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1353

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1353

2007 HOUSE STANDING COMMITTEE MINUTES

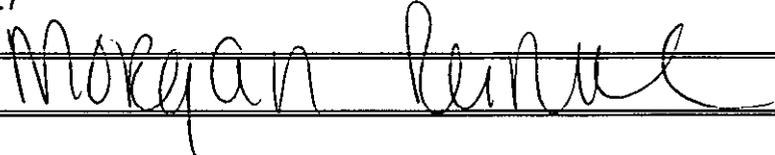
Bill/Resolution No. HB 1353

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 25, 2007

Recorder Job Number: 1927

Committee Clerk Signature 

Minutes:

Rep. Wrangham: Testimony Attached:

Rep. Dahl: You didn't address section 3 of the bill that won't allow the city, county, or any political subdivision to have any say in what the state allows. Don't you think that's an important issue that you need to address so they can pass their policy?

Rep. Wrangham: I didn't address that part of the bill because it doesn't have the importance that the first part does. I believe that a patchwork of laws around the state is not serving anyone any good. I think we need uniform and I think that if that section can remain in the bill, I could like that. However, if there are those who would like to support the first part of the bill and take that out, I don't have any heartburn over that. However again, I think that again speaking for people who a lot of times don't show up at city commission meetings. I think the legislator is a better place for those kinds of decisions to be made. I understand that it is very debatable. I would like to concentrate on the first part of the bill and again if the second part is giving you a lot of trouble, I would appreciate if you worked on it.

Rep. Kasper: If the bingo halls were allowed to have smoking, would they have to have a separate area, or would it be allowed throughout the whole building, or at the discretion of the bingo hall operator?

Rep. Wrangham: The bill doesn't address that. I think that would be left up to the bingo hall operator. However, if the wisdom of the committee would see fit that it be a separate area and ventilated, I have no problem with that. I think the people that do smoke deserve a place to go smoke and do their social activity.

Nikki Weisman: (North Dakota Hospitality Association). *We would like to support HB 1353.*

Rep. Wrangham pointed out all the facts and necessities of this bill. As you can see they have lost a tremendous amount of money because of this legislation. We would really like to see that you make the positive decision on this bill so I urge you for a do pass.

Rep. Haas: I agree with what you are saying. People that smoke have an addiction and that there should be some consideration. I don't disagree with that. What have all the people done that used to go to bingo parlors, what are they doing now?

Nikki Weisman: There are several casinos around the state they can go to, especially around the border areas. In Bismarck, they are probably just not going. They may have chosen another form of entertainment like the lottery. That is a speculation though. I'm not sure what they are doing, but as far as the dollar goes it shows they are no longer going.

Rep. Froseth: It seems like the biggest complaint we hear is the loss of revenue for the ND association of the disabled. How much of their revenue as derived from the bingo parlors and what other source do they even have to support their programs and causes?

Nikki Weisman: I don't have that information but we certainly can obtain that.

Rep. Froseth: In regards to the emails, most of the ones I've gotten are objecting to the provisions on section 3 where you are taking away the local control from the charter and cities that make the laws. That is where most of my objections I receive come from.

Nikki Weisman: If that was really contingent to this bill it would be ok with us to eliminate that part.

Rep. Grande: I found it interesting that the emails were coming in. They were coming in from a lot of small towns that never did have any local control of this issue at all. They never had and don't plan to at all. I just don't quite understand how the information was presented to them.

Nikki Weisman: No I don't.

Bob Frantsfung: (North Dakota League of Cities)

We are in opposition to this bill primarily because it chases away local control of political subdivisions in making little decisions. I just want to make several comments on smoking bands. Rep. Wolf, you'll remember this. I had a 35 year career with the city of Minot and one of them was smoking. The smoking issue in Minot was a big deal. We had our regulations in place probably about four years before the state passed any legislation. We do have some situations as it relates to the restaurants where they can have smoking and non smoking areas, but they have to have separate air handlers, etc. My recollection is that we only have one facility like that and it is one of the truck stops. Again, our primary concern is that it does remove what we control.

Rep. Kasper: What is your Minot law right now with bingo parlors and your local control?

