

2023 HOUSE FINANCE AND TAXATION

HB 1524

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1524
2/1/2023

A bill relating to electronic pull tab device requirements.

Chairman Headland opened the hearing at 10:30AM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVilleville, and Representative Ista. Members absent: none.

Discussion Topics:

- Charitable gaming
- Gaming paybacks
- Progressive jackpots

Brian Barrett, Lobbyist for Charitable Gaming of North Dakota, testified in opposition (#18275).

Representative Kempenich verbally introduced the bill in support.

Scott Meske, North Dakota Gaming Alliance, testified in opposition (#18534).

Dean Berger, Mandan Eagles, verbally testified in opposition.

Lonnie Wangen, Horraced, North Dakota, verbally testified in opposition.

Robert Wagner, Bismarck Eagles, testified in opposition (#18317).

Dave Weiler, Western Distributing, verbally testified in opposition.

Patrick McCollam, President of a Licensed Distributor with Charitable Gaming Supplies in North Dakota, testified in opposition (#18380).

Deb McDaniel, Director of Charitable Gaming for the Office of the Attorney General, answered questions from the committee.

Additional written testimony:

Brian Bartlett, North Dakota AMVETS State Commander, testimony in opposition #18254.

Rick Stenseth, Gaming Manager with Northern Prairie Performing Arts, testimony in opposition #17906.

Don Santer, Chief Executive Officer with North Dakota Association for the Disabled, testimony in opposition #17662.

Janelle Mitzel, Gaming Director for Development Homes, Inc., testimony in opposition #17567.

Larry and Cindy Moos, Board Members and Volunteers at Mandan Eagles, testimony in opposition #18536.

Chairman Headland closed the hearing at 11:42AM.

Mary Brucker, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Finance and Taxation Committee
Room JW327E, State Capitol

HB 1524
2/7/2023

A bill relating to electronic pull tab device requirements.

Chairman Headland opened the meeting at 10:07AM.

Members present: Chairman Headland, Vice Chairman Hagert, Representative Anderson, Representative Bosch, Representative Dockter, Representative Fisher, Representative Grueneich, Representative Hatlestad, Representative Motschenbacher, Representative Olson, Representative Steiner, Representative Toman, Representative Finley-DeVille, and Representative Ista. No members absent.

Discussion Topics:

- Committee vote

Representative Olson moved a Do Not Pass.

Representative D. Anderson seconded the motion.

Roll call vote:

Representatives	Vote
Representative Craig Headland	Y
Representative Jared Hagert	Y
Representative Dick Anderson	Y
Representative Glenn Bosch	Y
Representative Jason Dockter	Y
Representative Lisa Finley-DeVille	Y
Representative Jay Fisher	Y
Representative Jim Grueneich	Y
Representative Patrick Hatlestad	Y
Representative Zachary Ista	Y
Representative Mike Motschenbacher	Y
Representative Jeremy Olson	Y
Representative Vicky Steiner	N
Representative Nathan Toman	N

Motion carried 12-2-0

Representative Grueneich is the bill carrier.

Chairman Headland adjourned at 10:09AM.

Mary Brucker, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1524: Finance and Taxation Committee (Rep. Headland, Chairman) recommends **DO NOT PASS** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1524 was placed on the Eleventh order on the calendar.

TESTIMONY

HB 1524

HOUSE FINANCE & TAX COMMITTEE
Chairman Headland
Testimony on HB 1524
 February 1st, 2023
 Submitted by Janelle Mitzel, Development Homes, Inc.

Chairman Headland & Committee Members,
 Thank you for your consideration of a **Do Not Pass** on HB 1524. This bill will be detrimental to the organization I represent, and essentially destroy electronic pull tab play in ND.

Development Homes, Inc:

- DHI is a non-profit organization in Grand Forks providing community-based support services to persons with disabilities from all over ND.
- DHI has residential services including seven group homes, two duplex facilities, a multi-unit autism living center, a transitional living center and independent living settings.
- DHI provides vocational services including job training and placement, and family services including respite care and in-home support.
- DHI serves approximately two hundred individuals from children to adults, serving through all stages of life.
- DHI is currently the 8th largest employer in Grand Forks, employing 450 to 500 people. Our economic footprint is vital to this community.

