

2021 SENATE POLITICAL SUBDIVISIONS

SB 2251

2021 SENATE STANDING COMMITTEE MINUTES

Political Subdivisions Committee Sakakawea, State Capitol

SB 2251
1/29/2021

A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-03 and section 53-06.1-11.1 of the North Dakota Century Code, relating to permitting charitable gaming organizations to use net proceeds for a political purpose

Chairman Burckhard opened the hearing on SB 2251 at 8:30 a.m. All members present: Senator Burckhard, Senator Anderson, Senator Lee, Senator Larson, Senator Oban, Senator Kannianen, Senator Oban.

Discussion Topics:

- Permits for charitable gaming organizations
- The use of proceeds from charitable gaming events

[10:17] Senator David Hogue, District 38. Introduced SB 2251 and provided amendment 21.0973.01001, testimony #3789 and #3790.

[10:26] Colette Brown, Executive Director, Gaming Commission, Spirit Lake Tribe. Provided testimony #4236 in opposition.

Senator Kannianen moved to **ADOPT AMENDMENT 21.0973.01001**

Senator Oban seconded

Roll Call Vote

The motion passed 7-0-0

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	Y
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	Y
Senator Diane Larson	Y
Senator Judy Lee	Y
Senator Erin Oban	Y

Senator Lee moved **DO PASS, AS AMENDED.**

Senator Heitkamp seconded the motion

Roll Call Vote

The motion passed 4-3-0

Senator Heitkamp will carry SB 2251

Senators	Vote
Senator Randy A. Burckhard	Y
Senator Howard C. Anderson, Jr.	N
Senator Jason G. Heitkamp	Y
Senator Jordan Kannianen	N
Senator Diane Larson	N
Senator Judy Lee	Y
Senator Erin Oban	Y

Chairman Burckhard closed hearing at 10:30 a.m.

Patricia Lahr, Committee Clerk

January 22, 2021

8/1/20
1/24
1/22

PROPOSED AMENDMENTS TO SENATE BILL NO. 2251

Page 1, line 2, replace "charitable gaming" with "certain political"

Page 1, line 3, after "organizations" insert "that have a permit to conduct raffles"

Page 1, line 3, after "use" insert "the"

Page 2, line 10, after "permit" insert "or a restricted event permit"

Page 2, line 11, after "rules" insert ", unless the organization is a state political party or legislative district party committee, the organization may use the net income from a raffle for a political purpose. For purposes of this subdivision, a public-spirited use includes a political purpose"

Page 2, line 17, after "in" insert "subdivision c, if applicable, and in"

Page 2, line 23, remove the overstrike over "~~Restricted use of money in certain political activities--~~"

Page 2, line 25, after "1." insert "Except as provided in subdivision c of subsection 1 of section 53-06.1-03:

a."

Page 2, line 25, remove the overstrike over "~~A licensed organization or an organization that has a permit may not use money from~~"

Page 2, remove the overstrike over line 26

Page 2, line 27, remove the overstrike over "~~campaign to promote or oppose a person for public office.~~" and insert immediately thereafter:

"b."

Page 2, line 27, remove the overstrike over "~~Except for a use related to~~"

Page 2, remove the overstrike over lines 28 and 29

Page 2, line 30, remove the overstrike over "~~referendums or initiatives.~~" and insert immediately thereafter:

"c."

Page 2, line 30, remove the overstrike over "~~Any funds expended by a licensed organization or an~~"

Page 2, remove the overstrike over line 31

Page 3, remove the overstrike over lines 1 through 5

Page 3, line 6, remove the overstrike over "2."

Page 5, remove line 29

Page 5, line 30, remove the overstrike over "3."

Page 5, line 30, remove "2."

Page 6, line 3, remove the overstrike over "4."

Page 6, line 3, remove "3."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2251: Political Subdivisions Committee (Sen. Burckhard, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2251 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "charitable gaming" with "certain political"

Page 1, line 3, after "organizations" insert "that have a permit to conduct raffles"

Page 1, line 3, after "use" insert "the"

Page 2, line 10, after "permit" insert "or a restricted event permit"

Page 2, line 11, after "rules" insert ", unless the organization is a state political party or legislative district party committee, the organization may use the net income from a raffle for a political purpose. For purposes of this subdivision, a public-spirited use includes a political purpose"

Page 2, line 17, after "in" insert "subdivision c, if applicable, and in"

Page 2, line 23, remove the overstrike over "~~Restricted use of money in certain political activities--~~"

Page 2, line 25, after "1." insert "Except as provided in subdivision c of subsection 1 of section 53-06.1-03:

a."