Bob Frantsfung: I don't play bingo so I don't know if we even have any bingo facilities in the city limits.

Mike Williams: (Fargo city commissioner). *We do not support HB 1353. We do support local authorities who can make these determinations to public safety. Public health and public safety is a primary concern for all of us. I think we should be able to make those determinations to the health of our residents who deserve their rights. Some say we shouldn't have to legislate it because it's a privilege. It's a privilege to have a driver's license, it's not a right. That's the same as having a restaurant or bar. You have to have a license. If you do get a license there are certain things you need to do to maintain the public health like washing dishes? In licensed*

places, where people are working, I think they deserve more public safety. That doesn't hinder anybody's rights, its protecting their rights.

Rep. Boehning: It seems like we keep regulating what is good for us, what is bad for us. We are regulating smoking and saying people can't smoke in any place. If some people have their way we won't smoke anywhere. Another thing I see coming down the pipes is trans fat. The arguments have changed since 20 years ago. Where are our regulations going to stop?

Mike Williams: There is a big difference between trans fats and smoking. When you smoke you are infecting the air around you, the air that other people breathe. You are affecting the public health, the health of other people.

Rep. Boehning: This is their choice just like where you want to eat, what you want to do. I think that is the biggest issue is choice. It is my choice if I want to go to a bingo hall and play bingo and smoke. If I don't want to smoke I don't have to go. If I choose to go to a bar that smokes, it's my choice. It's all about choice. That is my opinion.

Rep. Kasper: Let's say that the city commission of Fargo passed a law that said any bingo parlor in Fargo can only be smoking. You said you want to protect smoker's rights. This would be a law that says all the smokers can go here and its only smoking. Do you think that there would be anybody out in the street that would be forcing people to come in that door?

Mike Williams: The item that you speak about is choice. I'm talking about public safety. You have a choice to what you eat and do.

Rep. Kasper: I'm asking you that if there were a smoking only building that only the people that chose to go in there would. That has been there choice to go inside and be involved with that. Wouldn't that be protecting the smokers rights like you just said you wanted to do?

Mike Williams: I think that smoking is a personal choice and not a public choice. If you want to smoke in your car, than that's fine. But when you get to public places you are affecting public

health. If you want to do what Rep. Kasper suggests, the parlors are well within their rights to go get their petitions, go to the voters, and see if that is what they want.

Rep. Kasper: You are dancing around the issue that you really are not for protecting smoker's rights, if they can only go there and only smokers can be there. Would you agree that when an employer advertises for workers that they come and interview for a job. Say the employer would say that they allow smoking; if this is an objection to you I don't want you to apply for the job. Then the employee said that's ok it doesn't bother me. Would you want to interfere with that opportunity to interfere with the choice if there is a choice, to work or not work?

Mike Williams: Yes, personally I would be in favor of restricting that to happening. It is a licensed facility. It is their number one responsibility to protect the public health.

Rep. Grande: Your main objection is our section 3. If we amend that out are you still in objection?

Mike Williams: Yes. I don't know that you can blame all the loss of revenue of bingo on smoking. One thing that happened with Prairie Public Television was they got over dependent on gambling and quit their fundraising. When that gambling started to dwindle they had no reserve money from the fundraising.

Kayla Gartner: Testimony Attached

Rep. Boehning: Being that you are in the health care business, do you think that we should just ban the product totally? You are going to see the effects of this.

Kayla Gartner: Because I am going into healthcare and there are a lot of decisions. You have to look at what you eat, what you do, if you smoke. You are affecting yourself in what you do. But no I don't think that we should ban it together. If that is someone's lifeline and that is their coping mechanism, then I don't think so. It is their choice just like alcohol. We know it affects

our health. Everyone should have to exercise every day. Everyone has their right and their choice on their own coping mechanisms.

Rep. Boehning: Did you have the option of working some other place that is smoke free?

Kayla Gartner: Actually 90% of the restaurants were smoking. I could have gone and worked at a small restaurant and done a 3 hour shift and made \$25. Or I could decide to work in a smoking restaurant where I would have a 5 hour shift, be exposed to second hand smoke, but walk away with \$120. I guess at that point I wasn't looking at my health issues as much as I was thinking about my family.