This bill limits the electronic pull tab payout percentage to 82%. Currently etabs can pay out up to 90%. An 8% decrease in prizes is detrimental to the game, ultimately taking money from the customer. Limiting the payout percentage does not give more to the charity, rather, it has a negative effect of a decrease in play because the customer has a much lower return on their dollar. This bill is another attempt to eliminate electronic pull tab play and charitable gaming across the entire state.

Development Homes Gaming Revenue Uses:

- Provides financial funds necessary to supplement new projects, such as bricks & mortar. The \$900,000 DHI autism living center was funded through HUD with matching grants from DHI charitable gaming.
- Specialized adaptive equipment & urgent/crisis care needs for persons served.
- Basic care needs, such as eyeglasses, shoes, and clothing, especially for our children served with their continued growth and ever-changing needs.
- Specialized training for professional staff including nurses, social workers, and expert management.
- Grants to ND communities funding local needs, including police equipment, literacy adaptive equipment and software, drug & alcohol prevention, substance abuse and mental health professional facilitators, daycare facility equipment, and promotion of local community events.

DHI provides imperative services in our community. If these programs are not partially funded through gaming dollars organizations such as DHI will be requesting major increases in state general fund dollars to supplement the necessary services we provide. Charitable gaming is particularly important to this organization as those dollars are needed to sustain our mission. DHI would appreciate a **Do Not Pass** recommendation on this bill.

HB 1524
House Tax & Finance Committee
Submitted by Don Santer for NDAD
February 1, 2023

Chairman Headland and Committee members, thank you for the opportunity to provide information regarding the charitable gaming industry of North Dakota. I am submitting testimony in opposition of House Bill 1524.

My name is Don Santer, I represent North Dakota Association for the Disabled (NDAD). NDAD is a North Dakota charity that for over 47 years has been dedicated to improving the quality of life for persons with disabilities. NDAD is a statewide organization and uses the charitable gaming funds it generates to provide services to every corner of North Dakota. (see attachment)

House Bill 1524 will have the effect of obstructing and ultimately damage NDAD's charitable gaming operations in ND.

This bill adds two new restrictions to century code 53-06.1-08.2. Electronic pull tab device requirements:

The device may not employ a progressive jackpot feature. A deal may not pay out more than eighty - two percent of gross proceeds.

First sentence, NDAD has no objections to the restriction of progressive jackpots. This restriction has been in regulation since the inception of etabs. This is a regulatory issue, not a century code issue.

Second sentence, the restriction of an 82% payout per deal:

- There is no need to mandate payout percentages because free market/competition is already providing these choices for gaming organizations.
- Restrictions on percent of hold are not in place for any other game type.
- The purpose of this percentage limit is intended to destroy consumer interest in the game type.
- Statistically play falls off when you lower the percentage, and the charities have worked with the office of AG and regulators to come up with the 90%. This is a regulatory issue, not a century code issue.

