

2011 HOUSE JUDICIARY

HB 1279

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1279
February 2, 2011
13857

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1279.

Rep. Andy Maragos: Sponsor, support (see attached 1,2,3). Rusty Steffan and Wanda Delzer were not present but their testimony is attached 4 and 5.

Chairman DeKrey: Thank you. Further testimony in support.

Michael Jay, Executive Director, ABATE of ND: We've been involved in charitable gaming since the mid-70's. We are very much in favor of this HB 1279. It is important to understand that this is not an expansion of gaming, this is redefining the way that a pull-tab presently dispenses its pull tabs machines. For us, we're a small time organization. For us, this would have extreme cost benefits for us. We would not have to tie up all of our money in the inventory that we presently do. The transporting of the tickets, if you're familiar with pull tab machines, you're dealing with games that have 2600 count tickets. By the time you buy a case of those games, you're toting around 150 lbs to go to sites to service the machines. It's got certain advantages in terms of the accountability, which is great for us. The present pull-tab machines, the way they are with the ticket dispensing devices, it's not uncommon for us to be inaccurate with our totals, since the machine sometimes malfunctions and dispenses two or three tickets accidentally; that would be eliminated. More importantly, it would really help us on the servicing end of it. Presently, if a bar is running low on tickets and we get that call at 8:30 pm, it's kind of hard to justify getting up and refilling that machine; get back home around 10:30 or 11:00 pm to find out that after we went through all that work, that an additional \$10 was put into the machine. It's kind of frustrating, but yet you play that customer service game, where you try to appease both the people that are enjoying the pull tabs and also, more importantly, the people that run the establishment that have them. The accountability, the security features, the way we can deliver our games, which would be downloaded and which would be in line with the AG overseeing it. It would simply eliminate waste; at the present time when we go to close a quarter out, if we mistakenly put another game up thinking we have adequate time to close that game before the end of the quarter, and we add an additional 2600 tickets and all of

a sudden everyone decides to quit playing, we eat it on what is remaining because of the current law is. Again, the availability of being able to download that game automatically as it became low, add the new comingled game into it, and save the cost on some of the hours for the hired person to work on the audit and games. These are just some of the reasons it would be economical and advantageous for us. We look forward to this bill passing. I don't view it as any type of an expansion. I remember when we first got involved in gaming. Our first ticket machines that we had were pretty much antiques compared to what we have now. I just feel that this will be a step toward offering a better product, it's got more accountability and it's going to be easier for everyone.

Rep. Delmore: Would clubs be allowed to use either paper or paperless with the bill. Would they be able to do either method of play.

Michael Jay: I honestly didn't go through the 33 pages of it either, but I assume that we would be able to offer either method.

Rep. Klemin: When you open a pull-tab what do you see.

Michael Jay: That all depends on what game you are playing. Are you talking about a ticket pull-tab.

Rep. Klemin: Yes.

Michael Jay: When you open a ticket pull-tab, you're looking at a variety of different symbols but more importantly, you are looking for the line that goes across it which indicates that you have a winning ticket. Each game has a different nuance of symbols that represent the particular game you're playing.

Rep. Klemin: The basic principle is that you are trying to match a number of symbols.

Michael Jay: The basic principle is that if you match 3 you win, match 4 you win a little more, and if you match 5 you win higher.

Rep. Klemin: So this would now be on a video gaming device.

Michael Jay: It would be on the ticket machine, it would basically show you the ticket on the screen.

Rep. Klemin: Then you would electronically open that ticket and you would see whether you have matching symbols or not.

Michael Jay: The machine I looked at when I was shown this, which was some time ago (1 ½ years). You push the button, it electronically opens the ticket, it shows you whether you are a winner or not, if you're not a winner you continue to push just like

you would on a regular ticket machine. I recall that when you did hit a winner, you had the option that you could either print out the ticket for that win, or you could play that ticket back and validate it for a credit and continue to play.

Rep. Klemin: This would speed up the rate of play considerably, probably.

Michael Jay: Certainly, and I can guarantee that the bar owners would be extremely happy. I think you've heard testimony before that the bar owners don't feel that they are getting their fair share because of the limitations that are put on bars, because the charitable gaming organization is only able to give them a certain amount per machine. We have one site right now, we're only allowed to give that bar owner \$275 for rent, because that is what the state law is. But, that site we have is an extremely busy site, and it gets to the point where the bar owners get very frustrated because sometimes the bartenders spend more time redeeming tickets than they do serving the alcohol. That's always been the old adage, where we would like more money, because we spend more time in this that takes away from their regular job. In response to that, yes, that would certainly eliminate that threshold of that. The only time a bartender or bar owner would be involved, would be at the time when a winning ticket is redeemed, and then their involvement in that transaction would be finished.

Rep. Klemin: How does this differ from other video gaming devices, where you put money in and it sort of rolls the bar and you get three symbols you win and if you don't get the right symbols you don't win. This is really the same thing, isn't it.

Michael Jay: I don't believe so, I think it's taking the same game that you have now and now the machine opens the ticket for you. That's the way we view it, you will have the random chance, and everything is still in accordance with the same way that you're selling the tickets out of the present machine any way. To me, it's an enhancement of what we already have and it just basically eliminates you having to open tickets.

Rep. Klemin: Do you have to buy the electronic tickets from some electronic manufacturers.