David Peske: (North Dakota Medical Association). Testimony Attached.

Rep. Potter: I just want to thank you for bringing that. I was going to ask if there was a bill to help with the tax. I know that in Grand Forks that there is all of this information we have gotten from the bingo people. They were saying that if the state wouldn't take out the tax they take out, that they would be in much better shape.

Rep. Boehning: I didn't see any recommendation on what we should do, as far as banning smoking in the smoke places, or ban smoking all together. Have you come up with a recommendation?

David Peske: On page 14, it looks to me that the right hand column has 10 items that indicate how this could be handled.

Rep. Boehning: So if I can continue, it doesn't really come out and give us a conclusion. Are you going to come out with a real stance on what we should do? Isn't banning smoking totally, the ultimate goal?

David Peske: I think the report of the surgeon general is intended to be a scientific report on the effects of smoking. I don't think he is recommending anything to the various states on what they should do to control this situation.

Rep. Boehning: What is the stance of the other bill? I didn't get a chance to read it. I think the intent of the bill is to take the nicotine out of cigarettes. I had never even thought of doing that. I think it is a very good concept. My understanding is that they wouldn't have to have it after awhile. What is your position on that?

David Peske: I don't think they have taken a position on that issue.

Dr. Herbert Wilson: *I worked 43 years with the people in New Town, and 11 years in Bismarck. I am very much opposed to smoking. I am opposed to this bill. One of the main places people congregate is bingo halls. I haven't any statistics but from my years I can certainly tell a smoker when they came to see me. I'm not here to say much about evidence. I'm here to say that this bill should not be passed. I think that the reducing of nicotine through the years sounds like a good try.*

Rep. Haas: Are there any questions? Is there any additional testimony in opposition of HB 1353? If not we will close the hearing on HB 1353.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1353

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2029

Committee Clerk Signature

Morgan Reince

Minutes:

Rep. Haas: We will now open discussion on HB 1353.

Rep. Grande: I would like to make a motion at this point to eliminate Section 3.

Rep. Haas: Rep. Grande is moving to strike section 3, is there a second?

Rep. Froseth: I second that

Rep. Haas: Do you all see what the amendment does? It is striking section 3. Is there any other discussion on the amendment? This pretty much leaves it as it is. Amendment is carried.

We have the bill as amended before us. Is there a motion?

Rep. Dahl: I move a do pass as amended

Rep. Boehning: I second

Rep. Haas: Is there any discussion?

Rep. Karls: So we are actually going to let Bingo places go back to smoking?

Rep. Haas: Yes we are going to leave it to them, but you'll have to be 18 to go in there. Is there any further discussion? I will ask the clerk to take the roll on a do pass as amended on HB 1353.

Rep. Haas: HB 1353 is passed as amended by a vote of 6-5-2. Is there a volunteer to take it

on the floor?

Rep. Kasper: I will carry this bill.

FISCAL NOTE
Requested by Legislative Council
01/19/2007

Bill/Resolution No.: HB 1353

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$1,398,000		\$1,398,000	
Expenditures						
Appropriations						

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

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill allows smoking in bingo facilities.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

General fund revenues from pull tab excise, bingo and gaming taxes experienced a (\$932,000) reduction for the one year period beginning October 1, 2005 - September 30, 2006, which arguably is attributable to the smoking ban in bingo facilities. If 75% of the decrease is restored with the passage of this bill, it will result in a general fund revenue increase of approximately \$1,398,000 for the 2007-09 biennium.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Increase in general fund revenues of approximately \$1,398,00 for the 2007-09 biennium based on the assumptions reflected in section 2B.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

Name:	Kathy Roll / Keith Lauer	Agency:	Office of Attorney General
Phone Number:	328-3622 / 328-3234	Date Prepared:	01/24/2007

**House Amendments to HB 1353 (70564.0101) - Government and Veterans Affairs
Committee 01/26/2007**

Page 1, line 1, replace the first comma with "and" and remove the second comma

Page 1, line 2, remove "and subsection 2 of section 23-12-10.2"

Page 1, line 3, remove "and local government enforcement of smoking"