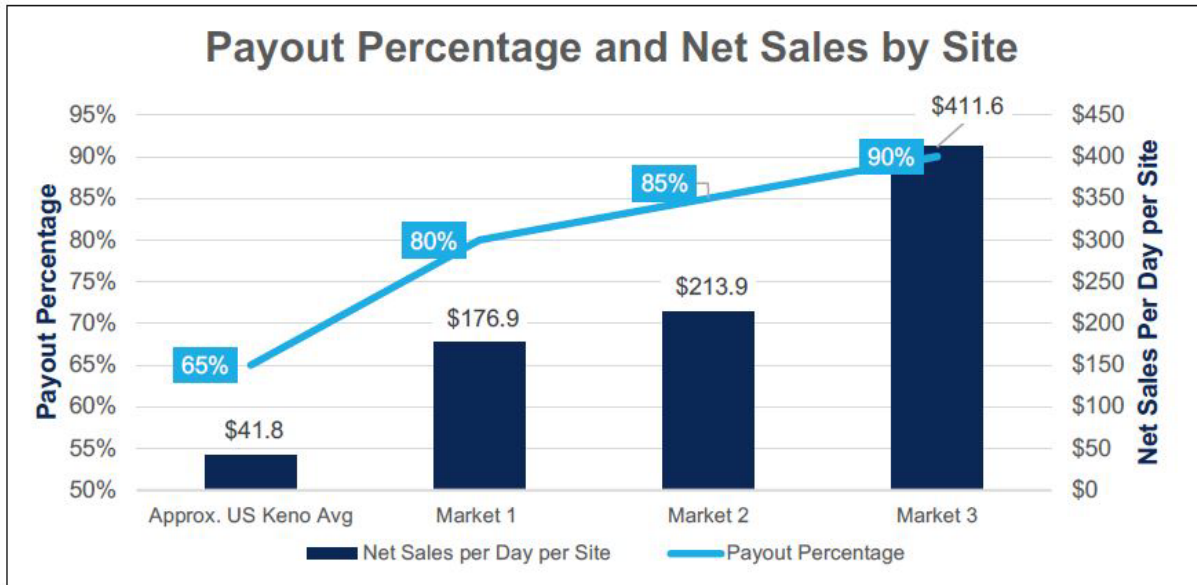
Each charity should be allowed to evaluate what percentage works well for their clientele and adjust. This is very similar to how paper pull tabs are evaluated. It is also important to note, paper pull tabs have no rules setting maximum or minimum payout percentage. This allows each charity to select a range of games and pay out percentages that work best for their organization and the attractiveness to their players.

Payout percentage is a key attribute in creating the play style of various game types. A higher payout percentage counterintuitively yields higher overall net revenue. Payout percentage is also critical to success in social establishments to create a "stay and play" experience. Unlike traditional lottery games, where purchases from a single customer are hours or even days apart, social establishment games are predicated on

entertaining extended play sessions. Particularly true of social establishment gaming products, a higher payout percentage counterintuitively yields higher overall net revenue.

There is strong evidence that higher payout% games lead to higher net profits. In a study conducted by Diamond Games (see figure 1), of their 10 charitable gaming and lottery markets, one market operates at a payout percentage of 80%, one at 85%, and the remaining eight operate at 90% or higher. The markets with payouts at or above 90% generate upwards of 200% higher net sales than sites utilizing the 80% product.

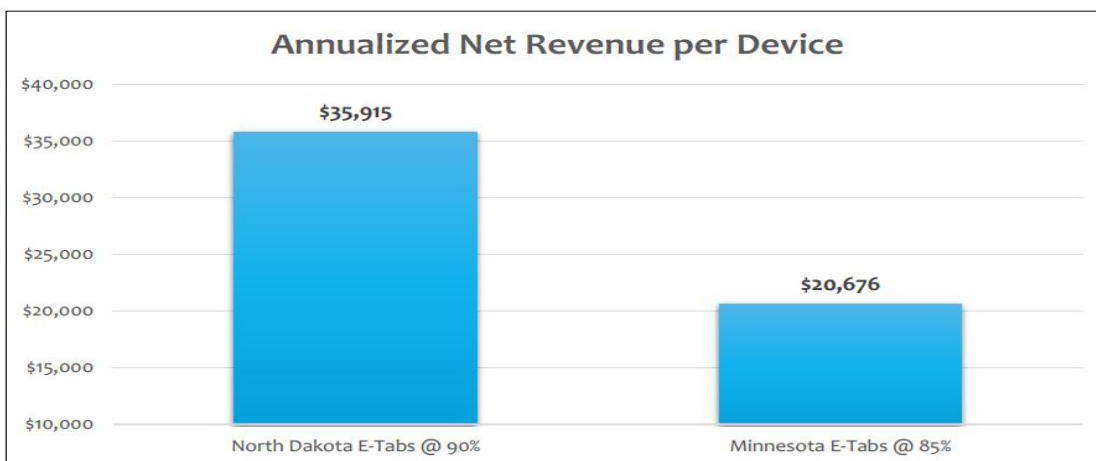
(Figure 1)



A lower percentage of payout, means fewer winning tickets, this decreases player interest, less interest - less play - lower income for the charity.