Michael Jay: Yes, as gaming organizations without a doubt, everything is still going to have to be run through the AG's office. I would assume that there will be rules that aren't addressed in this legislation; decisions that will have to be made by the AG's office and enforcement. Everything will have to be purchased through licensed distributors. None of that will change. Everything will have a gaming stamp on it, be accountable to the AG's office on our end for amount of games played, amount of tickets purchased. The advantage that we would have is we're buying a blank roll of paper and the computer program is doing all the work. The only time the paper is used is when they want to redeem that winning ticket.

Rep. Klemin: My question is, is the machine itself determining what the ticket is that's going to come up, or is that predetermined by the manufacturer and they just send you all these electronic tickets in an electronic roll so to speak, how does that work.

Michael Jay: Charities have the option to kind of pre-determine what their games are going to be. Through the licensed distributor, you can go as low as 76% payout. You can go as high as 83% payout if you want. A charity will find that comfortable range that they feel will work for them, and they will talk with the distributor and ask them for every game that would fit in the % range they are using as the payout to the player. At that time, you look at all the approved games that the distributor has, and then you decide what you want to do. I unfortunately don't get that involved. I ask for the best game, best payout to the players and what the availability is. This month we are running the football game. Next month it will be a different game as long as it is in the percentage payout range that I asked for. We find that a percent of payout of 79% works best for us because we get more activity, so I'm assuming that I could request the same game in the electronic form.

Rep. Klemin: Is that just set into the machine somehow, the 79% or is that downloaded every time it runs out of electronic tickets.

Michael Jay: My understanding is, the way it is now, when we start a quarter and we have to start a new game up, we take two independent games, put them into a machine and co-mingle them, so we have two distinct different serial numbers into that game. Then it tells us when the machine gets down to a certain level which we have to manually monitor and inspect and if we wish to add another game, then by state law we are required to take the remaining two columns, mix them into the other two columns, load the new game into the empty columns and then whatever is on top continues to load with the new game. I am assuming that with the electronic, again these are rules I don't think are addressed in this legislation, but will probably be referred to the AG's office for the rule-making part of it. My understanding of the concept of the paperless pull-tab machine, would be when we hit a margin point, where we only have a 1000 serial numbers left of the remaining game that's in there, the machine would send a message out to say that they need another game, that game would automatically get a stamp attached to it in some form, the AG would be notified, we'd be notified and within 30 seconds the new game would be downloaded into the machine. The accountability would still be there, it eliminates the process of us having to go up and add additional games all the time. Right now, when we get ready to add a game, if we run it to our lowest point of the machine, before the springs engage and do not allow any more tickets to come out, we basically holding about 800 tickets in that machine at that point. I am assuming that the margin would be about 1000.

Rep. Kingsbury: What's the cost of these machines and how many machines would a site have, and how long can one player stand and play. Would people have to wait their turn.

Michael Jay: You know there is no state law on the limit of machines that you can put into a bar that I'm aware of. We have an organization where we only have one machine. We would not eliminate the paper machine, we would probably run both types of machine. We don't know if the customers will like the paperless pull-tabs or not. As to the cost of the machine, we don't care. As a charity, we lease the machines from the distributor because we don't want to deal with mechanical issues and don't want to deal with repairs, so it's easier for us to pay a monthly rent. I don't know how long a person would stand in front of the paperless pull-tab machine. I've seen people stand in front of a ticket machine and open up their tickets while they are continually feeding money in and not allowing other individuals to play. Normally that's not the case, because normally the other customers in the bar correct that. I don't think when charities look to find and streamline their present products that they have, I could care less if the machine is at a fair rent. I know I presently pay about \$58-60 per game and in a quarter at one site, we will go through approximately 46-48 games. That gets to be pretty astronomical for a paper cost for us, plus storage costs, etc.

Rep. Kingsbury: You said that the customers would play the game faster than usual. When you are playing a game, if you have \$20 you're putting in, you see all of them right there at once to see if you won, or is it one at a time.

Michael Jay: No, it's individual; you don't see all 20 at the same time. You would still have to push the button, just like you do now. You would have to push the button once to get a ticket out.

Rep. Klemin: Let's say you put \$20 in, are you betting just one dollar at a time, or can you bet \$5 or \$10 at a time. How does that work.

Michael Jay: Right now, no. One dollar is the maximum bet that you can play on any pull-tab machine that I'm aware of. I know Mr. Lauer is here from the AG's office, he might be able to address that issue. My understanding is that it is \$1 per play. We wouldn't have multiple games, so I don't know what the state law limitation is on that.

Rep. Klemin: On the electronic pull-tabs, is it going to be the same.

Michael Jay: It will still cost just \$1, it's a paperless pull tab, not an electronic pull-tab, and it would still be \$1 per ticket.

Rep. Onstad: What savings are you anticipating for the charity, or where do you gain the efficiency of this operation.

