

2023 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1296

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1296
2/7/2023

Relating to approval for a gaming site authorization.

Chairman Louser called to order 8:14 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.
Member absent: Representative Kasper

Discussion Topics:

- Chosen organization
- Local control
- City authority
- Directing proceeds

In favor:

Rem Jim Grueneich, District 28 Ellendale, proposed amendment #19581
Bill Kalanek, Representing Charitable Gaming Association of ND, #19421
Brent Brooks, Gaming Manager, Citizen Assistance Programs, #19380
Scott Meske, Representing ND Gaming Alliance, #19438

Opposed:

Stephanie Engebretson, Deputy Director and attorney, ND League of Cities, #19493
Terry Effertz, Representing the City of Fargo (no written testimony)
Amy Krueger, Executive Director, Williston Convention and Visitors Bureau, #19583

Neutral:

Hunter Berg, Foundation at Williston State College (no written testimony)

Additional written testimony:

Bill Tyrrell, Grand Forks bar owner, #19083
Janelle Mitzel, Gaming Director, Development Homes, Inc. #19151
Don Santer, Representing ND Association for the Disabled (NDAD), #19160
Kory Peterson, Mayor of Horace, ND, #19170
Howard Klug, Willison Board of City Commissioners, #19376

Vice Chairman Ostlie adjourned the meeting 9:09 AM

Diane Lillis, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Room JW327C, State Capitol

HB 1296
2/7/2023

Relating to approval for a gaming site authorization.

Chairman Louser called to order 9:50 AM

Members Present: Chairman Louser, Vice Chairman Ostlie, Representatives Boschee, Christy, Dakane, Johnson, Koppelman, Ruby, Schauer, Thomas, Tveit, Wagner, Warrey.
Member absent: Representative Kasper

Discussion Topics:

- Small charities
- Perception of gaming

Representative Koppelman proposed amendment 23.0693.01002 (#19581) referenced from previous meeting at 8:19 AM plus on Page 2 strike lines 7 and 8 and on line 11 strike “only”, and lines 12 “strike statute or” and add “such an ordinance shall not place a condition on how charitable funds may be used” and language changes on page 3.

Representative Koppelman moved to adopt amendment LC #23.0693.01003.
Representative Warrey seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	AB
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion passes 13-0-1

Representative Koppelman moves a do pass as amended.

Representative Dakane seconded.

Roll call vote:

Representatives	Vote
Representative Scott Louser	Y
Representative Mitch Ostlie	Y
Representative Josh Boschee	Y
Representative Josh Christy	Y
Representative Hamida Dakane	Y
Representative Jorin Johnson	Y
Representative Jim Kasper	AB
Representative Ben Koppelman	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Paul J. Thomas	Y
Representative Bill Tveit	Y
Representative Scott Wagner	Y
Representative Jonathan Warrey	Y

Motion 13-0-1

Representative Koppelman will carry the bill.

Chairman Louser adjourned the meeting 10:11 AM

Diane Lillis, Committee Clerk

February 7, 2023

8-7-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1296

Page 1, line 1, after "53-06.1-03" insert "and subsection 2 of section 53-06.1-11"

Page 1, line 2, after "authorization" insert "and modification of allowable expense limits"

Page 2, remove lines 3 and 4

Page 2, line 5, replace "(6)" with "(5)"

Page 2, line 7, replace "(7)" with "(6)"

Page 2, line 7, remove "only"

Page 2, line 8, replace "an existing" with "a"

Page 2, line 8, remove "statute or"

Page 2, line 8, after the underscored period insert "An ordinance that places a condition on how charitable funds may be used shall have no effect on the approval of a site authorization."

Page 2, line 18,

"SECTION 2. AMENDMENT. Subsection 2 of section 53-06.1-11 of the North Dakota Century Code is amended and reenacted as follows:

2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable expense limit is sixty:
 - a. Sixty percent of the adjusted gross proceeds per quarter if the total adjusted gross proceeds for the quarter are more than one hundred thousand dollars; and
 - b. Sixty-two percent of the adjusted gross proceeds per quarter if the total adjusted gross proceeds for the quarter are equal to or less than one hundred thousand dollars.

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1296: Industry, Business and Labor Committee (Rep. Louser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1296 was placed on the Sixth order on the calendar.

Page 1, line 1, after "53-06.1-03" insert "and subsection 2 of section 53-06.1-11"

Page 1, line 2, after "authorization" insert "and modification of allowable expense limits"

Page 2, remove lines 3 and 4

Page 2, line 5, replace "(6)" with "(5)"

Page 2, line 7, replace "(7)" with "(6)"

Page 2, line 7, remove "only"

Page 2, line 8, replace "an existing" with "a"

Page 2, line 8, remove "statute or"

Page 2, line 8, after the underscored period insert "An ordinance that places a condition on how charitable funds may be used shall have no effect on the approval of a site authorization."

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 - b. Sixty-two percent of the adjusted gross proceeds per quarter if the total adjusted gross proceeds for the quarter are equal to or less than one hundred thousand dollars."

Renumber accordingly

2023 SENATE JUDICIARY

HB 1296

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee Peace Garden Room, State Capitol

HB 1296
3/27/2023

A bill relating to approval for a gaming site authorization and modification of allowable expense limits.

10:50 AM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Braunberger and Paulson were present.

Discussion Topics:

- Charitable gaming
- Charity Selection
- Authorization process

10:51 Representative Grueneich introduced the bill.

10:57 AM Rudy Martinson, Lobbyist, North Dakota Hospitality Association, spoke in favor of the bill.

10:59 AM Brent Brooks, Gaming Manager, Citizens Assistance Programs testified in favor of the bill. #26684

11:02 Michael McMenemy spoke in favor of the bill.

11:03 Scott Meske, North Dakota Gaming Alliance, spoke in favor of the bill. #26685

11:11 AM William Kalanek, Charitable Gaming Association of North Dakota, testified in favor of the bill. #26635

11:15 AM Stephanie Dassinger Engebretson, Lobbyist, North Dakota League of Cities, testified opposed to the bill. #26694

11:26 AM Howard Klug, Mayor, Williston, spoke opposed to the bill.

11:34 AM Randall Meidinger, City Council Member, City of Linton, spoke opposed to the bill.

11:37 AM Hunter Berg, Executive Director, Williston State College Foundation, testified opposed to the bill. #26615

11:39 AM Amy Krueger, Executive Director, Williston Convention and Visitors Bureau, testified opposed to the bill. #26628

11:43 AM Deb McDaniel, Director, Gaming Division, North Dakota Attorney General's Office, testified neutral on the bill. #26654

Additional written testimony:

Kraig Rygg #26623

Scott Strom #26622

Don Santer #26620

Dwaine Heinrich #26616

George Zeller #26606

William Tyrrell #26593

Janelle Mitzel #26582

Edgar Boyd #26990

11:46 AM Chairman Larson closed the public hearing.

Rick Schuchard, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Peace Garden Room, State Capitol

HB 1296
3/28/2023

A bill relating to approval for a gaming site authorization and modification of allowable expense limits.

5:27 PM Chairman Larson opened the meeting.

Chairman Larson and Senators Myrdal, Luick, Estenson, Sickler, Paulson and Braunberger were present.

Discussion Topics:

- Charity selections
- Committee action

5:27 PM The committee has discussion on the bill.

5:38 PM Senator Luick moved to Do Not Pass the bill.
Motion seconded by Senator Estenson.

5:39 PM Roll call vote was taken.

Senators	Vote
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.

Senator Luick will carry the bill.

This bill does not affect workforce development.

5:39 PM Chairman Larson closed the meeting

Rick Schuchard, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1296, as engrossed: Judiciary Committee (Sen. Larson, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1296 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1296

House Industry, Business & Labor Committee, Chairman Louser
Testimony in Support of HB 1296
William Tyrrell, Proprietor, Rumors Sports Bar & Grill, Grand Forks

Chairman Louser & Committee Members:

Thank you for allowing me the opportunity to express my concerns regarding a changed gaming site authorization process with the cities of ND.

