

**2023 SENATE JUDICIARY**

**SB 2390**

# 2023 SENATE STANDING COMMITTEE MINUTES

**Judiciary Committee**  
Peace Garden Room, State Capitol

SB 2390  
2/8/2023

A bill relating to electronic pull tab payout limitations and the use of charitable gaming gross proceeds.
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9:59 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Estensen, Luick, Paulson, Braunberger and Paulson are present.

## **Discussion Topics:**

- Children charities
- Adjusted gross proceeds
- Payout percentages
- Casinos
- Nonprofit organizations

9:59 AM Senator Luick introduced the bill and provided written testimony #19817, 19818, 19819.

10:02 AM Scott Meske, North Dakota Gaming Alliance, spoke opposed to the bill and provided written testimony #19755.

10:10 AM Bill Kalanek, Charitable Gaming Association testified opposed to the bill and provided written testimony #19676.

10:21 AM Mark Meyer, Gaming Manager, spoke opposed to the bill.

10:25 AM Dave Weiler spoke opposed to the bill.

10:25 AM Brian Gosch, National Rifle Association, spoke opposed to the bill on TEAMS.

10:28 AM Dean Berger, Gaming Manager, Mandan Eagles, spoke opposed to the bill.

10:31 AM Deb McDaniel, Director, Gaming Division, North Dakota Attorney General's Office spoke neutral on the bill.

10:46 AM Chairman Larson closed the public meeting.

10:47 AM Senator Luick moves to adopt the proposed amendment LC 23.1048.04001, #19818. Senator Myrdal seconds the motion.

10:47 AM Roll call vote is taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion Passes 7-0-0.

10:48 AM Senator Luick moves Do Pass as Amended. Senator Myrdal seconds the motion.

11:02 AM Senator Luick withdraws his motion to Do Pass as Amended. Senator Myrdal withdraws her second of the motion to Do Pass as Amended.

11:02 AM Senator Luick motions to a further amendment to the bill to include qualifier language "at least one percent". Motion seconded by Senator Myrdal.

11:02 AM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	Y
Senator Janne Myrdal	Y

Motion passes 7-0-0.

11:03 AM Senator Braunberger moves to Do Not Pass as Amended.  
Motion seconded by Senator Estenson.

11:04 AM Roll call vote was taken.

<b>Senators</b>	<b>Vote</b>
Senator Diane Larson	Y
Senator Bob Paulson	Y
Senator Jonathan Sickler	Y
Senator Ryan Braunberger	Y
Senator Judy Estenson	Y
Senator Larry Luick	N
Senator Janne Myrdal	N

Motion passes 5-2-0.

Senator Estenson will carry the bill.

This bill does not affect workforce development.

**Additional written testimony:**

Lisa Tonneson provided written testimony #19720.

Teran Doerr provided written testimony #19691.

Jeff Burns provided written testimony #19640.

Becky Nelson provided written testimony #19593.

Brian Bartlett provided written testimony #19399.

Janelle Mitzel provided written testimony #19285.

Robert Wagner provided written testimony #19182.

Don Santer provided written testimony #19163.

Chairman Larson closed the meeting.

*Rick Schuchard, Committee Clerk*

February 8, 2023

*DR*  
*181*  
*2-8-2023*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2390

Page 1, line 23, replace "annual" with "adjusted"

Page 1, line 23, replace "fifteen" with "one hundred"

Page 1, line 24, after "dollars" insert "per quarter"

Page 1, line 24, replace "five" with "at least one"

Page 1, line 24, replace "annual" with "adjusted"

Page 2, line 7, replace "fifty" with ":

a. Fifty-eight"

Page 2, line 7, after "quarter" insert "for organizations with total adjusted gross proceeds of five hundred thousand dollars or more;

b. Sixty percent of the adjusted gross proceeds per quarter for organizations with total adjusted gross proceeds of one hundred thousand dollars or more but less than five hundred thousand dollars; and

c. Sixty-two percent of the adjusted gross proceeds per quarter for organizations with total adjusted gross proceeds of less than one hundred thousand dollars"