Michael Jay: Right now, we have to audit tickets. We send a person out to service the machine. The person has to get the tickets from the bar, he has to count the amount of winners, he has to do the paperwork and fill out the form. He has to

reimburse the bar for the amount of tickets that were there, he has to take the money out of the machine, make sure everything balances. At that time, if the game needs to be loaded, he has to shift all the tickets, load the new game tickets, put the remaining inventory back into the machine, and lock the machine up. Then from that process you go back to the office and those tickets are handed out to somebody else that does another accounting on the tickets, to make sure that you indeed can 1 + 1 and make sure that everything adds up correctly. She then has to make sure that the dollar amount matches the deposit amount, then those remaining tickets that were brought back as redeemed winners, are collected and kept for the end of the quarter. At the end of the quarter, we have to do our total accountability and audit and if we're below 98.6% accurate, then we are required to go and count every single ticket we have on hand. In the course of a quarter, with 44 games being played, you can imagine that's quite a bit of volume of tickets that we're holding, so we would eliminate that, we would eliminate having to order 50 games at a time, and then we would eliminate the transporting aspect of it, more importantly when it got back to the office, we wouldn't need the storage part of it, the gal in the office would not have to re-audit the tickets because it's already been done through the computer. We just need to verify that the cash deposit was made for what that particular day is.

Rep. Onstad: The savings is in labor.

Michael Jay: Yes. There is definitely savings in the tickets, more efficient, and definitely save in the labor department because we can eliminate several of her hours and have her concentrate on other things.

Rep. Boehning: When you play the pull-tab machines, when you get your money out, I know that there is some that when you do have a winner, you can redeem it in the machine, do we have those in ND or did I play that in MN, I can't remember. It's very seldom that I get to redeem anything.

Michael Jay: Obviously we don't rely on him to support the gaming industry.

Rep. Boehning: I support you heavily.

Michael Jay: Yes, there are presently machines in ND that when you do get a winning ticket, you are able to take that winning ticket and put it into the machine and it will reaccept it and count it as a credit, then it mutilates it and leaves it in the machine. Then when you go to pick it up, you have this mutilated ticket that you know was redeemed as a winner. We presently don't have a machine like that. Our organization does not have it, but I have seen those machines all around the state of ND.

Rep. Boehning: So basically, instead of having those machines where you put the ticket back in, we're just going to do it electronically and get rid of the piles of tickets on the floors, garbage cans and be a much cleaner, easier way to do it.

Michael Jay: Without a doubt, and also less labor intensive not only for the bar owners help and also for the gaming organizations. We can certainly see an economic benefit for us on the cost savings.

Rep. Beadle: I think we can clearly see the labor savings and the waste savings are there, trees wise. What I'm wondering, I think you said that your current lease rate that you have for the gaming devices that are on site now, I think you said was \$60 per game and you have 42 games. Do you have any idea as to what the lease rate is for these electronic machines from the distributor.

Michael Jay: I think you misunderstood me or I didn't make it clear enough. When I was referring to the \$60 per game, that's the actual cost to buy the tickets. To answer your question about the machines, the machine that we presently play is one of the better state-of-the-art ones that have fewer tendencies to break down. That machine I believe retails for about \$8000-9000. We don't feel it's cost effective for us to buy that machine. We just pay a flat \$200/ month rental with the distributor, we lease it but that also includes a maintenance program; so if anything goes wrong, we call them up and they come and fix it.

Rep. Beadle: Do you have an idea if the cost per game going to stay about the same on the electronic one as it does for the paper machine. Is it still going to be \$200/month to pay for the machine that dispenses the tabs electronically, or is that rate going to be increased and if so, do you have a rough amount for that.

Michael Jay: No, and I guess I'm not concerned about that, it will be whatever the market bears is what the market bears. You have the opportunity right now to go out and get machines way cheaper than what I am presently paying. It's just what works well for us, it works well with the relationship that I have with my distributor. I think state-wide there are other distributors that have that same working relationship with other gaming organizations. I would just trust that it would be fair and equitable. Regardless of how inexpensive the machine would be, would more than likely not purchase it because it's something new to the market. I would certainly want to test it first and certainly want to find out the intricacies because everything always sounds good when it's being sold to you, but when it gets plugged in what happens. I think distributors would be fair because it's a market that would help charities to streamline and possibly expand their play so, I think there is enough variety among the distributors because the market is there. I think it will be workable.

Rep. Guggisberg: Do you know how many states allow paperless pull-tabs and if so, when they went to paperless pull-tabs what kind of increase in sales did they see.

Michael Jay: I do not have that information. I don't subscribe to Gaming International News or anything like that. I honestly don't know what happens in SD

and I don't know what happens in MT. I concentrate on what happens in our own market.

Rep. Guggisberg: So SD and MT have them, do you know how many states do them.

Michael Jay: I don't know if they do offer it. My gaming is pretty much limited.

Rep. Brabandt: You say that you're going to have the option of both paper and paperless pull-tabs.

Michael Jay: More than likely, that's what we will do.

Rep. Brabandt: Are you afraid that the thrill of opening these paper pull-tabs that you may lose something if everyone goes electronic.

Michael Jay: I don't know.

Rep. Brabandt: I have a feeling that you would lose part of the thrill or opening the pull-tab.

Michael Jay: You're exactly right, there's some people that are pretty comical to watch people open pull-tabs in a bar environment. Some people like the sneak attack, where they only crack the top corner, some like to get right into the middle and see if there is a line, and some people can open up cards faster than I can shuffle cards. That's exactly why I would not limit myself to one type of machine. I don't think this is intended and I don't think you're going to see something statewide where they get rid of their ticket machines and going paperless. I think this is going to be a very hard sell for a distributor, unless he is working with open-minded gaming people that are willing to try something different for their organization. I'm looking at it strictly as a labor savings, but also am concerned about the trend. That's why I said that I will probably keep both of my machines up, because I certainly don't want to put ourselves in the situation where I would create downplay.