Contrary to the existing site authorization approval practice for over thirty years there was an email circulated within the League of Cities with comments from the Office of AG stating, "bar owners do not pick who gets to conduct gaming in their site, the cities and counties determine who may go into a site." Also stated was, "**After** a site is approved by the city or county **then it is required that an approved organization negotiate a rental agreement with the bar owner/lessor.** If a bar owner/lessor does not agree to have the gaming organization that the city approves in their site, then the **bar owner does not have to have gaming.**" As a member of the hospitality industry I respectfully disagree with this process.

For over 20 years I have been involved in gaming in ND, and have been a bar owner for the past eight in Grand Forks. I have always worked with one organization, who in addition to having the site authorization at my location, offers the unique service of off-track betting through the ND Racing Commission. We have invested thousands of dollars in equipment and setup in my bar for gaming services, and have built up a substantial clientele for the gaming offered at my bar. While this organization is in good standing within the community, I do not believe that the city should have the right or ability to not grant the gaming site authorization to this organization for my establishment, without good cause. Licensing for a gaming site should be similar to a city granting business or building permits. As a private business I am shocked to think they local municipality can solely decide who I **have** to do business with.

It is unreasonable to believe that the city has the business knowledge of what organization is best for my business. **I** determine what organization has the ability and resources to provide the desired game types for my establishment, complimentary customer service, staffing for all operational hours, up-to-date equipment, has the capability to work collaboratively with my business model and ultimately who is trustworthy to represent part of my business. I should not have to prove to the local governing body what is best for my business, and if I disagree with the organizational selection then my business will suffer a major financial hit without gaming.

- How could I possibly negotiate a contract with a charity that has already been chosen for me? A take-it-or-leave-it approach by a governing body removes any bargaining power I have for gaming rental fees and gaming services offered.
- How could a charity make long-term financial commitments for specific locational gaming equipment knowing that within one year the city may determine a competing organization would be better for my business?
- Based on this supposed new process ND veteran and fraternal organizations will not necessarily be able to operate gaming within their own establishments as they may not be deemed the "best for their community."
- Cities and counties have a conflict of interest in this matter. Government-related entities raise money through charitable gaming and are granting authorizations to their favorite organizations. CVBs, park boards, and economic development non-profits certainly benefit city government and for-profit corporations; if cities are the sole decision-maker you will see charitable gaming become an extension of government.

This process will become very political if not clarified. Cities should not pick winners, losers and their favorites. This is clearly interference of government in the private sector. Thank you for your consideration.

Sincerely,

William Tyrrell
(701) 740-5278

HB 1296

House Industry, Business & Labor Committee

Chairman Louser

Submitted by Janelle Mitzel, Development Homes, Inc.

February 7, 2023

Chairman Louser & Committee members, thank you for the opportunity to speak in favor of HB 1296, addressing the Charitable Gaming Site Authorization process. The language in the proposed bill clarifies the role of the local governing entities in relation to gaming licensing. For over 30 years a process has been followed, and recently has become problematic with a new interpretation of the law, essentially removing the private sector from the process. We attempted to rectify this through the gaming regulations, however, the Office of AG and Gaming Director Deb McDaniel advised this needed legislative action.

- For the past 30+ years the practical application for approval for site authorizations in local municipalities was to allow for local establishments to negotiate contracts with charities, then approval was granted by the local governing entity.
- Bar owners base their contracts on gaming services provided by the organization, reputation and reliability of the organization, different game types offered and hours of operation available by the organization, the relationship between the owner and organization, and the ability of the organization to adapt to customer and business needs of the site.
- Cities/counties should not determine what organization shall operate in a private sector establishment, without the consent of the private owner. This is interference by government into the private sector.
- If governing bodies solely determine which organizations operate at all locations in the jurisdiction, the fraternal and veteran's clubs may not be selected to operate gaming within their own establishments.
- NDCC states an eligible organization shall first secure approval for a site authorization from the governing body, then apply for a gaming license with the Office of AG. Approval may be granted at the discretion of the governing body. *It does not indicate the local governing body can determine winners and losers.*
- 53-06.1-03. Permits, site authorization, and licenses. #2
 - a. **A governing body may not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county.**

This is NDCC. Governing bodies cannot interfere with how net proceeds are used and cannot require organizations to donate to particular programs or services as a condition of receiving a site authorization.

This legislation is attempting to match the law with the practice. Thank you for your consideration of a **Do Pass** on HB 1296.

Janelle Mitzel, Development Homes, Inc. Gaming Director



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

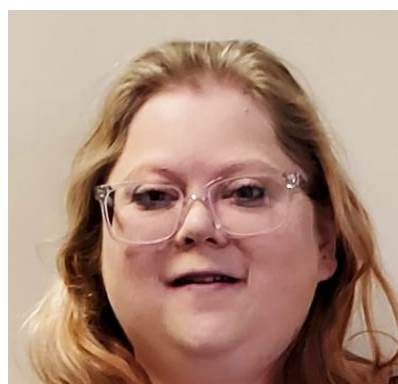
How NDAD helped: Respite care due to behavioral health needs.



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*

HB 1296
House Industry Business and Labor Committee
Submitted by Don Santer for NDAD
02/07/2023

Chairman Louser and Committee members, thank you for the opportunity to provide information regarding the charitable gaming industry of North Dakota. I am submitting testimony in support of House Bill 1296.

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 its services with charitable gaming funds. NDAD has built and relies on the long-term relationships and mutual cooperation it develops with the bar owners it leases space from.

NDAD supports this bill because its purpose is to clean up existing language and clarify the process of obtaining a site authorization for a charitable gaming site. The accepted practice for organizations has been to obtain a rental agreement with a bar owner first and then submit the proper documentation to the local governing body for approval. For some reason, a few jurisdictions have recently reinterpreted the existing language to become a site selection entity instead of the approval entity. In effect, allowing a city to install charities of their own choosing into any location desired, even against the wishes of a bar owner. In other words, forcing a site owner to accept an organization other than the one they had a rental agreement with.

Cities should not have the power to impose or compel a bar to accept a charity they do not want when there are other eligible charities they would prefer to work with.

NDAD has been operating gaming with some of our bar owners for more than 20 years. We are concerned if more cities were to adopt this new interpretation, we could be ousted from sites we have spent years developing; including a loss of tens of thousands of dollars invested in required security equipment, furniture, surveillance equipment, and expensive gaming equipment at a site.

North Dakota has developed a highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. This bill will clarify the wording in law to reflect what has historically been accepted practice. NDAD respectfully asks you to consider a **Do Pass** recommendation on **HB 1296**.

Thank you, Mr. Chairman and members of the committee, for your time and thoughtful consideration. Please feel free to contact me with any additional questions you may have.

Respectfully,

Don Santer, NDAD
dsanter@ndad.org

Chairman Louser & Committee Members:

My name is Kory Peterson and I am the mayor of Horace North Dakota. Thank you for the opportunity to submit my testimony in opposition of House Bill 1296.

Horace has a local Lions Club that provides gaming operations in our only bar/restaurant in town. This activity began in 2016. This Lions Club has a policy to spend most of the proceeds locally to help different groups and organizations with projects around town. The club has

- Provided eye screening services for all children in the elementary school. The county and school system do not provide this service and children are identified every year in need of glasses, which the Lion's Club will also provide if the families cannot afford to
- Helped the new Horace middle school and high school get their school Booster programs off the ground
- Donated to the local Cub, Girl, and Boy Scout troops
- Every spring, purchased high school senior banners to be displayed on the primary highway through town
- Assisted a host of other local activities

While I understand the intent of this bill, I see unintended consequences coming from the passage of this bill in its current form. Some of the concerns:

1. The city has the duty to protect its citizens and businesses from predatory practices. With the passage of this bill, the city would have very limited authority to vet a gaming operation to make sure they are credible and in good standing with the State of North Dakota.
2. A non-local charitable organization might not distribute their proceeds in the local community. This would be a great loss to youth of the community and the community as a whole. The Horace Lions Club distributed over \$147,000 to Horace organizations just in 2022.
3. In Horace, the Lions Club tries to hire staff for their gaming operations from the local area, providing job opportunities to the local population. A non-local charity might hire employees from their town rather than hiring from the locality where the gaming is taking place.

I believe the city should have some say in what gaming entities come to town, the same way a city has building codes, ordinances, and policies that developers and builders need to follow.

This bill, if passed, has the potential to see smaller gaming charities in smaller towns be replaced by larger gaming entities that may not keep the proceeds locally. The fallout will be less money to assist with local organizations and over time, some of these good organizations will cease to exist because of lack of funding. This hurts the smaller towns with their ability to work on local projects.