Renumber accordingly

**REPORT OF STANDING COMMITTEE**

**SB 2390: Judiciary Committee (Sen. Larson, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). SB 2390 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 23, replace "annual" with "adjusted"

Page 1, line 23, replace "fifteen" with "one hundred"

Page 1, line 24, after "dollars" insert "per quarter"

Page 1, line 24, replace "five" with "at least one"

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b. Sixty percent of the adjusted gross proceeds per quarter for organizations with total adjusted gross proceeds of one hundred thousand dollars or more but less than five hundred thousand dollars; and

c. Sixty-two percent of the adjusted gross proceeds per quarter for organizations with total adjusted gross proceeds of less than one hundred thousand dollars"

Renumber accordingly

**TESTIMONY**

**SB 2390**



## 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

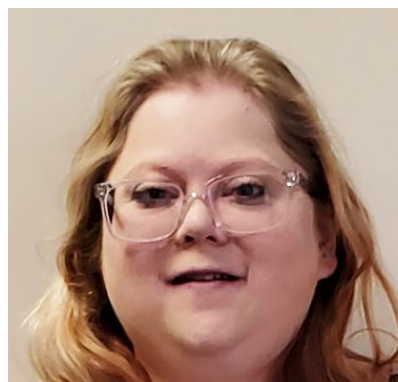
**How NDAD helped:** Respite care due to behavioral health needs.



**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](http://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*

**SB 2390**  
**Senate Judiciary Committee**  
**Submitted by Don Santer on behalf of NDAD**  
**February 8, 2023**

Chairperson Larson 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 Senate Bill 2390.

My name is Don Santer, I represent the 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 pays for most of its services with charitable gaming funds.

Senate Bill 2390 will serve to damage, and ultimately destroy our charitable gaming operations.

**53-06.1-08.2. Electronic pull tab device requirements.**

Each deal may not pay out more than eighty - eight percent of gross proceeds.

- An attempt to change the payout percentage has been attempted every session since the inception of etabs and failed. The only reason to dictate a lower pay out percentage is to damage etab success.
- Gaming regulations and century code have been developed to protect the integrity of the industry. The industry together with regulators and the legislative rules committee spent an enormous amount of time negotiating and agreeing to the 90% top limit.
- There is no rule restricting an organization from running a lower payout percentage. NDAD selected a range of payout options at the beginning of the etab era and found a balance that worked best for our sites. Free market competition is already providing choices for gaming organizations and mandated lower limits are not desired by players or gaming organizations.
- Restrictions on percent of hold are not in place for any other game type including paper pulltabs. Our organization selects payout percentages that best work for our sites.
- The intent of this wording is specifically intended to erode consumer interest.
- Statistically play falls off when you lower the percentage, the citizens don't want it and the charities don't want it. This is an attempt by an extreme moral minority to dictate what the public should be allowed. This is poor policy making and is not necessary. The popularity of this game type with the existing rules is all the evidence legislators should need to understand.

**53-06.1-11. Gross proceeds - Required donations - Allowable expenses - Rent limits.**

2. If the annual gross proceeds of a charitable organization exceed fifteen thousand dollars, the charitable organization shall donate five percent of its annual gross proceeds for the benefit of children up to the age of twelve..

- A requirement for all charities to provide funding for one senator's preferred cause already served by countless charitable organizations is unnecessary and counterproductive to individual charitable missions.
  - This is an egregious attempt to subvert legislative intent for charitable gaming. NDAD has been involved with charitable gaming since its inception. This attempt to divert funding from our established charitable purposes toward a specific special population is an attempt to eliminate individual charitable missions. This is an attempt by one senator to create a special interest charity with a specific population being served. It will require NDAD to relinquish more income to special interest than it will be able to keep for our intended charitable purpose.
  - This bill would eliminate one of the oldest and most reputable charitable gaming organizations in the state.
  - NDAD was set up and continuously governed by citizens motivated to serve people with disabilities. This is a particular civic need and although children make up a portion of our mission, they are not the only population we serve.
- 3.** Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is ~~sixty~~ fifty percent of the adjusted gross proceeds per quarter.
- This change in code is intended to create financial difficulties for charities.
  - Inflation and higher wages required to find and maintain employees already make it difficult for NDAD to cover expenses at the existing thresholds.
  - NDAD provides its services to every corner of the state and requires a high revenue to provide those expansive services. NDAD is among the top producing charities in the gaming industry; contrary to popular rumor, higher revenue does not automatically equate to a lower percentage of expenses. How many businesses can operate at a 50% margin?
  - Even when NDAD is able to operate at lower expense percentages, we use those funds to provide and promote our charitable purpose.