Rep. Boehning: How long does it take to go through your whole audit process, from the time you put the tickets in, count money and get the machine back up and running, and then back to the office, having the other person count the tickets and finish the audit process. How many hours are involved in that whole process.

Michael Jay: An organization has what is called cash countings and their primary responsibility is to go out, and if you have 10 gaming sites, their primary responsibility is to go out and do the reconciliation and audits on each individual site and make sure that there is cash is current for the next day's plays. I can't speak of what their system is, for our system it's pretty simple. We have one site, and we have only one machine. We don't deal with black jack, bingo. We did years ago, but it became very ineffective for us because we didn't have a big enough general

fund and all of a sudden we found we were straying from our mission and were getting more into the gaming business all of a sudden. When the casino opened up, we totally backed off and went back to just one machine because we didn't have the general fund to support gaming at that time. So for us to go out and just monitor and take care of a machine, you're looking at anywhere from 1-1.5 hours onsite per day, 7 days a week, taking it back to the office and duplicating that with about another 1-2 hours, and then if you figure in the delivery time to deliver the games, the storing of the games, easily we're encompassing 25-30 hours a week right now.

Chairman DeKrey: Thank you.

Keith Lauer, Director of the Gaming Division, AG's Office: Neutral.

Chairman DeKrey: Does the AG believe this is not video gaming, that this is different and would be allowed under ND law.

Keith Lauer: I think the reason for this bill is about three years ago, the State Gaming Commission asked our office to draft administrative rules to allow these types of tickets. Tom Trenbeath came out with an opinion that said back in 1979, there was actually legislation to allow electronic pull-tabs and it went to a vote of the people and it was voted down. Since that time, the legislature has not addressed this issue. That was how Tom Trenbeath came to that determination, that the legislature actually had not approved any type of electronic pull-tabs, and therefore, if somebody wanted to do this, they would have to go to the legislature. I think a good way to do this, there have been some questions, and I think this does fall under pull-tabs. The maximum sales price for a pull-tab is \$2.00. They could not sell them for more than that. Maybe we should go through each section. Basically section 1, which is on page 1, 2, and 3 of this bill, puts in a definition for pull-tabs, which includes the paperless pull-tabs. I haven't seen the amendment, one of the concerns that our office had was the fact that there really wasn't a definition of what is a paperless pull-tab and we had a little bit of concern with that. Even though this is a paperless tab that you open on a screen, at that point what happens. It doesn't define in here anything about what you do. In further sections in this bill, it refers to the fact that our office can allow bartenders to assist with this game, well how do they do that. I guess we have an amendment here to say it's an electronic image of a pull-tab. That's leaving it to the administrative rules as to how they are paid out. Section 2 of this bill, on page 4, just basically puts in there that the paperless pull-tabs of the game type that the State Gaming Commission would then adopt rules for. Section 3 is the section I was referring to where it says our office may allow alcoholic beverage establishment to provide limited assistance in the conduct of these games. That would be up to how the administrative rules set it up, what they currently allow. Presently, all the bars can do is pay the winning tickets. They cannot fill the machines, there is one provision that if there is a locking drop box, that they can actually take that locking drop box out of the machine, otherwise if there is not a locking drop box in there, the charity has to come in and fill with tickets and take all the cash out and reimburse the bartender for the amount of tickets that he has

bought back. In section 4, this refers to the manufacturers and distributors requiring that the organizations still continue to purchase these paperless pull-tabs through a licensed distributor and that there be a licensed manufacturer of these devices, that gaming stamps are still required on all of these pull-tabs.

Rep. Klemin: I'm having trouble seeing how this is not a video gaming device.

Keith Lauer: I wouldn't call it a video gaming device. It is a pull-tab game and that each one of these games has got a set number of tickets, either winning or losing tickets within it. You look at a slot machine, which I would consider more of a video gaming device, that's based on 13 million plays of that device. Certainly there are payout odds but you would have to play that device 24 hours/day, 7 days/week, for years to get up to the number of plays to get that kind of a payout. This has got a set number of winning and losing tickets, depending on how large these games were and apparently those rules would be made by the administrative rule process. There would be so many winners and so many losers, just like any other pull-tab game. Presently, we do have some devices on the market that allow you to reinsert your winning ticket into the device to get credit, but that's only up to a \$10 value. Because the majority of the tickets actually have a payout of less than \$10. It got to be quite a burden for these bar owners to be redeeming \$2 tickets for that person to turn around and put the \$2 back into the device. So the State Gaming Commission adopted a rule that said provided that you still receive that ticket, and if you want to cash it in you can. We'll allow up to a \$10 ticket to be reinserted back into the device, you get that much credit on to it and then that saves the bar owner the time of having to payout some of these smaller winners. But there is a difference in that you have a set number of tickets here, you've got a defined benefit, they would still have to be done on a comingled basis according to state law, so they would have to come up with some reasonable ticket count and number of winners and losers within that ticket count.

Rep. Klemin: Well, if you won \$50 can you let your money stay in the machine to keep playing.

Keith Lauer: This bill does not address that, that would be something that would have to be set by administrative rule, it appears. I don't see any provision in here that would allow you to get a credit in there. That's silent in this bill.

Rep. Klemin: So the rule could allow that I suppose.