A good comparison can be seen by evaluating the Minnesota Charitable E-Tab market. Minnesota is currently regulated to payout 85% -- compared to North Dakota E-Tabs which allows for a payout up to 90%. The overall revenue per device for North Dakota E-Tabs is significantly higher than Minnesota E-Tabs. (see figure 2)

(Figure #2)



Note: annualized figures above utilize Q2 2019 reporting data provided by the state, extrapolated across a 365 day period.

This anti-business bill designed hinder or outright eliminate charitable gaming in North Dakota. The obvious message this bill is meant to convey is charities are not real businesses and don't understand how to efficiently operate their gaming activities. The state of North Dakota will penalize and restrict organizations within the charitable gaming industry that threaten that perception. If one looks at the records you will find this tactic to destroy etab play has been attempted through multiple bills in two prior legislative sessions and failed in all cases.

ND charitable gaming raised over **\$43 million** in taxes for the state of ND this past biennium most of which goes to the general fund. The drastic reduction in gaming net proceeds this bill will cause will have a massive negative fiscal impact to tax revenue.

ND charitable gaming raised **\$73 million** this past fiscal year to be distributed in communities across the state. Reducing the income generated by etab machines will have a colossal negative impact on charities' ability to provide important services in your own districts.

ND charitable gaming has methodically and responsibly grown over the past 40 years into a reputable industry benefitting nearly every city and county across this great state. North Dakota has developed a responsible and highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. At best this bill will serve to severely hinder charitable gaming fundraising efforts and attempt to redirect the lost proceeds to tribal gaming facilities. That is why NDAD is asking you to consider a **Do Not Pass** recommendation on **HB 1524**.

Thank you, Chairman Headland and members of the committee for your time and thoughtful consideration.

Respectfully,

Don Santer, NDAD



NDAD

helping others to help themselves

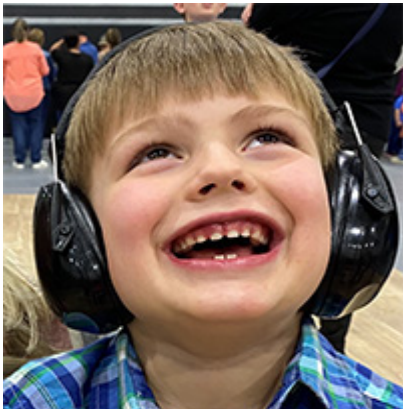
2022 Annual Report

Our Purpose

NDAD (the North Dakota Association for the Disabled) is a nonprofit, charitable organization that assists people with disabilities in North Dakota. Our mission is to enhance the quality of lives of individuals facing health challenges.

Who We Help

Here are a few of the many people who shared their NDAD story with us:



Josiah - Steele

His condition: Autism

How NDAD helped: Medical travel expenses to OT/PT and speech therapy.



Audrianna, Kayden & Charleigh - W. Fargo

Their condition: Behavioral Health issues

How NDAD helped: Respite care due to behavioral health needs.



Gary - Grand Forks

His condition: Diabetes, charcot foot and toe amputation

How NDAD helped: Purchased scooter lift for independence.



Andrea - Minot

Her condition: Diabetes, Cardiomyopathy

How NDAD helped: Medical travel expenses and medical supplies.



Kenneth - Ellendale

His condition: End Stage Renal Disease

How NDAD helped: Fuel assistance for monthly dialysis travel and prescription assistance.



Teresa - Williston

Her condition: Knee Replacement

How NDAD helped: Borrowed equipment through our Healthcare Equipment Loan Program (HELP)



Programs Provided

- Direct Financial Assistance
 - Healthcare Equipment Loan Program
 - Adaptive recreational events and activities
 - Community fundraising projects
 - Organ Transplant Fund
 - Information, referral and advocacy
 - Crisis residential services
 - Transitional living services
 - Housing for people with serious mental illness who are in need of supportive services
- To read more about these programs, visit ndad.org.