For 47 years NDAD has provided services for people with disabilities and their families with services available to every community in the state. NDAD has done this mostly with charitable gaming dollars by complying with a highly regulated system for charitable gaming to the benefit of our mission. At best, this bill will serve to severely hinder our gaming fundraising efforts and funnel what we generate to a highly specified special interest. That is why NDAD is asking you to consider a **Do Not Pass** recommendation on **SB 2390**.

Thank you, Madam Chairperson and members of the committee, for your time and thoughtful consideration. Please do not hesitate to contact me with any additional questions you may have.

Respectfully,

Don Santer  
 NDAD  
 dsanter@ndad.org

## SB 2390

We at the Bismarck Eagles# 2237 oppose this bill for the following reasons:

1. Right now our expenses supercede the percentage we are allowed to take looking at the economy we live in now. Looking at the job market we are living in today, it is hard enough to get help for the dollar per hour rates we all ready have to pay.
2. If this bill passes the only way to make these percentages is to cut wages of our gaming employees to meet the 50%.

Bismarck Eagles# 2237 Board of Trustees

Ken Rebel

Gerard Feist

Bob Wagner

**SENATE JUDICIARY COMMITTEE**  
**Testimony In Opposition to SB 2390**  
**February 8, 2023**  
**Submitted by Janelle Mitzel, Development Homes, Inc.**

Madam Chairperson Larson & Committee members,  
Thank you for your consideration of a **Do Not Pass** on SB 2390. This bill will essentially devastate Development Homes, Inc. charitable gaming.

**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 eighth largest employer in Grand Forks, employing approximately 450 people. Our economic footprint is vital to this community.

This bill has three parts, all designed to negatively affect charitable gaming:

**1. Lowers the etab payout percentages from 90% to 88%.**

Testimony has been given to several committees detailing how lowering the payout percentage of etabs does not provide more revenue to the charity, however, has a negative effect of a decrease in play as the customer has a lower return on their dollar. Statistically play falls off as the percentage of payout is decreased, resulting in less net revenue to the organization.

**2. Requires a donation of 5% of Gross Proceeds to a charitable organization benefiting children.**

Requiring a donation of 5% of Gross Proceeds is not possible and will shut down our charitable gaming operations. Allocating 5% of Gross Proceeds would essentially be all the revenue we raise from charitable gaming, which would now be earmarked for purposes other than our mission. This is a nonsensical attempt to divert funding from our chartered missions towards the special interests of legislators.

**3. Decreases allowable expense limit from 60% to 50% for gaming expenses.**

Deb McDaniel, Office of the Attorney General Director of the Gaming Division, testified last week in the House Finance & Tax Committee that the 60% allowable expense limit is reasonable and is where the percentage should be. Development Homes, Inc. operates full-scaled gaming that is labor intensive, such as blackjack and bingo. Many game types require added labor and expense. A 50% allowable expense is not acceptable to organizations that offer a variety of gaming. This again is an attempt to financially harm charities.

DHI provides imperative services in our community and charitable gaming is particularly important to our organization. This bill attempts to severely curtail charitable gaming fundraising. DHI would appreciate a **Do Not Pass** recommendation on this bill.

SB 2390  
February 8, 2023  
Submitted by Brian Bartlett, ND AMVETS Commander

Chairperson Larson and Committee Members,

Thank you for your consideration of a Do Not Pass on SB 2390. 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.

1. This bill drops payout from 90% to 88% reducing payout by 2% could negatively effect 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.

Gaming organizations can already choose a lower payout percentage if they desire. Mandating lower limits are not what patrons nor gaming organizations want. Our patrons ask what are games pay out and we are happy to tell them the maximum allowed which is 90% and what we feel is best for us.