Page 1, line 4, remove "restrictions"

**House Amendments to HB 1353 (70564.0101) - Government and Veterans Affairs
Committee 01/26/2007**

Page 4, remove lines 17 through 26

Renumber accordingly

Date:
Roll Call Vote #:

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1353

Action Taken move amendment (strike sect 3)

Motion Made By Rep. Grande Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman			Rep. Bill Amerman		
Rep. Bette Grande VC			Rep. Louise Potter		
Rep. Randy Boehning			Rep. Jasper Schneider		
Rep. Stacey Dahl			Rep. Lisa Wolf		
Rep. Glen Froseth					
Rep. Karen Karls					
Rep. Jim Kasper					
Rep. Lisa Meier					
Rep. Dave Weiler					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 1-26-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. "Click here to type Bill/Resolution No."

House Government and Veterans Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number HB 1353

Action Taken DO pass as amended

Motion Made By Rep. Dahl Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Rep. C. B Haas Chairman		X	Rep. Bill Amerman		
Rep. Bette Grande VC	X		Rep. Louise Potter		
Rep. Randy Boehning	X		Rep. Jasper Schneider		X
Rep. Stacey Dahl	X		Rep. Lisa Wolf	X	
Rep. Glen Froseth		X			
Rep. Karen Karls		X			
Rep. Jim Kasper	X				
Rep. Lisa Meier		X			
Rep. Dave Weiler	X				

Total (Yes) 6 No 5

Absent 2

Floor Assignment Rep. Kasper

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

REPORT OF STANDING COMMITTEE

HB 1353: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (6 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HB 1353 was placed
on the Sixth order on the calendar.

Page 1, line 1, replace the first comma with "and" and remove the second comma

Page 1, line 2, remove "and subsection 2 of section 23-12-10.2"

Page 1, line 3, remove "and local government enforcement of smoking"

Page 1, line 4, remove "restrictions"

Page 4, remove lines 17 through 26

Renumber accordingly

2007 TESTIMONY

HB 1353

Testimony HB 1353 Representative Dwight Wrangham

Mr. Chairman and committee members before starting my testimony on HB 1353, I would like to make a few preliminary comments. I think it is important that I explain my position and motives for introducing this legislation.

I am not pro smoking. I am pro smoker. What does that mean? It means I want to help them. I want to help smokers quit smoking but I also want them to be able to enjoy their personal rights. They are not breaking a law by smoking. They should be not persecuted.

“Pro smoker” is not a popular position with some crowds but I believe smokers need and deserve a voice.

HB 1353 deals with the smoking ban in charitable bingo halls.

HB 1353 does not deal with whether a person should smoke. It only deals with smoking in bingo halls.

It allows charitable bingo halls to offer a smoking area if they agree to not allow anyone under 18 years of age on the premises. Currently there is no age limit to enter a bingo hall.

It does not mandate smoking in bingo halls, it only permits bingo operators to have a smoking area if they chose.

How did the 2005 smoking ban effect charitable bingo halls???

Hand outs: Revenue sheet
Williston closed
Newspaper articles

I assume the reason receipts fell more drastically in Grand Forks and Fargo is because bingo players there had the option of going to Minnesota. If I remember correctly there was a bingo hall in East Grand Forks that used to be open two days a week. After the North Dakota Smoking ban it is open seven days a week.

I hope there are some bingo hall operators here to testify on the good charitable things they have **not** been able to do because the smoking ban has dried up their funds. But, I won't be surprised if they don't testify because they have been so attacked and demeaned by the anti smoker group.

I am not here to defend smoking. I am not pro smoking. I want to be pro active in finding ways to help smokers who want to quit. And, most of all I support efforts to educate our youth about the health and addiction pitfalls of smoking. We need to stop the increasing numbers of youth smoking. We can only do that through education. Attacking and demoralizing smokers has not worked.

We need to be proactive in helping smokers quit and preventing youth from started. How? Well, this session I introduced HB 1410 which would have required cigarette manufacturers to limit amount and over a period of years eliminate the nicotine in cigarettes. Nicotine is the addictive substance in cigarettes. Manufacturers are adding nicotine, adding addiction to cigarettes. I was very disappointed when I received no help from the agencies and associations who claim to be anti smoking.