Thank you for your consideration in this matter.

Kory Peterson

Mayor of Horace



February 6, 2023

Sixty-eighth
Legislative Assembly
of North Dakota

Re: House Bill No. 1296
53-06.1-03 Approval for Gaming Site Authorization

Chairman Louser and Committee Members:

I am submitting written testimony opposing HB1296. This bill would require cities to approve gaming operators without any consideration of what operators would be best for our cities.

In Williston our charities support a wide range of community projects. Often when the request is for a large donation, that pledge is made over a number of years. For example, the Williston Community Pool asked a charity for \$250,000.00 and it was approved with yearly payments. If our charities have no assurance that they will have gaming sites in future years, there is no possibility of them approving large requests since they would have no ability to fund those requests.

Allowing cities to have approval of sites goes hand in hand with the city's ability to issue liquor licenses and a wide variety of other ordinances that regulate the liquor industry.

Right now, our charities are run by local boards that understand the needs of our communities. If we have to approve any charity, there is no assurance that an outside charity would have the best interests of our community when considering requests.

I would appreciate a no vote on HB1296.

Sincerely

A handwritten signature in blue ink that reads "Howard Klug". The signature is fluid and cursive, with the first name being more prominent.

Howard Klug, President
Board of City Commissioners

House Industry, Business & Labor Committee
Chairman Louser
In Support of HB 1296

February 7th, 2023

Submitted by Brent Brooks, Citizen Assistance Programs (CAP)

Please support HB 1296 addressing the site authorization process and the role of cities. This is my experience as a gaming manager for a charitable organization.

In the spring of 2020, I was asked to contact a bar owner to possibly provide gaming services to his bar in Rugby, ND. The bar establishment was disgruntled with the existing charity due to the limited services they were providing, and inadequate funding for bar assist banks. This was causing an undue hardship for the bar owner. Which led to a contractual agreement between CAP and the bar owner for CAP to begin conducting games of chance when the existing contract expired on June 30th, 2020 of that year.

As the usual practice, I submitted the site authorization, rental agreement, and corresponding paperwork to the city of Rugby. Days later I was informed a site authorization had already been granted and approved to the existing organization for the period specified for my new contract. After discussions with the bar owner, it was determined that the only contract that existed was between CAP, my organization, and the bar owner; no contract for the other organization had been presented or signed.

As this was all a surprise to the bar owner, we both visited City Hall to address this issue. How could the city issue a site authorization without the approval of the bar owner, and to an organization without a contract?

After researching the situation, legal counsel for Rugby was instructed by the Office of AG that the decision was to be made by the city. The city had the sole authority to decide who could solely operate gaming within a private establishment, regardless of any contractual obligations of the bar owner. As the gaming manager of CAP, I was informed by the city council that my organization would not be granted a site authorization. The bar owner was notified by the city council he would have to enter into a contract with the current charitable operator or would not be able to offer gaming at his establishment for the upcoming fiscal year.

I tried clarifying this practice with the Office of Attorney General and was told directly that “the bar owner does not have any choice as to who will operate gaming in their private establishment; cities have the sole authority to determine who will operate in their locations.” This has not been the practice nor should be in the future.

HB 1296
House Industry Business and Labor Committee
Submitted by CGAND
February 7, 2023
Bill Kalanek, Lobbyist

Chairman Louser and members of the committee, my name is Bill Kalanek and I am here today on behalf of the Charitable Gaming Association of North Dakota. I stand in support of House Bill 1296.

CGAND as its referred to is a trade association for charities operating gaming throughout ND.

CGAND supports the proposed language in the bill to clarify the role of the local governing entities in relation to gaming site licensing. For over 40 years the practice for organizations has been to obtain a rental agreement with a bar owner first, and then submit all the proper documentation to the local governing body. This process has recently become problematic with a new interpretation of the law, essentially removing the private sector from the process. CGAND attempted to rectify this dilemma through the gaming regulations process but was advised by Deb McDaniel, director of the gaming division from the office of attorney general, that legislative action was needed first as the regulations were based on NDCC language.

Here is an example to understand the ramifications of this new interpretation. It allows a local municipality to force a bar owner to utilize the local CVB, college, or pet organization, regardless of the bar owners' preferences for otherwise eligible organizations.

Bar owners select gaming organizations based on reputation and reliability of the organization, their interest and support of the organizations mission, the quality and selection of game types offered, and hours of operation the charity can provide. The relationship is maintained between the owner and organization by the ability of the organization to adapt to customer and business needs of the site.

The gaming organization invests many thousands of dollars in gaming equipment, surveillance systems, security devices, and employee development. Gaming organizations consider these long-term investments and are allowed to sign up to 5-year rental agreements with their bar owners. Charities are required to get annual site authorizations, but those re-authorizations were intended to verify a charity is still in good standing, not give the governing body a chance to replace them with a pet organization.

This cleanup language prevents very concerning and unintended consequences like the following:

- Cities will remove charities from successful gaming sites in order to claim the site for their preferred organization no matter what the bar owner wishes or how long they have had a relationship with the existing eligible charity.
- Increased civil litigation due to unfulfilled contract requirements and defaults between the charity and bar owner.
- Fraternal and veterans' groups forced to give up their own bar as a gaming site to a different charity if the city so decides.
- Bar owners forced to accept a charity selected by the city or have no gaming at all.
- When the city approves a site authorization before a rental agreement is signed, the charity has no real reason to pay any rent at all. The bar owner has no ability to negotiate legal rent and must accept the charity or go without gaming.

CGAND does not support removing a city's ability to control gaming in their jurisdiction or determine what charities are eligible. Many cities have existing ordinances or regulations outlining eligibility for gaming organizations. This bill clarifies the eligible charity must have a lease (rental agreement) with the bar owner first. The original intent was to give the city **approval** authority, not **selection** authority. If a charity is eligible to operate in a jurisdiction, the city should not be able to select what organization must operate in a private sector establishment, without the consent of the private owner. This is government interference with the private business sector.

For over 40 years North Dakota has developed a responsible and highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. This bill is designed to clarify the wording in statute to reflect what has historically been accepted in practice. That is why CGAND is asking you to consider a **Do Pass** recommendation on **HB 1296**.

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

Proposed Amendment

Strike language on Page 2 lines 3 through 4 and renumber accordingly.

~~(5) May not deny approval of a site authorization to a licensed eligible organization;~~



Benefiting North Dakota Communities through Charitable Gaming

February 7, 2023

Testimony in SUPPORT of House Bill 1296

Chairman Louser and Members of the Industry, Business and Labor Committee:

I'm Scott Meske, representing the North Dakota Gaming Alliance and on behalf of the 152 Members of the NDGA, we offer our support for House Bill 1296.

ND Gaming Alliance represents all facets of the charitable gaming industry. Veteran and Fraternal Organizations, Charities, Hospitality, Manufacturers, and Distributors. Since the laws governing charitable gaming were created, charities and the hospitality industry have worked together under a microscope. The licensed organization must petition the local governing body WITH the proposed gaming site. It is a joint effort, ultimately with the goal of providing valuable charitable donations within that community.

There have been instances however when the local authority denies the local license to the gaming site and the selected charity. While the local political subdivision does have the authority to restrict gaming within its jurisdiction, House Bill 1296 merely states that the local authority cannot deny the gaming site and charity's application without cause.

This prevents the local governing body from picking and choosing which charity will be approved for charitable gaming in a given establishment. To repeat, it is the gaming site that makes the determination which charity can operate in their establishment.

We strongly support the process of selecting charitable gaming sites as it stands today. And we are ardent supporters of the local governing body's ability to make the final determination *where* charitable gaming should be conducted in their own communities (See HB 1484).

However in terms of which charity should operate in those sites, we believe that should be left up to that establishment's owner. When charitable gaming was authorized by the State, the



Benefiting North Dakota Communities through Charitable Gaming

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.

The North Dakota Gaming Alliance respectfully asks that HB 1296 be given a DO PASS recommendation from this Committee.

Thank you.

February 7, 2023
House Industry, Business and Labor Committee
HB 1296
Rep. Scott Louser, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities, in opposition of HB 1296. I am the deputy director and attorney for the North Dakota League of Cities.