Keith Lauer: It could.

Rep. Klemin: Do you know how much these are used elsewhere in the country.

Keith Lauer: My understanding is that they are allowed in the state of MS and VA has passed legislation to allow these, but I don't believe they have started in VA yet. I think they are still working on their administrative rule. There is a distributor here

that maybe could answer that. He might have more up-to-date information. These machines, or one of these machines we have looked at, were used in the state of Iowa by their lottery. From what I've heard, they became too successful. They put too many of these machines out, too many people were playing them and pretty much you had them on every street corner; similar to SD, where you drive a major street in many major cities in SD and every sign says casino. Well those are video lottery terminals. Apparently that's what happened here with the ones in IA and now they've repealed that and they no longer have these machines there.

Rep. Klemin: Why would they want this kind of machine in SD when they basically have video gaming there.

Keith Lauer: I think some people still like the social aspect of everybody throwing in \$10 and buying a number of pull-tabs and taking them back to a table and socializing while opening pull-tabs. With this machine, you'd be sitting at a terminal and playing by yourself.

Rep. Kretschmar: If this bill would become law, I assume it would be effective August 1. About how long would it take for the administrative rule process to get underway and running so that machines could be used in ND.

Keith Lauer: I would venture a guess that they would not be available under probably July 1, 2012, just to go through the rule-making process is pretty extensive. You have to do public hearings and the last time we adopted administrative rules that was about the timeframe it took to put these rules into effect, about a year after passage of the law.

Rep. Hogan: Do you think it would be helpful if we put a limited number of devices in any one location in follow up to Rep. Kingsbury's idea that you could have up to 10 machines, so that we don't get big casinos all over.

Keith Lauer: It wouldn't be a bad idea as may be something with rent limitations. There are no rent limitations on here other than the ones we currently have for pull-tabs, which is \$275/month. If in fact, you did decide on a number of machines, does that mean that the bar owner could get more than \$275 if he's got six machines in there. We've got existing law which doesn't address how many machines. Right now it's currently unlimited for the number of pull-tab dispensing devices that a charity could have at a site, but it's one of those things where how many can you afford to have in there and make it profitable for your charity.

Rep. Maragos: I'm curious about the IA experience. I assume that IA, the state runs all their gaming, there is no charitable gaming. It's all part of the IA lottery which is managed by the state of IA, I believe. Is that correct.

Keith Lauer: I think they may still have a charitable gaming market, but it may be very small. You're right, the lottery is probably the larger one.

Rep. Maragos: If the IA lottery is like the SD, MN and MT, where they have the paperless pull-tabs right alongside the traditional lottery, what is it that they attempted to do with the machine, that wasn't a paperless dispenser, it actually dispensed the lottery tickets. Who in IA felt that they were harmed by all of those machines. You said that it self-destructed under its own success.

Keith Lauer: My understanding is that this was the machine being used in IA. It's an Oasis machine. Right now, our own state lottery, by our own working with scientific games restricts the number of sites for the lottery in ND to 300 sites. You're probably more familiar with this than I am, because you're on that Lottery Advisory Board or were in the past. It's kind of a self-imposed limit that the state has put on there and working with the contract with scientific games that if we go much bigger than that, we're probably going to start destroying some of the efficiencies that the state has in the lottery program. Apparently, in IA they left this wide-open and had so many of these devices, and became so successful, they were bringing in so much money from this, it was not what their legislature intended. So when the question came up, would it be a good idea to limit the number of machines, that certainly would give some basis for the State Gaming Commission to look at this and say, the legislature has spoken on this issue, and what they want and how many machines they want at a site, instead of leaving it wide open and saying what will the market bear, we'll put as many out there as the charities want.

Rep. Maragos: Any business in IA could have requested one of these machines. In our vehicle for charitable gaming you have to be licensed, and beyond that license there is no gaming beyond the licenses that are issued in this state. It's finite, it's not open to everyone. Let's say we had two machines per site, per licensed site, we would know exactly how many machines were going to be in the state and it could not go beyond that, could it.

Keith Lauer: One of the things we do, our office licenses the charities at a site. We don't license what kind of activity that they have at those sites. Some of the sites have 21 activities, some have BINGO, some have pull-tabs, some have sports pool boards, as long as the city doesn't restrict them on the game types that they can play. They can play all of the game types that they want. As Michael Jay had mentioned, basically his charity has one device, but nothing is to prevent him from having six devices in there, if in fact his traffic in that bar would allow it. We don't restrict it by the number of machines at this point in time. There is nothing in there.

Rep. Maragos: I was trying to find out, could the same situation that happened in IA happen in ND.

Keith Lauer: I don't know if that would occur because you take the city of Fargo, they basically restrict each charity to two sites, except if a bar has been without charitable gaming for a month, they can have a third site. So you've got the city imposing a city ordinance saying we know we have successful gaming in the city of

Fargo. We are not going to allow one charity to have all the sites in the city, so we are going to restrict it to so many sites per city and you can't get any more than that by city ordinance. There are some things out there that would limit some of that by city ordinance. The bill does not have any limit on the number of machines that would be allowed at a site and I guess it would depend on the popularity of the game would be. Would we run into the same situation that IA had, I don't think so.

Rep. Klemin: The question about the number of machines, etc. and the IA experience, there's really nothing that I see in this bill that sets any kind of limits on anything. What authority would the AG's office have to set limits if there is none in the law.