2. Mandating who receives moneys from gaming will encourage any interest group or person to input legislation with the attempt to provide funding for their group. This will take away from our mission and ultimately could take monies away for other groups we donate to. 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 9<sup>th</sup> 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, ND association for the Blind, drug awareness and GABR.

3. Lastly lower allowable expense limit from 60% to 50% will create financial difficulties for gaming organizations. The need to provide higher wages to keep employees plus the costs of expenses are not decreasing. To reduce our allowable expense limit is a deterrent to gaming organizations.

ND AMVETS would like you to consider a **Do Not Pass** on **SB 2390**.

Brian Bartlett  
ND AMVETS Commander

Chairperson Larson 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 Senate Bill 2390.

My name is Becky Nelson and I am the Gaming Manager for Veterans Club, Inc. of Kenmare, ND

This requires the charity to donate **ALL** its eligible use funds for “children related activities”, regardless of each organization’s purpose. The bill states: “5% of their annual **Gross Proceeds** to children's activities”. That means before prizes are paid out. 5% of Adjusted Gross Proceeds is more realistic.

This bill limits etab payout to 88%. This is yet another attempt to reduce earnings.

It also changes the approved expense limit from 60% to **50%**. Meaning organizations would have to find funds not generated by gaming to cover expenses exceeding **50%**.

**Senate Bill 2390 is intentionally designed to restrict, damage, and ultimately eliminate charitable gaming.**

**Gross proceeds - Required donations - Allowable expenses - Rent limits.**

If the annual gross proceeds of a charitable organization exceed fifteen thousand dollars, the charitable organization shall donate five percent of its annual gross proceeds for the benefit of children up to the age of twelve. This addition to the century code is intended to eliminate individual charitable gaming organizations and create one conglomerate charity with a single population being served. It will in effect require every gaming charity to relinquish more income to special interest than it will be able to keep for its charitable purpose.

Considering the average charity holds about 11% of total gaming gross proceeds, almost half of that would be required to be spent on a special interest. • To keep it simple, assume gross proceeds are \$15,000.01; five percent of gross would be \$750, • A charity keeps on average \$1,650 after prizes (11%); this is adjusted gross (AG). • The state taxes 12% of AG equaling \$198 in tax; leaving \$1,452. • Considering the 50% expense limit in this bill, \$726 must be used for eligible use. • This charity would have to donate an additional \$24 more than they have for their intended eligible use, thus eliminating their intended purpose and forcing it to end its charitable gaming operation if it is not already a child-oriented organization.

Gross Proceeds (GP) \$15,000.01

5% of GP \$ 750.00 AGP

(Adjusted Gross Proceeds) after prizes AVG 11% of GP \$ 1,650.00

State tax (12% of AGP) \$ 198.00

AGP after tax \$ 1,452.00

Allowable expense 50% \$ 726.00

Eligible use 50% \$ 726.00



Required to donate 5% of GP \$ 750.00  
Eligible use funds left for the charity \$ (24.00)

The addition of special consideration for a very small subsection of the population already served by countless charitable organizations is unnecessary and counterproductive to individual charitable missions. Charities are set up by citizens motivated to serve a particular civic need and they would no longer be able to serve their intended population.

**Electronic pull tab device requirements.** Each deal may not pay out more than eighty - eight percent of gross proceeds. 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 intent of this wording is intended to erode consumer interest. Statistically play falls off when you lower the percentage, and the charities have worked with state regulators to come up with the 90% max payout. This is a regulatory issue, not a century code issue. There are no current restrictions for lowering the payout percentage. Charities already have the option to run games at 88% if they choose.

**Allowable expenses may be deducted from adjusted gross proceeds.** By lowering allowable expenses to 50%, this will create financial difficulties for charities. Contrary to rumor, higher revenue does not automatically equate to lower expenses. Inflation and higher wages required to find and maintain employees already make it difficult for charities to cover expenses at sixty percent. Even if a charity can operate at lower expense percentages, they are still using the funds for their charitable purpose.

I respectfully request you vote DO NOT PASS on this bill. Thank you for your time and consideration.

