains Art Museum to survive. These cuts will include our educational and outreach efforts, programming and community events.

Your support of HB 1317 can help Plains Art Museum and other North Dakota charitable organizations handle the economic pressures affecting all non-profit organizations and ultimately impacting the communities we serve.

Accordingly, I would urge a DO PASS recommendation for HB 1317

Mark Henze  
CFO, Plains Art Museum