Page 2, line 25, remove the overstrike over "~~A licensed organization or an organization that has a permit may not use money from~~"

Page 2, remove the overstrike over line 26

Page 2, line 27, remove the overstrike over "~~campaign to promote or oppose a person for public office:~~" and insert immediately thereafter:

"b."

Page 2, line 27, remove the overstrike over "~~Except for a use related to~~"

Page 2, remove the overstrike over lines 28 and 29

Page 2, line 30, remove the overstrike over "~~referendums or initiatives:~~" and insert immediately thereafter:

"c."

Page 2, line 30, remove the overstrike over "~~Any funds expended by a licensed organization or an~~"

Page 2, remove the overstrike over line 31

Page 3, remove the overstrike over lines 1 through 5

Page 3, line 6, remove the overstrike over "2:"

Page 5, remove line 29

Page 5, line 30, remove the overstrike over "3:"

Page 5, line 30, remove "2."

Page 6, line 3, remove the overstrike over "4:"

Page 6, line 3, remove "3."

Renumber accordingly

TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2251

SENATE POLITICAL SUBDIVISIONS COMMITTEE

JANUARY 29, 2021

Good morning Chairman Burckhard and members of the Senate Political Subdivisions Committee. My name is David Hogue. I am a North Dakota state senator representing District 38, which includes northwest Minot and the city of Burlington. I appear before your committee to seek support for Senate Bill 2251.

SB 2251 relates to small organizations within our state that all of you are a member of by virtue of your nomination to serve as a state senator by a political party. I am referring to legislative district party organizations. These organizations are described in Chapter 16.1-03 of the North Dakota Century Code. These local political organizations are not legal entities. They do not incorporate, they do not have a certificate of incorporation, they do not file federal or state tax returns, but they otherwise share many of the characteristics of small not for profit corporations. As an example, they have bylaws and leadership. They are organized by geographical territory.

The major distinction between political organizations and non-profit entities is that political organizations are expressly organized for political purposes. They generally do not have a charitable purpose. Not for profit corporations do have a charitable purpose and that purpose defines their agenda.

1 By state law, these not for profit corporations are permitted to conduct gaming
2 operations to raise revenue as a means to advance their agenda. We have hundreds of
3 small not for profit organizations in this state. They are recognized as entities under
4 state and federal law. Under the federal law of income taxation, a not for profit
5 organization is prohibited from using its revenue or other resources for political
6 purposes. I think that remains sound policy. The original bill would permit all not for
7 profits to use gaming proceeds for political purposes. That is not my intent and was
8 mistake.

9 I have an amendment to the bill that narrows considerably its application. The
10 amendment makes clear the very narrow objective I hope this bill achieves. That
11 objective is to permit political parties and state political parties to use the raffle as a
12 means of political fundraising and to permit them to use the raffle proceeds for political
13 purposes. The "Christmas tree" version of the amendment is attached to my testimony.

14 Chairman Burckhard and members of the Committee, I'm happy to stand
15 for your questions.

Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2251

Introduced by

Senators Hogue, D. Larsen, Schaible

Representatives B. Koppelman, Porter, D. Ruby

1 A BILL for an Act to amend and reenact subsection 1 of section 53-06.1-03 and
2 section 53-06.1-11.1 of the North Dakota Century Code, relating to permitting ~~charitable-~~
3 ~~gaming~~certain political organizations that have a permit to conduct raffles to use the net
4 proceeds for a political purpose.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 53-06.1-03 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. Except as authorized by the attorney general, an organization that has its license
9 suspended or revoked, or has relinquished or not renewed its license and not
10 disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more
11 closely related organizations may have a license or permit at one time. A college or
12 university fraternity, sorority, or club is not closely related to an educational
13 organization. An organization shall apply for a permit as follows:
- 14 a. An organization recognized as a public-spirited organization by the governing
15 body of a city or county may apply for permits. A local permit may allow the
16 organization to conduct only raffles, bingo, or sports pools. A restricted event
17 permit may allow the organization to conduct only raffles, bingo, sports pools,
18 paddlewheels, twenty-one, and poker. The organization or closely related
19 organizations as a whole may only award a primary prize that does not exceed
20 eight thousand dollars and total prizes of all games do not exceed forty thousand
21 dollars per year. These maximum prize amounts do not apply to raffles conducted
22 under chapter 20.1-08. The determination of what is a "public-spirited
23 organization" is within the sole discretion of the governing body. An organization
24 shall disclose on the application its intended use of the net income from the

1 gaming activity. A governing body may issue a permit for games to be held at
2 designated times and places.