Date: February 6<sup>th</sup>. 2023

Re: SB 2390

From: Jeff Burns

Nodak Sportsmen's Club

To: Senate Judiciary Committee

Senate Judiciary Committee Chairman and Senators,

My name is Jeff Burns and I am the gaming manager for Nodak Sportsmen's Club. I have been in the gaming industry in North Dakota for 20 years and currently the gaming manager for a charity that has been in business for 30 years in our state. Nodak Sportsmen's Club has always been a great supporter to all of our charitable causes including numerous youth programs such as Cops and Kids, youth sports, and have helped many children and their parents with medical assistance in times of need. This is only a few of the programs that we support. However, if SB 2390 was to pass, these would be the only causes we could support.

The language in SB 2390 reads that Nodak Sportsmen's Club would have to donate 5% of its annual gross proceeds for the benefit of children. In our charity's case this would equate to 52% of our adjusted gross proceeds going directly to children's programs. Currently we are required to put 40% of our adjusted gross proceeds into our net proceeds account to be used for charitable causes. The 12% shortfall in our expenses would likely put Nodak Sportsmen's Club out of business as well as many other charities across our state.

This bill also reduces the payout on etabs to a maximum of 88%. While we currently are allowed to run 88% games they are not nearly as popular as 90% games. The players can tell the difference.

I ask for your consideration for a "**Do not pass**" on SB2390.

Thank you for your time,

Jeff Burns

Gaming Manager

Nodak Sportsmen's Club

**SB 2390**  
**Senate Judiciary Committee**  
**Submitted by Bill Kalanek, CGAND**  
**February 8, 2023**

Madam Chair and members of the Senate Judiciary Committee. My name is Bill Kalanek and I am here in opposition to Senate Bill 2390.

I represent the Charitable Gaming Association of North Dakota (CGAND), a trade association for charities operating gaming throughout ND. Senate Bill 2390 is intentionally designed to restrict, damage, and ultimately eliminate charitable gaming.

**53-06.1-08.2. Electronic pull tab device requirements.**

Each deal may not pay out more than eighty - eight percent of gross proceeds.

- 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.
- Although maybe well-intentioned, lowering the payout percentage doesn't necessarily result in a net revenue increase.
- Statistically, play falls off when you lower the percentage, and the charities have worked with state regulators to come up with the 90% max payout.
- There are no current restrictions for lowering the payout percentage. Charities already have the option to run games at 88% if they choose.

**53-06.1-11. Gross proceeds - Required donations - Allowable expenses - Rent limits.**

2. If the annual gross proceeds of a charitable organization exceed fifteen thousand dollars, the charitable organization shall donate five percent of its annual gross proceeds for the benefit of children up to the age of twelve. A charitable organization may designate a recipient at its discretion which may include a children's advocacy center, early childhood service provider, or child care service provider. No more than ten percent of the donation may be used for recreational purposes. The donations must be reported on a form prescribed by the attorney general.

	Gross Proceeds (GP)	\$15,000.01
	5% of GP	\$ 750.00
AGP (Adusted Gross Proceeds) after prizes AVG 11% of GP		\$ 1,650.00
State tax (12% of AGP)		\$ 198.00
	<b>AGP after tax</b>	<b>\$ 1,452.00</b>
	Allowable expense 50%	\$ 726.00
	Eligible use 50%	\$ 726.00
	Required to donate 5% of GP	<b>\$ 750.00</b>
	Eligible use funds left for the charity	<b>\$ (24.00)</b>

- This addition to the century code will in effect require every gaming charity to relinquish more income to special interest than it will be able to keep for its charitable purpose.
  - The addition of special consideration for a very small subsection of the population already served by countless charitable organizations is unnecessary and counterproductive to individual charitable missions.
  - Charities are set up by citizens motivated to serve a particular civic need and they would no longer be able to serve their intended population.
- 3.** Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is ~~sixty~~ fifty percent of the adjusted gross proceeds per quarter.
- This seems intended to create financial difficulties for charities
  - Contrary to rumor, higher revenue does not automatically equate to lower expenses
  - Inflation and higher wages required to find and maintain employees already make it difficult for charities to cover expenses at sixty percent.
  - Even if a charity can operate at lower expense percentages, they are still using the funds for their charitable purpose.