There are a couple of questions/concerns about the wording of the bill:

It is the League's understanding that an amendment will be introduced to remove subsection 2(b)(5) on lines 3-4 of page 2. This language eliminates any ability a city has to deny a site authorization under ordinances. Without removing this language, a city basically becomes a rubber stamp for site authorizations.

Also, on subsection 2(b)(7) on lines 7-8 of page 2, it states that a site authorization can only be denied when "granting approval would violate an *existing* local statute or ordinance." It is unclear if this section means that cities cannot enact new ordinances related to gaming after this bill passes or what "existing" means in this context.

In preparing for this bill hearing, the League has reached out to legislators, charitable gaming regulators, city appointed officials, city elected officials, individuals on boards for charities conducting charitable gaming, charitable gaming management staff, and lobbyists representing charitable gaming interests. Even after all of those conversations, the League is not sure what the impacts of HB 1296 will be but here is what we have learned:

- In the vast majority of cases, cities issue site authorizations to the charity that the site owner has selected;
- Charities have done a wonderful job investing charitable gaming money back into the communities that host their sites such as:
 - o Building a band shell in Washburn; and
 - o Partially funding an additional sheet of ice in Mandan;
- A number of fire department charities provide funds to help with covering the public safety expense of fire protection;
- A lot of cities are not having issues with disputes over issuing charitable gaming site authorizations;
- In the cities where issues arise regarding site authorizations, those issues become contentious very quickly;
- In the cities where site authorization issues exist, there is often an outside influence driving the discord in the charitable gaming community; and
- Cities generally do not want to pick winners and losers in charitable gaming.

Under current law, a charity wishing to conduct gaming first needs to apply for a site authorization “which may be granted at the discretion of the governing body [of the city or county].” Once the charity has a site authorization, it can sign a lease with the bar owner. HB 1296 would completely reverse the process and require a charity to sign a lease with a bar before applying for a site authorization. In other words, the process seems to require a city to deny a site authorization, instead of granting a site authorization.

It is unclear what consequences will result from these changes; however, a few possibilities come to mind:

- Charities may not be able to commit to funding long term projects due to potential that a site owner will refuse to renew their lease without cause;
- Charities located in small cities may lose their sites to larger out of town charities;
- Small charities may not be able to compete with larger charities; and
- Residents in areas protected by fire departments partially funded by charitable gaming may lose their fire protection because a bar owner decides not to renew a lease with a fire charity.

The North Dakota League of Cities respectfully requests a Do Not Pass recommendation on HB 1296.

23.0693.01002

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1296

Introduced by

Representatives Grueneich, Cory, Dockter, Hagert, Headland, Marschall, Nathe, O'Brien,
Stemen, Thomas, Vetter

Senator Meyer

1 A BILL for an Act to create and enact a new subsection to section 53-06.1-11.1 of the North
2 Dakota Century Code, relating to the disbursement of net proceeds in small cities: and to
3 amend and reenact subsection 2 of section 53-06.1-03, section 53-06.1-08.2, and subsection 2
4 of section 53-06.1-11 of the North Dakota Century Code, relating to approval for a gaming site
5 authorization, authority for a lessor to play electronic pull tab devices on the lessor's site, and
6 modification of allowable expense limits.

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

8 **SECTION 1. AMENDMENT.** Subsection 2 of section 53-06.1-03 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 2. An eligible organization shall apply for a license to conduct only bingo, electronic quick
11 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,
12 poker, or sports pools by:

13 a. First securing a lease for a gaming site location.

14 b. After securing a lease for a gaming site location, next securing approval for a site
15 authorization from the governing body of the city or county in which the proposed
16 site is located. ~~Approval, which may be granted at the discretion of the governing~~
17 ~~body, The approved authorization~~ must be recorded on a site authorization form
18 that is to accompany the license application to the attorney general for final
19 approval. A governing body ~~may:~~

20 (1) May not require an eligible organization to donate net proceeds to the city,
21 county, or related political subdivision or for community programs or
22 services within the city or county as a condition for receiving a site
23 authorization from the city or county. ~~A governing body may :~~

- 1 (2) May limit the number of tables for the game of twenty-one per site and the
2 number of sites upon which a licensed organization may conduct games
3 within the city or county. ~~A governing body may :~~
- 4 (3) May charge a one hundred dollar fee for a site authorization; and
- 5 (4) May not require a site to enter into a lease with a specific organization as a
6 condition of receiving a site authorization;
- 7 (5) May not deny approval of a site authorization to a licensed eligible
8 organization;
- 9 (6) May not deny approval of a site authorization because an organization has
10 not previously conducted gaming at that site; and
- 11 (7) May only deny approval of a site authorization if an application is incomplete
12 or if granting approval would violate an existing local statute or ordinance.

13 **b-c.** Annually applying for a license from the attorney general before July first on a
14 form prescribed by the attorney general and remitting a one hundred fifty dollar
15 license fee for each city or county that approves a site authorization. However,
16 the attorney general may allow an organization that only conducts a raffle or
17 calcutta in two or more cities or counties to annually apply for a consolidated
18 license and remit a one hundred fifty dollar license fee for each city or county in
19 which a site is located. An organization shall document that it qualifies as an
20 eligible organization. If an organization amends its primary purpose as stated in
21 its articles of incorporation or materially changes its basic character, the
22 organization shall reapply for licensure.

23 **SECTION 2. AMENDMENT.** Section 53-06.1-08.2 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **53-06.1-08.2. Electronic pull tab device requirements- Requirements - Lessor's**
26 **authority to play onsite.**

27 1. An electronic pull tab device must display an electronic pull tab in which the player
28 may win credits that can be redeemed for cash or used to purchase more pull tabs.
29 The device may not directly dispense coins, cash, tokens, or anything else of value
30 other than a credit ticket voucher.

1 2. A lessor, who has entered a rental agreement with an organization to conduct
2 electronic pull tab device games at the lessor's site, may play electronic pull tab
3 devices at the lessor's site. The spouse or a common household member of the
4 lessor, a manager or the spouse of the manager, an officer or board member, or an
5 employee or agent of the lessor who approved the lease, may play electronic pull tab
6 devices at the lessor's site.

7 **SECTION 3. AMENDMENT.** Subsection 2 of section 53-06.1-11 of the North Dakota
8 Century Code is amended and reenacted as follows:

- 9 2. Allowable expenses may be deducted from adjusted gross proceeds. The allowable
10 expense limit is ~~sixty~~:
- 11 a. Fifty-eight percent of the adjusted gross proceeds per quarter if the total adjusted
12 gross proceeds for the quarter are more than five hundred thousand dollars;
 - 13 b. Sixty percent of the adjusted gross proceeds per quarter if the total adjusted
14 gross proceeds for the quarter are at least one hundred thousand dollars but not
15 more than five hundred thousand dollars; and
 - 16 c. Sixty-two percent of the adjusted gross proceeds per quarter if the total adjusted
17 gross proceeds for the quarter are less than one hundred thousand dollars.

18 **SECTION 4.** A new subsection to section 53-06.1-11.1 of the North Dakota Century Code is
19 created and enacted as follows:

- 20 A charitable gaming organization shall disburse eighty percent of the net proceeds
21 from an authorized site within the city in which the authorized site is located if:
- 22 a. The city has a population of fewer than ten thousand inhabitants; and
 - 23 b. The charitable gaming organization's home office is not located in the city.

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February 6, 2023

HB 1296

House Industry, Business and Labor

Chairman Louser and members of the House Industry, Business and Labor Committee:

I am Amy Krueger, Executive Director of the Williston Convention and Visitor Bureau, Inc. a charitable gaming organization. Regulation has been established for charitable gaming to operate within. This holds organizations and sites accountable to the law and rules that have been established. By removing the ability of a city to deny a charity site authorization, it removes some of the accountability and authority to hold charities and sites accountable to the rules that have been established.

As written, this bill would allow a bar and a charity to retain a lease with no regard for the existing charity currently established at the site. There is no mandatory notice given to the existing charity, and there is no grounds for the city to prevent this from happening to the local charities that benefit the communities of which they serve. A larger charity could come in and essentially disband the existing charity. This would remove some of the Cities ability to regulate what is occurring in their communities.

As a Charitable Gaming Organization, not knowing if we are going to be able to retain a site from year to year could impact what we are able to commit to with our charitable funds for larger projects.