3 b. An organization shall apply to the governing body of the city or county in which
4 the proposed site is located. Application must be made on a form prescribed by
5 the attorney general. Approval may be granted at the discretion of the governing
6 body. A governing body may establish a fee not to exceed twenty-five dollars for
7 each permit. A permit must be on a fiscal year basis from July first to June
8 thirtieth or on a calendar-year basis.

9 c. ~~Except for the restriction of subsection 1 of section 53-06.1-11.1, an~~
10 organization that has a local permit or a restricted event permit may use the net
11 income from the gaming activity for any purpose that does not violate this chapter
12 or gaming rules, except if such an organization is a state political party or
13 legislative district party committee, the organization may use the net income from
14 a raffle for a political purpose. For purposes of this subdivision, a public-spirited
15 use includes a political purpose.

16 d. An organization that has a restricted event permit is restricted to one event per
17 year and:

- 18 (1) May not pay remuneration to employees for personal services;
19 (2) Shall use chips as wagers;
20 (3) Shall redeem a player's chips for merchandise prizes or cash;
21 (4) Shall disburse net income to eligible uses referenced by ~~subsection 2 of~~
22 subdivision c, if applicable, and in section 53-06.1-11.1; and
23 (5) Shall file a report prescribed by the attorney general with the governing
24 body and attorney general.

25 **SECTION 2. AMENDMENT.** Section 53-06.1-11.1 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **53-06.1-11.1. Restricted use of money in certain political activities - Eligible uses of**
28 **net proceeds.**

- 29 1. Except as provided in subdivision c of subsection 1 of section 53-06.1-03:

1 a. A licensed organization or an organization that has a permit may not use money
2 from any source for placing an initiated or referred measure on a ballot or for a
3 political campaign to promote or oppose a person for public office.

4 b. Except for a use related to an organization's primary purpose, a licensed
5 organization or organization that has a permit may not use net proceeds to
6 influence legislation or promote or oppose referendums or initiatives.

7 c. Any funds expended by a licensed organization or an organization that has a
8 permit to promote or oppose an initiated or referred measure that is on the ballot
9 or for any activities of a lobbyist under section 54-05.1-02, that are not
10 compensation or expenses paid to a lobbyist, and that are not required to be
11 reported under section 54-05.1-03 must be reported to the attorney general as
12 prescribed by the attorney general. A violation of this subsection subjects an
13 organization to a suspension of its license or permit for up to one year._

14 2. A licensed organization or an organization that has a restricted event permit shall
15 disburse net proceeds within the period prescribed by rule and for only these
16 educational, charitable, patriotic, fraternal, religious, or public-spirited uses:

17 a. Uses for stimulating and promoting state and community-based economic
18 development programs within the state which improve the quality of life of
19 community residents.

20 b. Uses for developing, promoting, and supporting tourism within a city, county, or
21 the state.

22 c. Uses benefiting an indefinite number of persons by bringing them under the
23 influence of education, cultural programs, or religion which include disbursements
24 to provide:

25 (1) Scholarships for students, if the disbursement is deposited in a scholarship
26 fund for defraying the cost of education to students and the scholarships are
27 awarded through an open and fair selection process.

28 (2) Supplementary assistance to a public or private nonprofit educational
29 institution registered with or accredited by any state.

30 (3) Assistance to libraries and museums.

31 (4) Assistance for the performing arts and humanities.