For the past 42 years North Dakota has developed a responsible and highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. That is why CGAND is asking you to consider a **Do Not Pass** recommendation on **SB 2390**.

Thank you, Madam Chair and members of the committee, for your time and thoughtful consideration I am happy to answer any additional questions you may have.



**Testimony of Teran Doerr**

**Bowman County Development Corporation  
In Opposition of SB 2390  
February 9, 2023**

Chair Larson and members of the Senate Judiciary Committee:

I am Teran Doerr, Executive Director of Bowman County Development Corporation and we would urge a **Do Not Pass** on SB 2390.

Charitable Gaming in Bowman County benefits a number of different organizations:

- Pioneer Trails Regional Museum as a Historical Society that conserves historical artifacts and fossils, operates a regional museum, educates the public and preserves the history of the area through publishing, curatorship, research and displays.
- Bowman American Legion to help provide scholarships and programming.
- Rhame Fire Department and Scranton Fire Department to help purchase necessary equipment.
- Economic and community development programs to assist in growing childcare availability, tourism development, and education programming.

This bill would greatly damage the charitable organizations in our community that utilize charitable gaming revenue.

Thank you for your time. We urge a Do Not Pass on SB 2390.

## **Testimony In OPPOSITION to SB 2390**

**February 8, 2023, Submitted by Lisa Tonneson, NEWBURG COMMUNITY CLUB**

**My name is Lisa Tonneson, I am the Gaming Manager for the Newburg Community Club. The City of Newburg is a small town and has around a 100 residents. We have donated funds to the Newburg United School for their Backpack Buddy Program. This program allows the school to send food home on Friday's for about 20 students each week. This program impacts so many students and ensures that children will not go hungry over the weekend. The Newburg United School had a flooding problem in the school cafeteria and the Newburg Community Club was able to give donations to help with this project. This is just a couple examples of how the Newburg Community Club gives back to the children in our community. The Newburg Community Club has a Gaming Manager, an Auditor, 1 Interim Runner and our Gaming Board. We all have full time jobs outside of the Newburg Community Club and are trying to keep our organization going to support our park, schools, daycare, our Volunteer Fire Departments, parks, ambulances and the children in our local communities. This bill will negatively impact our charitable organization in the following ways:**

- 1. The requirement of 5% gross proceeds is not possible and will shut down our charitable operation. We already help children in our area that desperately need our funds. Don't deny the children in my community because of your special interest. I feel this bill is an attempt to divert funding from our local children to special interest of legislators.**
- 2. Lowering the Etab payout percentages from 90% to 88% will not provide more revenue to our charity because people will notice and play less, resulting in less money for our other groups we donate to. This seems like an attempt to shut down gaming altogether, lower the percentage to get people to give up on playing.**
- 3. Decreasing the allowable expense limit from 60% to 50% for gaming expenses. It is very difficult to find employees because we are a small charity and we have to hire part time help. My gaming people are working with gaming as a second job to make ends meet with this economy. We really can't afford to cut the pay for our people. Senate Bill 2390 is intentionally designed to restrict, damage, and ultimately eliminate small charitable gaming organizations.**

**The Newburg Community Club is asking for a DO NOT PASS on SB 2390.**

**Lisa Tonneson**

**Gaming Manager and NCC Board Member**



## Benefiting North Dakota Communities through Charitable Gaming

February 8, 2023

### Testimony in OPPOSITION of Senate Bill 2390

Madame Chair Larson and Members of the Senate Judiciary Committee:

I'm Scott Meske, representing the North Dakota Gaming Alliance and on behalf of the 152 Members of the NDGA, we stand in opposition to Senate Bill 2390.

ND Gaming Alliance represents all facets of the charitable gaming industry. Veteran and Fraternal Organizations, Charities, Hospitality, Manufacturers, and Distributors. When charitable gaming was authorized by the State, the intent was to benefit the *charities and nonprofits* in our local communities. In the last biennium more than \$73 million has been disbursed into North Dakota's community causes because of charitable gaming. That revenue, injected directly into our communities, offsets the need to rely on other sources of income including property taxes, to meet the charity's stated mission and benefits the citizens and communities.