I would ask you to vote No on HB 1296.

Sincerely,

Amy Krueger

Executive Director

HB 1296

Senate Judiciary Committee

Chairperson Larson

Submitted by Janelle Mitzel, Development Homes, Inc.

March 27th, 2023

Chairman Larson & Committee members, thank you for the opportunity to speak in favor of HB 1296, addressing the Charitable Gaming Site Authorization process. The language in the proposed bill clarifies the role of the local governing entities in relation to gaming licensing. For over 30 years a process has been followed, and recently has become problematic with a new interpretation of the law, essentially removing the private sector from the process. We attempted to rectify this through the gaming regulations, however, the Office of AG and Gaming Director Deb McDaniel advised this needed legislative action.

- For the past 30+ years the practical application for approval for site authorizations in local municipalities was to allow for local establishments to negotiate contracts with charities, then approval was granted by the local governing entity.
- Bar owners base their contracts on gaming services provided by the organization, reputation and reliability of the organization, different game types offered and hours of operation available by the organization, the relationship between the owner and organization, and the ability of the organization to adapt to customer and business needs of the site.
- Cities/counties should not determine what organization shall operate in a private sector establishment, without the consent of the private owner. This is interference by government into the private sector.
- If governing bodies solely determine which organizations operate at all locations in the jurisdiction, the fraternal and veteran's clubs may not be selected to operate gaming within their own establishments.
- NDCC states an eligible organization shall first secure approval for a site authorization from the governing body, then apply for a gaming license with the Office of AG. Approval may be granted at the discretion of the governing body. *It does not indicate the local governing body can determine winners and losers.*
- 53-06.1-03. Permits, site authorization, and licenses. #2
 - a. **A governing body may not require an eligible organization to donate net proceeds to the city, county, or related political subdivision or for community programs or services within the city or county as a condition for receiving a site authorization from the city or county.**

This is NDCC. Governing bodies cannot interfere with how net proceeds are used and cannot require organizations to donate to particular programs or services as a condition of receiving a site authorization.

This legislation is attempting to match the law with the practice. Thank you for your consideration of a **Do Pass** on HB 1296.

Janelle Mitzel, Development Homes, Inc. Gaming Director

Senate Judiciary Committee, Chairperson Larson
Testimony in Support of HB 1296
William Tyrrell, Proprietor, Rumors Sports Bar & Grill, Grand Forks

Chairman Larson & Committee Members:

Thank you for allowing me the opportunity to express my concerns regarding a changed gaming site authorization process with the cities of ND.

Contrary to the existing site authorization approval practice for over thirty years there was an email circulated within the League of Cities with comments from the Office of AG stating, "bar owners do not pick who gets to conduct gaming in their site, the cities and counties determine who may go into a site." Also stated was, "**After** a site is approved by the city or county **then it is required that an approved organization negotiate a rental agreement with the bar owner/lessor.** If a bar owner/lessor does not agree to have the gaming organization that the city approves in their site, then the **bar owner does not have to have gaming.**" As a member of the hospitality industry I respectfully disagree with this process.

For over 20 years I have been involved in gaming in ND, and have been a bar owner for the past eight in Grand Forks. I have always worked with one organization, who in addition to having the site authorization at my location, offers the unique service of off-track betting through the ND Racing Commission. We have invested thousands of dollars in equipment and setup in my bar for gaming services, and have built up a substantial clientele for the gaming offered at my bar. While this organization is in good standing within the community, I do not believe that the city should have the right or ability to not grant the gaming site authorization to this organization for my establishment, without good cause. Licensing for a gaming site should be similar to a city granting business or building permits. As a private business I am shocked to think they local municipality can solely decide who I **have** to do business with.

It is unreasonable to believe that the city has the business knowledge of what organization is best for my business. **I** determine what organization has the ability and resources to provide the desired game types for my establishment, complimentary customer service, staffing for all operational hours, up-to-date equipment, has the capability to work collaboratively with my business model and ultimately who is trustworthy to represent part of my business. I should not have to prove to the local governing body what is best for my business, and if I disagree with the organizational selection then my business will suffer a major financial hit without gaming.

- How could I possibly negotiate a contract with a charity that has already been chosen for me? A take-it-or-leave-it approach by a governing body removes any bargaining power I have for gaming rental fees and gaming services offered.
- How could a charity make long-term financial commitments for specific locational gaming equipment knowing that within one year the city may determine a competing organization would be better for my business?
- Based on this supposed new process ND veteran and fraternal organizations will not necessarily be able to operate gaming within their own establishments as they may not be deemed the "best for their community."
- Cities and counties have a conflict of interest in this matter. Government-related entities raise money through charitable gaming and are granting authorizations to their favorite organizations. CVBs, park boards, and economic development non-profits certainly benefit city government and for-profit corporations; if cities are the sole decision-maker you will see charitable gaming become an extension of government.

This process will become very political if not clarified. Cities should not pick winners, losers and their favorites. This is clearly interference of government in the private sector. Thank you for your consideration.

Sincerely,

William Tyrrell
(701) 740-5278

Points of view/Testimony on HB 1296

Greetings Honorable Senators

I find the proposed changes to the law as proposed in HB129 results in taking away any local authority on how gaming is to be conducted in their jurisdiction.

Subsection 2b2 will only allow the city to limit the number of tables for 21gaming.

- IT does NOT allow the city to limit number of e-tab machines (or any other type of gaming), except for the number of 21 tables allowed.
- It does not allow the city to exclude any game type that is submitted on the permit
 - If the city doesn't want poker, for example, but it is on the permit as submitted by the organization, the city under this part of the amendment cannot change the permit.

Subsection 2b5 requires that a site authorization must be approved to a licensed eligible organization.

“(5) May not deny approval of a site authorization to a licensed eligible organization”

- The point with this particular wording is that the city ‘really doesn’t get any say’ on permitting, as they would not be allowed by law to deny the permit.
 - Why then would getting a local governing body permit even be in the law if it could not be denied?

Subsection 2b7 is redundant and conflicts with subsection 2b5

- 2b5 says that the site authorization cannot be denied, but 2b7 states that it can be denied if incomplete or would violate existing local statute or ordinance.
 - Would someone please make up their mind on if the local government can deny or not?

My overall point on this is that whoever wrote this proposed amendment just wants to take the city/county governments out of the process.

- Local governments tend to know what is best for their area
- I know that you as Legislators would be screaming ‘bloody murder’ if the US Congress took away your ability to exercise your part in governing the state of ND, as you most likely know better than Washington DC bureaucrats, what is better for ND.

In conclusion, I ask that this bill be give a DO NOT PASS recommendation from this committee due to inconsistencies and the removal of local government ability to exercise their authority on this subject.

George A Zeller

Members of the North Dakota Legislature:

Please allow this letter to serve as an explanation of the Williston State College Foundation's position regarding HB 1296. The Williston State College Foundation has been a licensed North Dakota charitable organization since November, 1990. For the record, I am the Executive Director of the Williston State College Foundation and this letter represents the sentiments of our Board of Directors.

We respectfully oppose this bill for a few reasons. While we believe the intent of the bill could be beneficial to gaming operations in general, we do believe there are some unintended consequences that could be very detrimental to the gaming entities, the bar owners, and most importantly, the charities and people of North Dakota which benefit from gaming operations.

Communities benefit from having various entities with different backgrounds conducting. Often, each entity has a different sector of the population that they serve. For example, the primary purpose and mission statement of our organization is to support the Williston State College and our community. Our gaming dollars support events primarily occurring at the college and throughout the community but also the entire region. The other entities in town support very different causes, but in total they are all beneficial to the community in their own way. It is so important to spread the gaming dollars around each region so that many different events receive support.

E-pulltab machines have changed the game, so to speak, for charitable gaming. For example, prior to our sites having e-pulltabs, about \$4,000,000.00 were wagered per year amongst all of our sites. In the last fiscal year, our customers wagered close to \$17,000,000.00. This is a substantial increase in gaming play and revenue.

Due to this increase in gaming revenue across our state, the battle for sites and placements has become much more cut-throat. Rumors have swirled around the state of promises being made by gaming charities to host sites, in order to entice the host site to request a new gaming charity to be placed in their establishment. As you may know, the North Dakota Century Code prohibits promises by charitable entities to support specific causes in order to receive the site. However, we believe the majority of communities are seeing this occurring on some level.