Keith Lauer: I think it would be up to the State Gaming Commission to decide. Like you say, there is no direction, that's always best. I suppose the State Gaming Commission could say that we're going to limit this to the number of machines, just like they do with 21 tables right now. We only allow rent to be paid on necessary tables at a site and it's based on the level of activity. If that site doesn't have at least play on that 21 table once a week, we won't allow rent to be paid on that table. Some sites could end up having tables at their sites that they aren't even paying rent on. But does the bar want a dozen 21 tables in there if there not being used.

Rep. Klemin: So then the State Gaming Commission could decide to leave it wide open, and whatever the market will bear, that's what will be.

Keith Lauer: That's exactly right, with no limit being put in here, that could happen. I think they could also impose some type of limit. Whether they would do that or not, being that there isn't any legislation intent, I'm not sure.

Rep. Maragos: In charitable gaming operations that I've seen, usually I don't see more than one or two dispensing machines. Are you aware of what the average licensee has for dispensing machines in their individual sites. Do you have information on that.

Keith Lauer: I think you're right. A majority of them only have 1 table, some have two, if the site would bear it. You're talking about a machine that dispenses tickets, you go back to your table and open them. Although as was indicated earlier, someone could stand in front of the machine and kind of block someone from playing. Other people are going to say, move out of the way so we can play it. For the most part, you take those tickets back to your table and play it. In this case, you would play at the machine. If somebody were standing there all night, and not letting someone else on the machine, nothing would prohibit them from doing that. I think the charity would decide well, I guess I can put in more machines, at what level would they say, hey this isn't cost effective any more.

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

2011 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1279
February 8, 2011
14181

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1279.

Rep. Maragos: I move the amendment .01001.

Rep. Delmore: Second the motion.

Chairman DeKrey: Voice vote, motion carried.

Rep. Boehning: The amendment I am bringing deals with the number of machines that can be placed at a site. It will be limited to six machines. I don't believe that the charities will place more than one or two because of the limited space in the bars. I move the amendment.

Rep. Maragos: Second the motion.

Chairman DeKrey: Voice vote, motion carried. We now have the bill before us as amended. What are the committee's wishes?

Rep. Maragos: I move a Do Pass as amended with a re-referral to Appropriations.

Rep. Boehning: Second the motion.

Rep. Klemin: I'm going to vote against this bill. I think this is an expansion of gaming. We have essentially a functional equivalent of a slot machine that is going to be an electronic slot machine which will go about as fast as you can push that button and put your money in. I think this is no different from any other kind of video gaming, probably have a lot of the same symbols that you have in video gaming. There appears to have been some experience in other states. The testimony we had from Keith Lauer is that they had this in IA and repealed it because they had machines on every corner, basically. I think that what we have now for the paper pull-tabs is enough. I don't favor having six machines at every site, plus the paper ones at the same time. I would encourage us to defeat this motion.

Rep. Boehning: I'm in favor of this. For the smaller charities that are out there, for them to go out there in the night and have to fill the machines, this makes it easier on them. As charities they don't have a staff like they do in some bigger communities like Fargo does at the local bars where somebody is on staff all the time. I think it will save them some money and will actually get them more money to donate into the community. Just because the amendment says six machines, doesn't mean that they're going to put six in there. I don't think most places are going to allow them to put six in. If we leave it unlimited there may be the potential of 20 or 30 machines at a site. I don't think they are video gaming because they are limited to so many plays per game and it's all stacked up, it's not like a lottery machine or a slot machine, because your chances on that are pretty slim. With this game, you know what your chances are, 75-82% depending on the charity. Let's help the charities out.

Rep. Kingsbury: I was just going to add a "me.too" to the no vote.

Rep. Klemin: To give the charities more money means somebody is going to lose more money as well.

Rep. Delmore: I think the advantage to this will be on the accounting side. We are always looking for accountability, and I think it is a much cleaner way to leave a record than what we have right now. People are always going to try the game of chance, we all want to grab that brass ring, and I don't think we're going to stop it. I don't think we heard testimony that this is an expansion in way, shape or form. I will support the bill.

Chairman DeKrey: Seeing no further discussion on the bill, the clerk will call the roll on a DP motion as amended with a re-referral to Appropriations.

8 YES 4 NO 2 ABSENT

DO PASS AS AMENDED W/RE-REFERRAL TO APPROPRIATIONS

CARRIER: Rep. Maragos

FISCAL NOTE
Requested by Legislative Council
02/11/2011

Amendment to: HB 1279

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$2,000,000		\$4,000,000	
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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).*

This bill provides for paperless or electronic pull tabs on a video screen.

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.*

This bill could result in additional revenues and minimal implementation costs.

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.*

During calendar year 1993 charitable gaming had its highest gross wagering ever at just over \$300 million wagered. With the introduction of paperless pull tabs or electronic pull tabs on a video screen the possibility exists that the state could see total gross wagers at these same levels if the devices are seen as an alternative to other forms of gaming.

Although the pull tab excise tax was reduced in the 2009 session from 4 1/2% to 3%, the tax on these paperless pull tabs could reach \$1.4 million per year with an additional \$600,000 in gaming tax. During the first biennium (2011-2013) only one year of this additional tax would be available as administrative rules are developed. During the 2013-2015 biennium the annual amounts could be doubled or \$4 million in new taxes.