The intent of SB 2390 is to limit, inhibit and eventually shut down charitable gaming in North Dakota. The 320 licensed charities conducting gaming in North Dakota have done so under the current regulations and statutes. They have done so lawfully and transparently. The current system has worked, and provided tremendous benefits to communities and to the state treasury to the tune of \$43 million in tax revenues this past biennium.

1. We strongly disagree that the State should be dictating where a private nonprofit should spend its revenues. These are private organizations organized as a nonprofit charity, veteran, fraternal, community based, youth groups and more with a stated mission. They use their 40 percent of the net proceeds to further their mission. I will not list the hundreds of incredible community causes these organizations support and to which they contribute.



## **Benefiting North Dakota Communities through Charitable Gaming**

2. Reducing the allowable maximum payout to 88% of the wagers will ultimately drive players away from charitable gaming. Currently the payout is set at 90%. Reducing the payout, reduces the play, it reduces the gaming taxes collected by the State; which in turn reduces the revenues for charitable causes.
3. Capping allowable expenses at 50%, a reduction of 10% from current allowable expenses creates undue hardships for all charities.

Unfortunately, as we interpret SB 2390, it was introduced for only one purpose. If the original intent of the legislation is something other than to hamstring and handcuff charitable gaming in North Dakota, I cannot discern what that might be. But that will be the ultimate result if this bill moves forward.

There is other legislation working through the process this session to which we can come to agreement for the betterment of all parties, however this is not that bill.

The North Dakota Gaming Alliance urges this committee to issue a DO NOT PASS recommendation on Senate Bill 2390.

Thank you.



23.1048.04001  
Title.

Prepared by the Legislative Council staff for  
Senator Luick  
February 8, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2390

- Page 1, line 23, replace "annual" with "adjusted"
- Page 1, line 23, replace "fifteen" with "one hundred"
- Page 1, line 24, after "dollars" insert "per quarter"
- Page 1, line 24, replace "five" with "one"
- Page 1, line 24, replace "annual" with "adjusted"
- Page 2, line 7, replace "fifty" with ":

a. Fifty-eight"

Page 2, line 7, after "quarter" insert "for organizations with total adjusted gross proceeds of five hundred thousand dollars or more:

- b. Sixty percent of the adjusted gross proceeds per quarter for organizations with total adjusted gross proceeds of one hundred thousand dollars or more but less than five hundred thousand dollars;  
and
- c. Sixty-two percent of the adjusted gross proceeds per quarter for organizations with total adjusted gross proceeds of less than one hundred thousand dollars"

Renumber accordingly

23.1048.04001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2390**

Introduced by

Senator Luick

1 A BILL for an Act to amend and reenact sections 53-06.1-08.2 and 53-06.1-11 of the North  
2 Dakota Century Code, relating to electronic pull tab payout limitations and the use of charitable  
3 gaming gross proceeds.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 53-06.1-08.2 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **53-06.1-08.2. Electronic pull tab device requirements.**

8 An electronic pull tab device must display an electronic pull tab in which the player may win  
9 credits that can be redeemed for cash or used to purchase more pull tabs. The device may not  
10 directly dispense coins, cash, tokens, or anything else of value other than a credit ticket  
11 voucher. Each deal may not pay out more than eighty-eight percent of gross proceeds.

12 **SECTION 2. AMENDMENT.** Section 53-06.1-11 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **53-06.1-11. Gross proceeds - Required donations - Allowable expenses - Rent limits.**

15 1. All money received from games must be accounted for according to the gaming rules.  
16 Gaming activity for a quarter must be reported on a tax return form prescribed by the  
17 attorney general. Unless otherwise authorized by the attorney general, the purchase  
18 price of a merchandise prize must be paid from a gaming bank account by check. A  
19 cash prize paid by check must be paid from a gaming bank account. No check drawn  
20 from a gaming or trust bank account may be payable to "cash" or a fictitious payee. A  
21 cash prize that exceeds an amount set by rule must be accounted for by a receipt  
22 prescribed by the gaming rules.