We also believe most people are honest and are conducting gaming the right way. It goes without being said that often times, a small percentage of the participants are the ones who ruin it for the others.

In Williston, in order to combat these issues, the City of Williston has implemented a rotational placement for gaming entities. If a new placement becomes available, the next gaming entity on the list receives the placement. This keeps the number of placements even and supports the community by spreading the gaming dollars amongst the approved charities. We believe this is an equitable way of determining placement and it has assisted our Foundation in gaining new placements after losing two sites in the past few years.

We understand the argument from the owner's position that they should be able to choose who goes in their space and we know that in the majority of locations, this will work out the way it is supposed to. However, the unintended consequences of this bill will be wide-spread. It could additionally invite gaming entities from outside of the community or even the state to come in, which would take the charitable dollars out of the community they come from, and possibly out of the state. This would be very detrimental to North Dakota as a whole.

We respectfully request that this bill not pass and that we take some time to propose a bill that would benefit everyone involved. Thank you for your time.

Hunter Berg, Executive Director of the WSC Foundation

March 26, 2023
HB 1296

Sen. Diane Larson, Chair
ND Senate Judiciary Committee

Dear Sen. Larson and Members of the Committee

I am writing today as Mayor of Jamestown in opposition to HB 1296. Many of us should have perhaps gotten involved earlier in opposition to this Bill. To be honest I thought it was just a bad idea perhaps introduced as a favor to large gaming interests with no ability to gain traction. I was wrong.

To take away from local government the authority to determine who can operate gaming in our communities and put it in the hands of gaming interests at the expense of our local small charities and the support that they provide in our communities is simply a bad idea and should be handled as such.

There is no upside to this proposal. We have a system which is not broken, so there is no need to fix it.

I urge the committee to give this **Bad Bill a Do Not Pass** recommendation.

Thanks for your time and consideration.

A handwritten signature in cursive script that reads "Dwaine Heinrich".

Dwaine Heinrich, Mayor City of Jamestown, ND



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

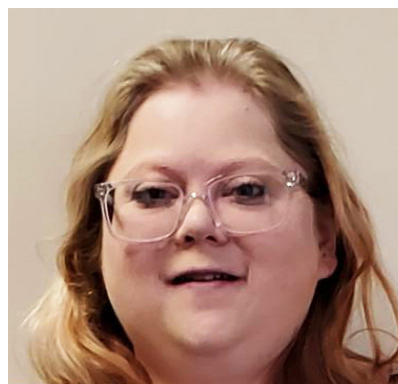
How NDAD helped: Respite care due to behavioral health needs.



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*

HB 1296
Senate Judiciary Committee
Submitted by Don Santer for NDAD
03/27/2023

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 support of House Bill 1296.

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 its services with charitable gaming funds. NDAD has built and relies on the long-term relationships and mutual cooperation it develops with the bar owners it leases space from.

NDAD supports this bill because its purpose is to clean up existing language and clarify the process of obtaining a site authorization for a charitable gaming site. The accepted practice for organizations has been to obtain a rental agreement with a bar owner first and then submit the proper documentation to the local governing body for approval. For some reason, a few jurisdictions have recently reinterpreted the existing language to become a site selection entity instead of the approval entity. In effect, allowing a city to install charities of their own choosing into any location desired, even against the wishes of a bar owner. In other words, forcing a site owner to accept an organization other than the one they had a rental agreement with.

Cities should not have the power to impose or compel a bar to accept a charity they do not want when there are other eligible charities they would prefer to work with.

NDAD has been operating gaming with some of our bar owners for more than 20 years. We are concerned if more cities were to adopt this new interpretation, we could be ousted from sites we have spent years developing; including a loss of tens of thousands of dollars invested in required security equipment, furniture, surveillance equipment, and expensive gaming equipment at a site.

North Dakota has developed a highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. This bill will clarify the wording in law to reflect what has historically been accepted practice. NDAD respectfully asks you to consider a **Do Pass** recommendation on **HB 1296**.

Thank you, Madam Chairperson and members of the committee, for your time and thoughtful consideration. Please feel free to contact me with any additional questions you may have.

Respectfully,

Don Santer, NDAD
dsanter@ndad.org

Testimony in Support of HB 1296
Senate Judiciary Committee & Chairperson Larson
Submitted by Scott Strom, Grand Forks

Madam Chairperson Larson & Committee Members, thank you for your consideration of a Do Pass on HB 1296. My career in the bar business in Grand Forks has spanned 15 years, and I am currently a proprietor of two liquor establishments in my community.

I am surprised the League of Cities is coming out against HB 1296, a bill that essentially clarifies the role of cities in gaming site licensing. The purpose of gaming is to support charities, not to fund projects designated by local government. City governments should not determine what charity I **must** work with in order to offer gaming, who I **have** to enter into a contract with to provide gaming, or the length of my contract with particular charities.

- As a private business owner, I want to rent space to and collaborate with gaming organizations that I believe are in the best interest of my private business. Over my years in this industry, I have worked with and witnessed gaming groups that provide inadequate services, sub-par customer service to patrons within bar establishments and below expectations as a partner with shared interests.
- If a bar owner is offered superior gaming services, higher rent for gaming space, different or additional game types offered, experienced gaming staff to operate within my establishment, or extra hours of operation from a reputable charity doesn't the bar owner have that right?
- Bars are private businesses and proprietors have the right to select services that complement their business models and provide opportunities to increase revenue. Bar owners are not in private business to specifically raise money for directives by local government. Decisions regarding my bar are determined with my financial interests in mind.
- As a private business owner, I have the right to select who I will be partnering with on endeavors within my establishments. Cities directing who I **have** to work with as a condition of offering charitable gaming is clearly government interference into the private sector.

Testimony in Support of HB 1296

Senate Judiciary Committee

Submitted by Kraig Rygg

March 27th, 2023

Chairman Larson & Committee members, thank you for the opportunity to submit testimony in favor of HB 1296, addressing the Charitable Gaming Site Authorization process. For over 30 years a process has been followed, and recently has changed with a new interpretation of the law, essentially removing the will of the private sector.

I have been involved with ownership of liquor establishments and also worked with charitable gaming for over 25 years. My family owned and operated a bar in the Grand Forks area for many years, and now I am the proprietor of two GF liquor establishments. As a private business owner I have concerns with the possibility of local municipalities dictating terms of my business dealings and contractual agreements.

1. Bar owners base their contracts on gaming services provided by the organization, reputation and reliability of the organization, different game types offered, the relationship between the owner and organization, and the ability of the organization to adapt to customer and business needs of the site. I reserve the right to determine who can effectively work within my business, and with the business model of my business.
2. Cities/counties should not determine what organization shall operate in a private sector establishment, without the consent of the private owner. This is interference by government into the private sector.
3. Cities cannot determine what is in the best interest of my business, only I can do that. If cities are selecting gaming organizations for my locations their criteria will be vastly different than mine. If cities are selecting charities for particular sites, it will be in the interest of the city, not the bar owner.
4. I entered into private business so I have the ability to make choices within my business, without government intervention. North Dakota is a promoter of private rights, private businesses and limited government. Cities having the ability to dictate terms of my business is not promoting the rights of private businesses and is contradictory to long-standing North Dakota practices.
5. If this issue is not addressed I anticipate gaming site authorizations becoming highly politicized. I certainly hope we don't have to vet local community candidates based on their favorite charitable causes.

Thank you for your consideration of a **Do Pass** on HB 1296.

Kraig Rygg, Grand Forks

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March 27, 2023

HB 1296

Senate Judiciary Committee

Chairman and members of the Senate Judiciary Committee:

I am Amy Krueger, Executive Director of the Williston Convention and Visitor Bureau, Inc. a charitable gaming organization. Regulation has been established for charitable gaming to operate within. This holds organizations and sites accountable to the law and rules that have been established. By removing the ability of a city to deny a charity site authorization, it removes some of the accountability and authority to hold charities and sites accountable to the rules that have been established.

As written, this bill would allow a bar and a charity to retain a lease with no regard for the existing charity currently established at the site. There is no mandatory notice given to the existing charity, and there are very limited grounds for the city to prevent this from happening to the local charities that benefit the communities of which they serve. A larger charity could come in and essentially disband the existing smaller charity. This would remove some of the Cities ability to regulate what is occurring in their communities.