This would all be contingent on the players acceptance of the paperless pull tab devices as an alternative to other forms of gaming, number of machines available for play at a site, and the current gaming and excise tax structure continuing. The Interim Judiciary Committee introduced Senate Bill No. 2042 which would reduce the current taxes by eliminating the excise and gaming taxes and replacing it with a single tax on gross wagers. The 1% tax on gross wagers would bring in an additional \$500,000 (\$50 million x 1%) of tax per year. So a range of \$500,000 to \$2 million per year is possible with the tax change.

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 estimated implementation cost projections are anticipated to be minimal.

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 estimated implementation cost projections are anticipated to be minimal.

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	02/11/2011

FISCAL NOTE

Requested by Legislative Council
01/12/2011

Bill/Resolution No.: HB 1279

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.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$2,000,000		\$4,000,000	
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

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).*

This bill provides for paperless or electronic pull tabs on a video screen.

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.*

This bill could result in additional revenues and implementation costs.

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.*

During calendar year 1993 charitable gaming had its highest gross wagering ever at just over \$300 million wagered. With the introduction of paperless pull tabs or electronic pull tabs on a video screen the possibility exists that the state could see total gross wagers at these same levels if the devices are seen as an alternative to tribal slot machines.

Although the pull tab excise tax was reduced in the 2009 session from 4 1/2% to 3%, the tax on these paperless pull tabs could reach \$1.4 million per year with an additional \$600,000 in gaming tax. During the first biennium (2011-2013) only one year of this additional tax would be available as administrative rules are developed. During the 2013-2015 biennium the annual amounts could be doubled or \$4 million in new taxes.

This would all be contingent on the players acceptance of the paperless pull tab devices as an alternative to tribal slot machines, number of machines available for play at a site, and the current gaming and excise tax structure continuing. The Interim Judiciary Committee introduced Senate Bill No. 2042 which would reduce the current taxes by eliminating the excise and gaming taxes and replacing it with a single tax on gross wagers. The 1% tax on gross wagers would bring in an additional \$500,000 (\$50 million x 1%) of tax per year. So a range of \$500,000 to \$2 million per year is possible with the tax change.

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.*

At this time, the cost of implementation, particularly any information technology expenses, is unknown. At this time implementation cost projections are unavailable. When this information becomes available this fiscal note will be revised.

- 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 Office of Attorney General 2011-13 biennium budget excludes any fiscal provision for implementation of this bill. At this time implementation cost projections are unavailable. When this information becomes available this fiscal note will be revised.

Name:	Kathy Roll	Agency:	Office of Attorney General
Phone Number:	328-3622	Date Prepared:	02/01/2011

February 8, 2011

VIC
2/8/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 1, line 1, after "Act" insert "to create and enact a new subdivision to subsection 3 of section 53-06.1-03 of the North Dakota Century Code, relating to the maximum number of paperless pull tab devices per site; and"

Page 3, line 5, after "15." insert ""Paperless pull tab" means an electronic image of a pull tab. 16."

Page 3, line 6, after "tabs" insert "and which dispenses a paper cash-out slip for the redemption of winnings"

Page 3, line 7, replace "16." with "17."

Page 3, line 9, replace "17." with "18."

Page 3, line 11, replace "18." with "19."

Page 3, line 12, replace "19." with "20."

Page 3, line 15, replace "20." with "21."

Page 3, line 23, replace "21." with "22."

Page 4, line 1, replace "22." with "23."

Page 4, line 4, replace "23." with "24."

Page 4, after line 21, insert:

"SECTION 3. A new subdivision to subsection 3 of section 53-06.1-03 of the North Dakota Century Code is created and enacted as follows:

"The maximum number of paperless pull tab devices per site is limited to six."

Renumber accordingly

Date: 2/8/11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1279

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0567.01003 02000

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Guggisberg		✓
Rep. Beadle	✓		Rep. Hogan		
Rep. Boehning	✓		Rep. Onstad	✓	
Rep. Brabandt	✓				
Rep. Kingsbury		✓			
Rep. Koppelman		✓			
Rep. Kretschmar					
Rep. Maragos	✓				
Rep. Steiner	✓				

Total (Yes) 8 No 4

Absent 2

Floor Assignment Rep. Maragos

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

REPORT OF STANDING COMMITTEE

HB 1279: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 4 NAYS, 2 ABSENT AND NOT VOTING). HB 1279 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to create and enact a new subdivision to subsection 3 of section 53-06.1-03 of the North Dakota Century Code, relating to the maximum number of paperless pull tab devices per site; and"

Page 3, line 5, after "15." insert ""Paperless pull tab" means an electronic image of a pull tab. 16."

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"The maximum number of paperless pull tab devices per site is limited to six."

Renumber accordingly

2011 TESTIMONY

HB 1279

Testimony on H.B. 1279

Prepared by

Rep. Andrew Maragos

Mr. Chairman and Members of the House Judiciary Committee, H.B 1279 is being introduced on behalf of a struggling charitable gaming industry. With the downturn in revenues, the industry is looking for ways to reduce expenses in order to stabilize resources used to support charitable programs.

H.B. 1279 is not asking for a new game. It proposes to allow a change in the method of delivery of the currently legal game of Pull Tabs, by offering a paperless pulltab.