Those groups will probably be here today to try to stop this bill and further attack smokers. Where were they on HB 1410 which could have helped the victims of nicotine addiction? Yes, I am disappointed they were not there to support 1410, I stand just as ready today as I have been in the last year to work with these groups and try to find positive actions to help smokers quit and prevent youth from starting.

Driving people out of the bingo halls and closing down charitable funding is not an answer to the smoking problem. Like it or not people smoke, bingo player's smoke. Banning them from bingo halls is not the answer. Let the bingo hall operators decide.

Those who want to avoid second hand smoke have every right to do so. Please consider, it may be easier for them to avoid second hand smoke than it is for a victim of nicotine addiction to quit smoking. People who just look down their nose and say "those people should just quit" are not being compassionate or understanding the addiction.

You have received a number of canned e-mails asking you to oppose this legislation. I ask you to ask those e-mailers one question; When is the last time they were in a bingo hall. I am sure a vast majority would say they have never been in a bingo hall. Let the people who frequent the bingo hall decide by their patronage whether there should be smoking or not.

Please support HB 1353

WHAT DID THE SMOKING BAN DO TO CHARITABLE BINGO HALLS

	Net Income 04 - 05	Net Income 05 - 06	Decrease	% Decrease
NDAD GF	222,419	-27,833	250,252	113%
Plains Art	155,905	7,785	148,120	95%
Prairie Public	390,060	238,357	151,703	39%
NDAD Minot	368,743	171,293	197,450	54%

Bingo

Continued from Page B1

The Bingo Barn paid more than \$100,000 in a year in various state taxes during the fiscal year from July 1, 2005, to June 30, 2006.

WSC Foundation, the North Dakota Association for the Disabled and Williston Basin Skating Association each operate bingo one night a week at the Bingo Barn. Williston limits organizations to one night a week.

NDAD president Ron Gibbens said the financial crunch has been the worst for his organization because NDAD's large gaming revenue statewide put it in a higher tax bracket.

NDAD's Bingorama in Minot is not in danger of closing, though, he said.

"The one in Minot actually has been hit hard. We have been making about half the budget we used to make. Yet we are making a good profit. We are doing OK," he said.

NDAD also has a bingo parlor in Grand Forks that is breaking even, he said.

Closing the Bingo Barn won't affect services to clients in Williston, Gibbens said. NDAD already has cut back services statewide because of the drop in bingo income.

"We will continue to do what we can across the state," Gibbens said. "We will continue to serve people in Williston as much as we can."

The WSC Foundation's gaming generates money for scholarships. Bingo has provided nearly a third of the organization's gaming income in the past. Bingo income has dropped from \$95,000 to \$50,000 a year to \$20,000 to \$25,000, Stevens said.

The money going to scholarships doesn't reflect actual income, though. The law requires that 51 percent go to charitable purposes, regardless of taxes and other expenses.

"We are just having a terrible time making our expenses," Stevens said.

The Bingo Barn employs about 20 part-time employees.

NDAD, which owned the Bingo Barn, sold the building to a gymnastics club.

If the Legislature changes the tax structure, NDAD would be interested in reviving its bingo in Williston, Gibbens said.

The WSC Foundation is looking for another bingo site, but the cost of rent has been prohibitive, Stevens said.

The skating club, which supports youth hockey, couldn't be reached Monday for information on its plans. However, Rosie Marquez, gaming manager for the foundation and skating club, said in a prepared statement that bingo players will miss the Bingo Barn.

"Bingo is a social time for many people. The Bingo Barn closing is going to have a huge impact on the lives of many of the bingo players," she said.

closes

BY JILL SCHRAMM

Staff Writer

jschramm@minotodjnews.com

Williston's Bingo Barn will close Saturday after 20 years of operation.

The three charities that run the bingo say they were forced into the decision by declining revenue. High state taxes and decreased attendance resulting from a state-imposed smoking ban put their bingo in financial jeopardy, they said.