Charities do have a lot of investments tied up in these sites and these would not be secure sound investments not knowing who can strike a better deal from year to year. While the law is clear on what you can offer the bars for rent and compensation unfortunately other promises are made. By the time and investigation is done and action can be taken, it is to late and the law-abiding charity is already gone. I ask that you let the cities that are intended to be the authority, have ability to regulate and control what is happening within their community.

As a Charitable Gaming Organization, not knowing if we are going to be able to retain a site from year to year could impact what we are able to commit to with our charitable funds for larger projects.

I would ask you to vote No on HB 1296.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Krueger".

Amy Krueger

Executive Director

HB 1296
Senate Judiciary Committee
Submitted by CGAND
March 27, 2023
Bill Kalanek, Lobbyist

Chair Larson and members of the committee, my name is Bill Kalanek and I am here today on behalf of the Charitable Gaming Association of North Dakota. I stand in support of House Bill 1296.

CGAND as its referred to is a trade association for charities operating gaming throughout ND.

CGAND supports the proposed language in the bill to clarify the role of the local governing entities in relation to gaming site licensing. For over 40 years the practice for organizations has been to obtain a rental agreement with a bar owner first, and then submit all the proper documentation to the local governing body. This process has recently become problematic with a new interpretation of the law, essentially removing the private sector from the process. CGAND attempted to rectify this dilemma through the gaming regulations process but was advised by Deb McDaniel, director of the gaming division from the office of attorney general, that legislative action was needed first as the regulations were based on NDCC language.

Practically applied this new interpretation allows a local municipality to force a bar owner to utilize the local CVB, college, or pet organization, regardless of the bar owners' preferences for otherwise eligible organizations.

Bar owners select gaming organizations based on reputation and reliability of the organization, their interest and support of the organization's mission, the quality and selection of game types offered, and hours of operation the charity can provide. The relationship is maintained between the owner and organization by the ability of the organization to adapt to customer and business needs of the site.

The gaming organization invests many thousands of dollars in gaming equipment, surveillance systems, security devices, and employee development. Gaming organizations consider these long-term investments and are allowed to sign up to 5-year rental agreements with their bar owners. Charities are required to get annual site authorizations, but those re-authorizations were intended to verify a charity is still in good standing, not give the governing body a chance to replace them with a "preferred" organization.

This cleanup language prevents very concerning and unintended consequences like the following:

- Cities will remove charities from successful gaming sites in order to claim the site for their preferred organization no matter what the bar owner wishes or how long they have had a relationship with the existing eligible charity. This bill actually protects the charity currently operating in a site.
- Increased civil litigation due to unfulfilled contract requirements and defaults between the charity and bar owner.
- Fraternal and veterans' groups forced to give up their own bar as a gaming site to a different charity if the city so decides.
- Bar owners forced to accept a charity selected by the city or have no gaming at all.

- When the city approves a site authorization before a rental agreement is signed, the charity has no real reason to pay any rent at all. The bar owner has no ability to negotiate legal rent and must accept the charity or go without gaming.

CGAND does not support removing a city's ability to control gaming in their jurisdiction or determine what charities are eligible. Many cities have existing ordinances or regulations outlining eligibility for gaming organizations. This bill clarifies the eligible charity must have a lease (rental agreement) with the bar owner first. The original intent was to give the city **approval** authority, not **selection** authority. If a charity is eligible to operate in a jurisdiction, the city should not be able to select what organization must operate in a private sector establishment, without the consent of the private owner. This is government interference with the private business sector.

For over 40 years North Dakota has developed a responsible and highly regulated system for charitable gaming to benefit charitable missions that serve your local communities. This bill is designed to clarify the wording in statute to reflect what has historically been accepted in practice. That is why CGAND is asking you to consider a **Do Pass** recommendation on **HB 1296**.

Thank you for your time and thoughtful consideration I am happy to answer any additional questions you may have.



Drew H. Wrigley
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Senate Judiciary Committee
House Bill No. 1296
Relating to Site Authorization & Allowable Expense
March 27, 2023, Peace Garden

Good morning, Madam Chair Larson, and Senate Judiciary members my name is Deb McDaniel, I am the Director of Charitable Gaming under the Office of Attorney General.

I am here today to point out concerns relating to HB 1296.

- This bill takes away the authority from the local governing bodies as to who may conduct gaming in their jurisdictions and gives that authority to site owners.
- The governing bodies do not have authority to deny for due cause.
- Governing bodies may deny due to violating a local ordinance however most do not have local ordinances and to set up local ordinances or to amend them there would be a cost.
- This bill increases the allowable expense limit for organizations whose total adjusted gross proceeds are equal to or less than one hundred thousand dollars. This may affect approximately 160 organizations out of 300 plus organizations. Though increasing the allowable expenses would give some relief to organizations it would lessen the amount to be distributed to charitable purposes.

I would be happy to stand for questions.

Senate Judiciary Committee, Chairperson Larson
In Support of HB 1296

March 27th, 2023

Submitted by Brent Brooks, Citizen Assistance Programs (CAP)

Please support HB 1296 addressing the site authorization process and the role of cities. This is my experience as a gaming manager for a charitable organization.

In the spring of 2020, I was asked to contact a bar owner to possibly provide gaming services to his bar in Rugby, ND. The bar establishment was disgruntled with the existing charity due to the limited services they were providing, lack of staffing, and inadequate funding for bar assist banks. This was causing an undue hardship for the bar owner, which led to a contractual agreement between CAP and the bar owner for CAP to begin conducting games of chance when the existing contract expired on June 30th, 2020 of that year.

As the usual practice, I submitted the site authorization, rental agreement, and corresponding paperwork to the city of Rugby. Days later I was informed a site authorization had already been granted and approved to the existing organization for the period specified for my new contract. After discussions with the bar owner, it was determined that the only contract that existed was between CAP (my organization) and the bar owner; no contract for the other organization had been presented or signed.

As this was all a surprise to the bar owner, we both visited City Hall to address this issue. How could the city issue a site authorization without the approval of the bar owner, and to an organization without a contract?

After researching the situation, legal counsel for Rugby was instructed by the Office of AG that the decision was to be made by the city. The city had the sole authority to decide who could solely operate gaming within a private establishment, regardless of any contractual obligations of the bar owner. As the gaming manager of CAP, I was informed by the city council that my organization would not be granted a site authorization. The bar owner was notified by the city council he would have to enter into a contract with the current charitable operator or would not be able to offer gaming at his establishment for the upcoming fiscal year.

I tried clarifying this practice with the Office of Attorney General and was told directly that “the bar owner does not have any choice as to who will operate gaming in their private establishment; cities have the sole authority to determine who will operate in their locations.” This has not been the practice nor should be in the future.



Benefiting North Dakota Communities through Charitable Gaming

March 27, 2023

Testimony in SUPPORT of House Bill 1296

Madam Chair Larson and members of the Senate Judiciary committee,

My name is Scott Meske and I'm here representing the ND Gaming Alliance which represents all facets of the gaming industry including charities, hospitality, veterans and fraternal organizations, manufacturers, and distributors.

Today we stand before you in support of HB 1296. There have been misconceptions pertaining to exactly what the process is concerning gaming site authorizations, and how they are approved. HB 1296 as written clarifies this process for charities, gaming sites, communities, and the regulators. This is a much-needed clarification, and we are thankful that this language has been brought forward for your approval.

This bill was amended in the House to satisfy some concerns raised by the League of Cities, and these amendments were agreed upon by both parties. However, it was recently brought to our attention the League of Cities no longer supports these amendments. It was their pre-amendment testimony in opposition that gave us the impetus to propose the amendments and attempt to address their concerns, so it does come as a surprise they are continuing to oppose this bill.

I wanted to point out one thing in the opposition testimony that was of great concern to us. In the testimony submitted online, it states if HB 1296 is passed residents in areas protected by fire departments funded by charitable gaming may lose fire protection because a bar owner decides not to renew a lease with a fire charity.