2022 At a Glance

- 4,436 pieces of medical equipment loaned, saving North Dakotans over \$569,882
- 3,906 prescriptions filled
- 2,885 medical trips funded
- 235 pieces of medical equipment and 436 medical supplies purchases
- 196 wheelchair-accessible van loans made to 89 individuals
- 18 grants, totaling \$141,068 awarded to organizations to assist individuals with disabilities
- 5,136 accessible rides funded
- 27 people assisted with short term crisis stabilization
- 7 people with serious mental illnesses provided with supportive services to remain independent
- 39 people with a behavioral health diagnoses assisted with medication monitoring
- 34,743 interactions made, such as phone calls, emails, and other communication

How We Spend Our Money



- 84.6%: Program Services
\$2,083,843
- 13.7%: Management and General
\$337,383
- 1.7%: Fundraising
\$44,734

**Information based on 2021 fiscal year*

**Testimony in Opposition to
HOUSE BILL NO. 1524
House Finance and Taxation Committee
February 1, 2023**

Chairman Craig Headland, Finance and Taxation Committee members, for the record my name is Rick Stenseth. I have been in charitable gaming since 1983. I am a Gaming Manager for two local organizations in Fargo that both conduct charitable gaming (Northern Prairie Performing Arts (NPPA) aka Fargo-Moorhead Community Theatre & Team Makers Club). I am submitting this testimony through our NPPA lobbyist, Todd D. Kranda (#58), who is an attorney with the Kelsch Ruff Kranda Nagle & Ludwig Law Firm in Mandan.

While HB 1524 has one appropriate amendment proposed, the other amendment has no benefit to anyone and should not be include within the Bill. Placing a limitation on progressive jackpot features would be a good thing for this game type, but it could be done by Administrative Rule (Article 99-01.3 ND Admin. Code).

However, the inclusion of an 82% payback maximum within 1524 is completely unnecessary and actually harmful to both the organizations and the players, who would receive a much lower level of prizes. The issue of playback percentages is already addressed in Administrative Rule for Games of Chance and is currently set at no more than 90%, which should remain in place and should not be lowered to the detriment of the players and the organizations.

Simply put, HB 1524 is better not moving forward in its current form and NPPA ask for a **DO NOT PASS** recommendation from the committee.

House Finance & Tax Committee
Chairman Headland
HB 1524
February 1, 2023
Submitted by Brian Bartlett, ND AMVETS Commander

Mr. Chairman and Committee Members,

Thank you for your consideration of a Do Not Pass on HB 1524. I am submitting testimony in opposition to this Bill.

My name is Brian Bartlett, I am the State Commander for the AMVETS North Dakota. We enhance and safeguard the entitlements for all American Veterans who have served honorably and to improve the quality of life for them, their families, and the communities where they live through leadership, advocacy and services.

This bill drops payout from 90% to 82% reducing payout by 8% will negatively affect playing time by our patrons. Limiting the payout will reduce playing time by the customer ultimately reducing the amount of monies we are able to donate to our programs and the communities.

Some of our programs that would be effected are:

Americanism - a patriotic program the organization offers schools and youth organizations as a resource for teaching children in kindergarten through 12th grade about their American heritage, civics and citizenship. For 9th grade who participate in the AMVETS Americanism essay contest and are the 1st-place winners from AMVETS Department of North Dakota and Post 20, they will win an all-expense paid trip to "Freedoms Foundation" in Valley Forge, Penn., for the Spirit of America Youth leadership seminar, where they learn about democracy, the judiciary, the political process, the founding documents, and the free enterprise system through innovative workshops and historical site visits that allow you to encounter our nation's past, present, and future. During your residential stay, they will also build leadership skills, engage in civil discourse, and identify how you can positively impact your community.

917 Constitution Booklets – For the past 3 years ND AMVETS have partnered with the "917 Society" and have provided every 8th grader in the North Dakota with a lasting, durable pocket version of the U.S. Constitution to carry with them as they grow in their citizenship. Each Constitution has the oath of citizenship included on the last page.