- 1 (5) Preservation of cultural heritage.
- 2 (6) Youth community, social welfare, and athletic activities.
- 3 (7) Adult amateur athletic activities within the state, including team uniforms
- 4 and equipment.
- 5 (8) Maintenance of places of public worship or support of a body of
- 6 communicants, gathered in common membership for mutual support and
- 7 edification in piety, worship, or religious observances.
- 8 (9) Scientific research.
- 9 d. Uses benefiting an indefinite number of persons by relieving them of disease,
- 10 suffering, or constraint which include disbursements to provide:
- 11 (1) Assistance to an individual or family suffering from poverty or
- 12 homelessness.
- 13 (2) Encouragement and enhancement of the active participation of the elderly in
- 14 our society.
- 15 (3) Services to the abused.
- 16 (4) Services to persons with an addicted behavior toward alcohol, gambling, or
- 17 drugs.
- 18 (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.
- 19 (6) Relief for the sick, diseased, and terminally ill and their physical well-being.
- 20 (7) Funds for emergency relief and volunteer services.
- 21 (8) Funds to nonprofit nursing homes, nonprofit day care centers, and nonprofit
- 22 medical facilities.
- 23 (9) Social services and education programs aimed at aiding emotionally and
- 24 physically distressed, handicapped, elderly, and underprivileged persons.
- 25 (10) Funds for crime prevention, fire protection and prevention, and public safety.
- 26 (11) Funds to relieve, improve, and advance the physical and mental conditions,
- 27 care and medical treatment, and health and welfare of injured or disabled
- 28 veterans.
- 29 e. Uses that perpetuate the memory and history of the dead.

- 1 f. Uses increasing comprehension of and devotion to the principles upon which the
- 2 nation was founded, including disbursements to aid in teaching the principles of
- 3 liberty, truth, justice, and equality. However, beauty pageants do not qualify.
- 4 g. The erection or maintenance of public buildings, facilities, utilities, or waterworks.
- 5 h. Uses lessening the burden of government which include disbursements to an
- 6 entity that is normally funded by a city, county, state, or United States government
- 7 and disbursements directly to a government entity or its agency.
- 8 i. Uses benefiting a definite number of persons who are the victims of loss of home
- 9 or household possessions through explosion, fire, flood, or storm and the loss is
- 10 not covered by insurance.
- 11 j. Uses benefiting a definite number of persons suffering from a seriously disabling
- 12 disease or injury causing severe loss of income or incurring extraordinary
- 13 medical expense which is not covered by insurance.
- 14 k. Uses, for community service projects, by chambers of commerce exempt from
- 15 federal income tax under section 501(c)(6) of the Internal Revenue Code. A
- 16 project qualifies if it develops or promotes public services, including education,
- 17 housing, transportation, recreation, crime prevention, fire protection and
- 18 prevention, safety, tourism, and health. Uses that directly benefit a chamber of
- 19 commerce do not qualify.
- 20 l. Uses for or of benefit to efforts in support of the health, comfort, or well-being of
- 21 the community which include disbursements to provide:
- 22 (1) Funds for adult bands, including drum and bugle corps.
- 23 (2) Funds for trade shows and conventions conducted in this state.
- 24 (3) Funds for nonprofit organizations that operate a humane society, zoo, or fish
- 25 or wildlife reproduction and habitat enhancement program.
- 26 (4) Funds for public transportation, community celebration, and recreation.
- 27 (5) Funds for preservation and cleanup of the environment.
- 28 m. To the extent net proceeds are used toward the primary purpose of a charitable,
- 29 educational, religious, public safety, or public-spirited organization, or are used
- 30 for a veterans or public cemetery by a veterans organization, that has obtained a
- 31 final determination from the internal revenue service as qualifying for exemption

1 from federal income tax under section 501(c)(3) or 501(c)(19) of the Internal
2 Revenue Code, the organization may establish a special trust fund or foundation
3 as a contingency for funding or maintaining the organization's future program
4 services should the organization discontinue conducting games or dissolve.

5 n. Uses for a fundraising activity unrelated to an organization's primary purpose
6 provided that the gross revenue from the activity is disbursed to uses prescribed
7 by this subsection.

8 ~~e. Uses for a political purpose.~~

9 ~~3.2.~~ With the exception of a veterans organization, the uses in subsection 21 do not
10 include the erection, acquisition, improvement, maintenance, or repair of real or
11 personal property owned or leased by an organization unless it is used exclusively for
12 an eligible use.

13 ~~4.3.~~ A licensed organization or recipient of net proceeds may not use net proceeds for
14 administrative or operating expenses involving the conduct of games.

Good morning, Chairman Burckhard and the members of the committee

My name is Collette Brown from Warwick, representing the Spirit Lake Tribe. My professional title in the gaming industry is, Gaming Commission Executive Director of the Gaming Regulations and Compliance Department, our casino is located seven miles south of Devils Lake.