23 2. If the annual adjusted gross proceeds of a charitable organization exceed fifteenone  
24 hundred thousand dollars per quarter, the charitable organization shall donate fiveone

1 percent of its annual adjusted gross proceeds for the benefit of children up to the age  
2 of twelve. A charitable organization may designate a recipient at its discretion which  
3 may include a children's advocacy center, early childhood service provider, or child  
4 care service provider. No more than ten percent of the donation may be used for  
5 recreational purposes. The donations must be reported on a form prescribed by the  
6 attorney general.

7 3. Allowable expenses may be deducted from adjusted gross proceeds. The allowable  
8 expense limit is ~~sixty~~ fifty.

9 a. Fifty-eight percent of the adjusted gross proceeds per quarter for organizations  
10 with total adjusted gross proceeds of five hundred thousand dollars or more;

11 b. Sixty percent of the adjusted gross proceeds per quarter for organizations with  
12 total adjusted gross proceeds of one hundred thousand dollars or more but less  
13 than five hundred thousand dollars; and

14 c. Sixty-two percent of the adjusted gross proceeds per quarter for organizations  
15 with total adjusted gross proceeds of less than one hundred thousand dollars.

16 ~~3-4.~~ Cash shorts incurred in games and interest and penalty are classified as expenses.

17 ~~4-5.~~ For a site where bingo is conducted:

18 a. If bingo is the primary game, the monthly rent must be reasonable.

19 b. If bingo is not the primary game, but is conducted with twenty-one, paddlewheels,  
20 or pull tabs, no additional rent is allowed.

21 ~~5-6.~~ For a site where bingo is not the primary game:

22 a. If twenty-one or paddlewheels is conducted, the monthly rent may not exceed  
23 two hundred dollars multiplied by the necessary number of tables based on  
24 criteria prescribed by gaming rule. For each twenty-one table with a wager  
25 greater than five dollars, an additional amount up to one hundred dollars may be  
26 added to the monthly rent. If pull tabs is also conducted involving only a jar bar,  
27 the monthly rent for pull tabs may not exceed an additional one hundred  
28 seventy-five dollars. If pull tabs is conducted involving only a dispensing device  
29 or a jar bar and dispensing device, the monthly rent for pull tabs may not exceed  
30 an additional three hundred twenty-five dollars.

Sixty-eighth  
Legislative Assembly

- 1           b. If twenty-one and paddlewheels are not conducted but pull tabs is conducted  
2           involving either a jar bar or dispensing device, the monthly rent may not exceed  
3           four hundred dollars.
- 4           c. If pull tabs is conducted using one or more electronic pull tab devices, the  
5           monthly rent may not exceed an additional one hundred dollars per machine for  
6           the first five machines in the same venue. For each additional machine in the  
7           same venue beyond five, the monthly rent may not exceed an additional fifty  
8           dollars per machine up to a maximum of one thousand one hundred twenty-five  
9           dollars per month for all electronic pull tab devices in a single venue.

**Current Payback 90%**

**lower payback % by 2%**

	100,000
	<u>90,000</u> 90% payout
	10,000
	<u>1,200</u> 12% tax rate on Adj Gross
	8,800
60% allowable expenses	5,280
40% to Charitable Purposes	3,520

	100,000
	<u>88,000</u> 88% payout
	12,000
	<u>1,440</u> 12% tax rate on Adj Gross
	10,560
	6,336
	4,224

Larger

60% Expenses

58% Expenses

	1,000,000 gross
	<u>900,000</u> 90% prizes
	100,000
	<u>12,000</u> tax
	88,000 adj gross
	52,800 60% expense
	35,200 40% charity
1% of adj gross	1,000 to childrens benefit

	1,000,000 gross
	<u>880,000</u> 88% prizes
	120,000
	<u>14,400</u> tax
	105,600 adj gross
	61,248 58% expense
	44,352 42% charity
	1,056 to childrens benefit

Smaller

	100,000
	<u>90,000</u> 90% payout
	10,000
	<u>1,200</u> 12% tax rate on Adj Gross
	8,800
60% allowable expenses	5,280
40% to Charitable Purposes	3,520

	100,000
	<u>88,000</u> 88% payout
	12,000
	<u>1,440</u> 12% tax rate on Adj Gross
	10,560
62%	6,547
38%	4,013