Benefiting North Dakota Communities through Charitable Gaming

Let's be clear. Charitable gaming is NOT a tool to fund government projects or to subsidize property taxing entities. Charitable gaming is intended for charities to be able to donate dollars to charitable causes as outlined in their mission statements, and ultimately benefit their local communities. There are times however, a host gaming site will choose a charity that DOES directly fund these local government projects and entities that would normally be funded by property taxes, but this is not a requirement to be a licensed charity. Many charities that do not have an entity like a volunteer fire department or a visitor's bureau for instance, that conduct local gaming STILL donate dollars to these entities as they recognize that these efforts provide value to their local communities. We are concerned the League's opposition is an attempt to control *which* charities will be approved in their communities, only if it fits within the local governing body's preferences.

I know the Senate is the champions of property tax relief, and charitable gaming has been a good source of property tax relief, especially for smaller communities, as they HAVE spent a large amount of their dollars to help support projects normally that would have been funded by property taxes. However, I repeat, this is not a requirement to be a licensed charity. These charities truly have the best intentions to helping their local communities, as do the host gaming sites.

House Bill 1296 merely states that the local authority cannot deny the gaming site and charity's application without cause and prevents the local governing body from picking and choosing *which* charity will be approved for charitable gaming in a given establishment. To repeat, it is the gaming site that makes the determination which charity they choose to operate gaming in their establishment. If that governing authority determines the charity and the proposed gaming site is NOT the proper location for charitable gaming, it has the authority to deny the license. This does not strip the local governing body's ability to determine where charitable gaming may be conducted within its jurisdiction.



Benefiting North Dakota Communities through Charitable Gaming

We strongly support the process of selecting charitable gaming sites as it stands today. And we are ardent supporters of the local governing body's ability to make the final determination *where* charitable gaming should be conducted in their own communities.

However in terms of which charity should operate in those sites, we believe that should be left up to that establishment's owner to enter into a lease agreement with that charity.

Madam Chair and members of the Senate Judiciary Committee, we kindly ask for a DO PASS recommendation on HB 1296 to clarify processes that must be followed when getting involved in charitable gaming to support their communities.

Thank you.

March 27, 2023
Judiciary Committee
HB 1296
Senator Diane Larson, Chair

For the record, I am Stephanie Dassinger Engebretson. I am appearing on behalf of the North Dakota League of Cities, in opposition of HB 1296. I am the deputy director and attorney for the North Dakota League of Cities.

The North Dakota League of Cities' concerns are with Section 1 of the bill. The League of Cities does not have a position on Section 2 of the bill.

Research on Current Status of Charitable Gaming in Cities

In preparing for this bill hearing, League staff has reached out to legislators, charitable gaming regulators, city appointed officials, city elected officials, individuals on boards for charities conducting charitable gaming, charitable gaming management staff, and lobbyists representing charitable gaming interests. Even after all of those conversations, the League is not sure what the impacts of HB 1296 would be but here is what we have learned:

- In the vast majority of cases, cities issue site authorizations to the charity that the site owner has selected;
- Charities have done a wonderful job investing charitable gaming money back into the communities that host their sites such as:
 - o Building a band shell in Washburn; and
 - o Partially funding an additional sheet of ice in Mandan;
- A number of fire department charities provide funds to help with covering the public safety expense of fire protection;
- A lot of cities are not having issues with disputes over issuing charitable gaming site authorizations;
- In the cities where issues arise regarding site authorizations, those issues become contentious very quickly;
- In the cities where site authorization issues exist, there is often an outside influence driving the discord in the charitable gaming community; and
- Cities generally do not want to pick winners and losers in charitable gaming.

Legislative History

To better understand this bill, I reviewed the legislative history. Charitable gaming was added to the North Dakota Constitution per a ballot measure that passed in 1979. In 1981, the North Dakota Legislature adopted HB 1277 which codified charitable gaming regulations in North Dakota. The 1981 law created a divided licensing system. Class A licenses for games of chance were issued by the North Dakota Attorney General and were for eligible organizations that maintain a building for the use of its members. Class B organizations were for all other

qualifying organizations. Class B licenses for games of chance were issued by the Attorney General; however, the statute provided:

“Class B License applicants shall first secure approval of the proposed site or sites on which on intends to conduct games of chance under this Act from the governing body of the city, if within city limits, or the county, if outside city limits, where the site or sites are located. This approval or permit, which may be granted at the discretion of the governing body, must accompany the license application to the attorney general.”

In 1995, language was added providing, “A governing body of a city or county may not require an eligible organization to donate net proceeds directly to the city, county, or related political subdivision as a condition for receiving a site authorization.” In 1997, that language was expanded to say “A governing body of a city or county may not require an eligible organization to donate net proceeds directly to the city, county, or related political subdivision or for community services within the city or county as a condition for receiving a site authorization.”

Please note that there is administrative code that also governs charitable gaming. The administrative code chapter governing charitable gaming has been repealed and replaced several times. I have only reviewed the existing administrative code provisions.

Overall, in my brief review of the legislative history, other than the changes in 1995 and 1997, there was not a lot of discussion on city authority to approve sites. Most of the discussion in the legislative hearings seemed to be on games allowed, allowable expenditures, and taxes.

Current Status of Law

Currently, under North Dakota Century Code ch. 53-06.1, there is no longer a differentiation for Class A and Class B licenses; however, the language about the process of getting approval of a site first from a city and the discretion of the city has remained almost the same for the last 40 years.

Section 1 of HB 1296 would completely reverse the process and require a charity to sign a lease with a bar before applying for a site authorization from the city. In other words, the process seems to require a city to deny a site authorization, instead of granting a site authorization.

Potential Consequences

It is unclear what consequences will result from these changes; however, a few possibilities come to mind:

- Charities may not be able to commit to funding long term projects due to potential that a site owner will refuse to renew their lease without cause;
- Charities located in small cities may lose their sites to larger out of town charities;

- Small charities may not be able to compete with larger charities; and
- Residents in areas protected by fire departments partially funded by charitable gaming may lose their fire protection because a bar owner decides not to renew a lease with a fire charity.

Conclusion

Due to the uncertainties the language in Section 1 would create with the law on charitable gaming site authorizations that has existed for over 40 years, the North Dakota League of Cities respectfully requests a Do Not Pass recommendation on HB 1296.



**AMERICAN
LEGION**
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02/24/2023

Re: In favor of HB1296

Chairman Louser and other committee members;

The Edgar M Boyd Post 37 of the American Legion is in favor of HB1296. We do not believe that the city should have the power to dictate which charity an establishment has to use in their business. A business owner should have the right to pick their charity based on what the charity does for their community. If a charity is not staffing the establishment correctly, if management or employees attitudes do not fit well with the establishment, then the establishment should be able to change charities at the end of their lease.

We have heard from charities about how can the charity offer a multi-year pledge (\$100,000 over 3 years) if they can be removed from an establishment at any time. It's an easy answer. If the charity is doing what they said they would do, such as a good relationship with business staff, appropriate staffing, etc., they should not have to worry about being let go. A charity should have no hold on an establishment's property other than what is negotiated in the lease agreement, and only for the term of the lease. It should not be up to the city to honor a charity's commitments to multi-year deals.

Another issue we have heard of is that smaller charities are being pushed out by larger charities. I do not see how this is being done. By law, a large charity cannot offer any more than a small charity. They cannot offer more money, they cannot offer to repair or update the establishment. However, we have seen where colleges are offering staff of

establishments scholarships if the establishment uses their charitable organization. The main difference we see is that certain charities have better trained staff, are more personable, and staff their sites accordingly. This is the main difference we see in why an establishment would want to change charities.

We have run into this last point two years ago. One of our current sites wanted to change from their charity to AL Post 37. The establishment informed the charity several months in advance that they would not be renewing the charity's lease. The charity still put in for the site authorization to the city, and even though the city was also notified of the desire to change, they granted the authorization to the former charity. The establishment owners were told that they had to use that particular charity or not have gaming at all. The establishment chose not to have gaming rather than being forced to use a charity they did not want. This cost the establishment many thousands of dollars over the course of the year until they were able to choose the charity that they desired, which was the next fiscal year.

We believe that in a free country, a business should be able to choose which charity better services their establishment and community, and not have this chosen for them by a local government whose members serve on boards of competing charities and have personal reasons for forcing a charity on an establishment.

Edgar M. Boyd Post 37 of the American Legion respectfully requests a DO PASS recommendation on HB1296.

Sincerely,

Jon Nelson