Military Funeral Honors
JROTC
VA Volunteer Services
Sponsor Freestyle Greko Roman High School tournament

Other than AMVET programs we also help our communities providing donations to multiple organizations in schools, nursing homes, police department, fire departments, ambulance and first responder services, park and recreations, churches, wild life, scholarships, 4H, ND association for the Blind, drug awareness and GABR.

Our patrons ask what the payout is and we are happy to tell them 90%. Higher payout means more play and thus higher revenue.

ND AMVETS would like you to consider a **Do Not Pass** on **HB 1524**.

Brian Bartlett
ND AMVETS Commander

House Finance and Tax Committee

House Bill 1524

February 1, 2023

Testimony submitted by Charitable Gaming Association of ND
Brian Barrett

Chairman Headland and members of the House Finance and Tax Committee, the Charitable Gaming Association of ND is in opposition to HB 1524.

This bill changes the E-Pull Tab machine payout percentage to 82%. Currently E-Tab machines pay out at 90%. This simply means 90% of all money put into the machine is paid in prizes. If this payout percentage is changed to 82%, it will destroy the ND E-Tab industry and all the money they raise for charities. By changing this percentage, communities will no longer see benefits of charitable gaming such as:

**Development Homes, which is the 8th largest employer in ND, using charitable dollars to help fund a living center of autistic individuals.*

**ND Association for the Disabled funded over 2,000 medical trips along with purchasing hundreds of pieces of medical equipment and supplies.*

Last biennium, charitable gaming generated \$73 million dollars that went toward charitable purposes in ND. The State of ND received \$43 million in tax revenue.

If the percentage is changed from 90% to 82%, benefits from charitable gaming will cease because players will quickly conclude that their chances of winning are minimal. Play on these machines will diminish along with charitable contributions to ND communities.

Thank you for your consideration of a **Do Not Pass** recommendation on HB 1524.

House Bill 1524

Bismarck Eagles Aerie 2237 does not support this bill. We feel that lowering the percentage will cause a lot less play of these games which in turn will be less charitable dollars that we give out to the community. Below are some of our donations made back to the community and surrounding area:

Bismarck Police Department	\$10000.00
Missouri Slope Lutheran Home	\$10000.00
Washburn Ambulance	\$1000.00
Bismarck Cancer Center	\$10000.00
ND FFA Foundation	\$15000.00
ND Veterans Cemetery	\$2500.00
Burleigh Co Sherriff	\$2000.00
Home on the Range for Boys & Girls	\$15000.00

These are just a few listed charitable organizations that we at the Eagles have donated to. We have given charitable gaming donations of over \$200,000.00 to organizations like these in the past year. By lowering the payouts down will promote less play which will result in less moneys that we will be able to give to our community. The Eagles Motto is: "People Helping People" in which this bill is devastating to our motto.

My question is why would you not want us to donate to charities like these which will reduce tax revenues that would otherwise be used from the State tax revenues.

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Chairman Headland and Committee members, my testimony is in response to House Bill 1524,

My name is Patrick McCollam, I am the President of a Licensed Distributor for charitable gaming supplies within the state of North Dakota. I appreciate the opportunity to provide information for the purpose of strengthening charities' ability to fundraise in North Dakota.

HB 1524 proposes a change to section 53-06.1-08.2 as follows.

The device may not employ a progressive jackpot feature. A deal may not pay out more than eighty - two percent of gross proceeds.

Setting a maximum payout percentage of 82% would make North Dakota an outlier, and not in a good way. As the majority of charitable gaming in ND is operated without a limit on prize payouts, and the few forms of gaming that do have a limit are set to 90%. This is for "prize pooling" games such as Poker, Calcutta, and Sports pools.

Lowering the prize payout percentage decreases the appeal of the game to the playing public. Obviously, a player would refuse to play a game with a zero % prize payout and just as obviously he would rush to any game offering over 100% prize payout. It is clear that as you decrease prize payout percentages the appeal of the game diminishes, which means the total amount of play diminishes, which means the total earnings of the charities also diminish.