I come before you today as an opponent of House Bill 2251:

This bill does not identify what a political purpose means:

Political purpose means to expressly advocate the nomination, election, or defeat of a candidate or to expressly advocate the passage or defeat of a ballot issue.

Political purpose means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.

I'm not sure if any of you are aware of house bill 1162 that expands raffles to be conducted online, in all reality that would be internet gaming and is currently not allowed. State law prohibits even a licensed organization from conducting online gaming, or hosting a raffle online. The reason I bring this up is because I don't know if there is correlation between that bill and the Christmas tree version of this bill. However the intention is to get more money from the estimated 1.6 billion in betting that has occurred from making bets with the charitable gaming.

I strongly request a do not pass on house bill 2251.

2021 HOUSE JUDICIARY

SB 2251

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary

Room JW327B, State Capitol

SB 2251
3/17/2021

Relating to permitting certain political organizations that have a permit to conduct raffles to use the net proceeds for a political purpose.

Chairman Klemin called the hearing at 10:30 AM

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

Discussion Topics:

- Fund raisers
- Political raffles

Senator Hogue: Introduced the bill. Testimony #9625.

Vice Chairman Karls closed the hearing at 10:47.

DeLores D. Shimek
Committee Clerk

1 **TESTIMONY OF DAVID HOGUE IN SUPPORT OF SB 2251**

2 **HOUSE JUDICIARY COMMITTEE**

3 **MARCH 17, 2021**

4

5 Good morning Chairman Klemin and members of the House Judiciary
6 Committee. My name is David Hogue. I am a North Dakota state senator representing
7 District 38, which includes northwest Minot and the city of Burlington. I appear before
8 your committee to seek support for Senate Bill 2251.

9 SB 2251 relates to small organizations within our state that all of you are a
10 member of by virtue of your nomination to serve as a state representative by a political
11 party. I am referring to legislative district party organizations. These organizations are
12 described in Chapter 16.1-03 of the North Dakota Century Code. These local political
13 organizations are not legal entities. They do not incorporate, they do not have a
14 certificate of incorporation, they do not file federal or state tax returns, but they
15 otherwise share many of the characteristics of small not for profit corporations. As an
16 example, they have bylaws and leadership. They are organized by geographical
17 territory.

18 The major distinction between political organizations and non-profit entities is that
19 political organizations are expressly organized for political purposes. They generally do
20 not have a charitable purpose. Not for profit corporations do have a charitable purpose
21 and that purpose defines their agenda.

1 By state law, these not for profit corporations are permitted to conduct gaming
2 operations to raise revenue as a means to advance their agenda. We have hundreds of
3 small not for profit organizations in this state. They are recognized as entities under
4 state and federal law. Under the federal law of income taxation, a not for profit
5 organization is prohibited from using its revenue or other resources for political
6 purposes. I think that remains sound policy.

7 Our local political districts are not not for profit entities so they do not have a
8 charitable mission. Their mission is to help advance candidates and principles that their
9 members share. When they hold a raffle as a fundraiser, they should be able to use
10 those proceeds for a political purpose. SB 2251 authorizes that use of proceeds for a
11 political purpose.

12 Chairman Klemin and members of the Committee, I'm happy to stand for
13 your questions.

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary

Room JW327B, State Capitol

SB 2251
3/17/2021

Relating to permitting certain political organizations that have a permit to conduct raffles to use the net proceeds for a political purpose.

Chairman Klemin called the meeting to order at 3:00 PM.

Present: Representatives Klemin, Karls, Becker, Buffalo, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter. Absent: Christensen

Discussion Topics:

- Raffle process
- Charitable organizations

Rep. Magrum: Do Pass Motion

Rep. T. Jones: Seconded

Roll call vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	N
Representative Rick Becker	Y
Representative Ruth Buffalo	N
Representative Cole Christensen	A
Representative Claire Cory	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Steve Vetter	Y

11-2-1 Carrier: Rep. Cory

Stopped 3:02 PM

DeLores D. Shimek
Committee Clerk

REPORT OF STANDING COMMITTEE

SB 2251, as engrossed: Judiciary Committee (Rep. Klemin, Chairman) recommends **DO PASS** (11 YEAS, 2 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2251 was placed on the Fourteenth order on the calendar.