We think this form of delivery will have several benefits:

1. It would reduce the enormous waste of paper.
2. It would be less labor intensive and thusly be more efficient
3. It would provide better controls and accountability.

The Charitable Gaming Industry experienced a 4% reduction in gaming revenues and needs our help in stabilizing its available resources to support their very worthy programs.

I hope the committee would look favorably upon this legislation to help the charities.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 3, line 5, after the period insert "Paperless pull tab" means an electronic image of a pull tab.

16."

Page 3, line 6, after "tabs" insert "and which dispenses a paper cash-out slip for the redemption of winnings"

Page 3, line 7, replace "16." with "17."

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Page 4, line 1, replace "22." with "23."

Page 4, line 4, replace "23." with "24."

Renumber accordingly

OASIS PULL-TAB MACHINE

1. Proven Reliability
 - A. Approved by Gaming Laboratories Inc. and UL and FCC.
 - B. Very few moving parts to service or malfunction.
2. Accountability
 - A. Ability to monitor each machine and site from any internet connection. Unlimited information available such as sales, inventory levels, prizes paid, cash in, etc.
 - B. Availability of several security levels. Checkout level, distributor level, site manager level, charity manager level, and AG office level.
3. Security
 - A. Eliminates all unintentional human mistakes including intentional fraud, such as insider information and ticket theft.
 - B. Maintains the games integrity.
4. Delivery System
 - A. No need to order or Store inventory during the quarter.
 - B. Out of stock situations or empty machines are virtually eliminated.
 - C. No excess inventory at the end of the quarter, meaning there are no pull-tabs to count, pay for, or store, which increases the profit to charities by eliminating unnecessary expenses
5. Oasis Pull Tab Machine
 - A. This machine offers the same products currently being played in pull-tab machines in the state of North Dakota.
 - B. The machine plays games with the same themes, prize structures, and win ratios as you are currently using.
 - C. All games are finite. They all have an exact amount of tickets winners, and profit.
 - D. Machine should be 100% accurate each quarter.
 - E. All games are commingled and dispensed randomly.

6. Not an expansion of gaming.
 - A. This machine plays identical to current pull-tab machines currently being used in North Dakota with the only exception being the pull-tabs are displayed on the screen instead of having a paper tab loaded and dispensed.
7. Saving to the charity.
 - A. Never have to load paper tabs into the machine.
 - B. Never have the machine out of order due to running out of tickets, ticket jam, or vending extra tickets.
 - C. Only pay for tickets that are sold.
 - D. Never have to pay for shipping of paper tabs.
8. Eco friendly.
 - A. Currently 55,000,000 pull-tabs are sold yearly (280,000 pounds of paper =140 tons). Each ton of paper takes 17 trees, 380 gallons of oil, and 7,000 gallons of water to make. Pull-tabs in North Dakota use 2,380 trees, 53,200 gallons of oil, and 980,000 gallons of water yearly.



Charitable Gaming Association of North Dakota

2660 South Columbia Road • Grand Forks, ND 58201 • 1-701-454-6433 • www.cgand.com

January 31, 2011

Charitable Gaming Association of North Dakota
Rusty Steffan, President
2660 S Columbia Road
Grand Fork, North Dakota 58201

The Honorable Duane DeKrey
House of Representatives
State Capitol
Bismarck, North Dakota

Dear Chairman DeKrey,

The Judiciary Committee will soon be considering HB 1279 that would provide language to allow a paperless pull tab device. We are writing to express our support for this bill. Specifically, CGAND supports law changes that would provide cheaper and more efficient means of conducting current game types. The paperless pull tab device could replace the current pull tab dispensing devices in use throughout the state. They would save charities time, storage, and money while creating a more efficient and effective means of monitoring by state government.

In our industry pull tab dispensing devices are used by both large and small organizations, so the benefits would be wide spread. The accountability for both small and large organizations would be strongly enhanced.

On behalf of all of our organizations and the people we support, thank you for your time and efforts on this issue.

Thank you for your service.

Sincerely yours,

Rusty Steffan
President

Ashley Lions Club
PO Box 202
Ashley, ND 58413

This letter is in support of the paperless pull-tab machine. I have worked in the gaming field for 17 years with this organization.

Supporting the installation of a paperless pull-tab machine for the organization would cut down on counterfeited pull-tabs. For example, a player can draw a zero on a \$5.00 winner and the bartender pays the player \$50.00 instead of \$5.00. An audit of the game, would show to many \$50.00 being payed. The player wouldn't have access to the pull-tab with this machine.

Another advantage of this machine, the organization wouldn't have to worry about a player leaving the bar and cashing the pull-tab at a different bar. There are times when the bartender doesn't check the name of the game or the pull-tab serial number and pays a player for a wrong game.

And also, the organization would be saving money on shipping the tabs and paying the service techs. We pay our employees when there is a pull-tab or dollar jammed in the machine and when they fill the machine. With the way the economy is, the sale of pull-tabs are down - we as organizations need to start cutting costs and the paperless pull-tab machine would help us out and keep a lot of organizations in business and in the black.

We support this bill

Wanda Delzer
Ashley Lions Club

*Rep. Boehning
Amendment*

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1279

Page 4, line 22, after "AMENDMENT." insert "A new subdivision of subsection 3 of section 53-06.1-03 of the North Dakota Century Code is created as follows:

e. The maximum number of paperless pull tab devices per site is limited to six.

Renumber according