Electronic Pull Tabs similar to those operated in ND, are also operated in MN, OH, KY, VA, and NH. And only MN has regulations on the payout percentage lower than the 90% under which the devices are operated in ND. As both ND and MN disclose the number of devices and the revenue gained it is clear to see that ND devices outperform MN devices by a factor of almost 2 to 1. Each device in ND garners approximately \$40,000 per annum while similar devices in MN only generate approximately \$21,000.

This begs the question "What percentage has been set in MN to cut charitable revenues in half?" and would you believe it that the maximum payout percentage allowed is 85%. Imagine how low their revenues would be in MN if they set the maximum payout at something as ridiculous as 82%.

It is my professional opinion that if HB 1524 passes, the electronic pull tab revenue in North Dakota will be reduced by approximately 75%. This translates to the elimination of approximately \$28M of the current \$37M the charities raise using these devices and will cost the state of North Dakota's general fund \$16M of the \$22M in taxes.

HB 1524

The proposed amendment is nothing more than a very crude attempt to damage charities in ND by targeting a very successful form of fundraising. If there is a change to the maximum payout percentage, it should be increased, not decreased. A maximum payout percentage of 92% or removing a maximum payout percentage altogether would have a dramatic impact on charitable gaming revenues in a positive way.

If this bill passes it will do irreparable harm to the charitable gaming market and those beneficiaries of its fundraising efforts.

Say No to Hurting charities.

For the reasons listed above we are asking you to consider a Do Not Pass recommendation on HB 1524.

I appreciate your time and careful consideration of this bill.

Patrick McCollam

The State of Disordered Gambling in North Dakota

According to the Director of the Disordered Gambling Program (formerly Lutheran Social Services)

SERVICES PROVIDED:

- **Trained Counselors – 3**
 - **Located in Fargo and Minot, responsible for state coverage**
- **Individuals Treated in FY 22 – 75**
- **991 hours of treatment services includes groups, individuals and families.**

FUNDING PROVIDED

- **ND Lottery - \$320,000**
- **Charitable Gaming proceeds - \$40,000**
- **Tribal contributions - \$0 (prior to the 2022 Tribal Compact Agreement, \$125,000)**

TRENDS

- **24.4% of ND HS students report gambling on sports, lottery or internet the previous 12 months**
- **Based on national rates of disordered gambling, estimates are that about 1,000 ND families are affected by disordered gambling**

SHORTFALLS

- **Professional Counselors – 2-3 Statewide**
- **Peer Recovery Coaches**
- **Specialized training for mental health providers to recognize this disorder**
- **Partial or full scholarships for residential treatment program (see below)**

The nearest residential, or inpatient program is in Granite Falls, Minnesota. Minnesota residents receive a full scholarship for residential treatment, while ND residents pay full price, which is approximately \$9,000 for a 28-day stay.

In the quarter ending, December 31, 2022, 1556 individuals visited the GamblerND website, with the majority of visitors viewing [Responsible Gambling](#) information, how to find a support group meeting and reading the success stories of those who are working on recovery.

GAMBLER HEALING is an online workbook and resource to help individuals begin to explore their gambling activity and related consequences. It was created in 2018 in partnership with the State, ND tribal casinos, and Lutheran Social Services of ND (now closed). In the quarter just completed, 19 individuals created an account to utilize this confidential tool, compared to 7 individuals in the previous quarter.

Lisa Vig, LAC, ICGC
Program Director
Gamblers Choice
lvigjohnson@nd.gov

We are opposed to HB 1524 and strongly encourage a Do Not Pass on this bill. We can see no benefit to the State with this bill, and it only appears to be an attempt to negatively impact or cripple gaming in the state—which would be absolutely detrimental for all the charities gaming supports. We volunteer at our local Eagles club and provide meals to hundreds of senior citizens, as well as other charities. We have witnessed the assistance gaming monies provide to a whole host of charitable organizations, such as the Anne Carlsen Center, etc. We are concerned lowering these percentages to an 82 percent payout will mean patrons will take their gaming dollars elsewhere, and charities ND gaming supports will lose out on thousands of dollars, as will the state.

Larry and Cindy Moos
Board Member Mandan Eagles and Volunteer
Mandan, 701-220-6840
cmoos@midco.net