Carvin Stevens, executive director of the Williston State College Foundation, one of the charitable operators, said attendance used to run 100 to 130 people a night. After a law restricting smoking in bingo parlors and other public buildings took effect in August 2005, attendance fell to 50 to 80 people per night. At fewer than 80 people, it is difficult to cash flow, Stevens said.

He added that charitable gaming organizations plan to ask the 2007 Legislature for tax relief.

Currently, the state double-taxes bingo and pull-tabs, the two forms of gaming typically offered at bingo parlors, he said. In addition to the state gaming tax, bingo carries sales tax and pull-tabs a 5 percent excise tax.

"That's just killing these bingo barns," Stevens said. "I don't think we can continue to pay that tax level and continue to make it."



Ken Crites/NDN

Bingo Bennie hangs out in this place, Bingorama, on Minot's southeast edge. The North Dakota Association for the Disabled conducts charitable gambling in the form of bingo in the building at 1808-20th Ave. SE. Bingorama has been put in a crunch by a law that goes into effect next month that bans smoking in most public places.

Bingo in a bind

By **KEN CRITES**
Staff Writer
kcrites@ndweb.com

Bingo Bennie is in a bind under the "B."

Bennie is hurting, or at least stands to hurt, because of a law passed by recent North Dakota Legislature that bans smoking in most public buildings.

Bennie is the mascot for the North Dakota Association for the Disabled's charitable gaming operations conducted at Bingorama, located at 1808-20th Ave. SE, in Minot. Bennie appears in TV commercials and print ads.

The Ward County Commission Tuesday also found itself between a rock and a hard place in trying to help NDAD out of its dilemma.

The new law does not exempt bingo halls from the smoking ban, and Janelle Mitzel, representing NDAD, told the commissioners Tuesday that a majority of its customers, about 78 percent, smoke while playing bingo. She said they might go elsewhere if they can't play at Bingorama.

The law exempts bars from the smoking ban. She said studies have shown

More prisoners, more trash

Ward County commissioners were talking trash Tuesday.

It seems that the dramatic increase in prisoners in the county jail has also dramatically increased the amount of trash generated.

Building supervisor Ron Overly brought the matter to the board's attention. He said going to a larger dumpster would cost an additional \$50 a month.

Overly was instructed by the board to "git 'er done."

decreases in revenues at non-smoking bingo halls.

And, if NDAD has to fold its operation, more than 40 employees might find themselves out of a job. In addition, NDAD pays about \$9,000 in taxes.

Because the law does exempt bars and taverns from the smoking ban, NDAD, in a bid to remedy the situation, asked the board of commissioners to issue them a liquor license so the bingo games could

See BINGO -- Page B7

Bingo

Continued from Page B1

continue.

Bingorama is located outside the Minot city limits and in Nedrose Township.

Commissioner Darlene Watne explained to Mitzel that liquor licenses are issued based on population, as outlined in a 1993 resolution. The board seems reluctant to grant an exemption to NDAD because there are some business people waiting in the wings who also are seeking licenses.

Nedrose Township already has two liquor licenses issued and there would have to be a small population explosion in the township before another could be granted. All of the townships in the county are governed by the resolution.

State Sen. Randy Schobinger, R-Minot, attended the meeting and explained that it was an "unintentional consequence" of the law. He said it's not known yet what if any options NDAD has in the matter, except closing its doors. It has placed NDAD at a disadvantage, he said.

Schobinger continued, "This is a unique example and I don't want to see jobs go away in my district."

Ward County State's Attorney John Van Grinsven cautioned the board to proceed very carefully on the issue.

"You might set yourself up as acting arbitrarily and capriciously and find yourselves in court. You regulate alcohol. Other people might come forward (for a license) and that could be a problem," he said.

The commissioners decided to refer the matter to a committee of the whole committee to find out more about the law and its ramifications and to explore what can be done about the problem, if anything.

Commission chair Molla Romine said, "I guess our hands are tied. We have to stand by our resolution."

Mitzel said NDAD has spent a lot of money to install smoke

extractors and ventilators in the building. She said NDAD also spends a lot of money to assist the disabled in the state.

In other business Tuesday, board members said the attendant care facilities maintained by Lutheran Social Services in the county library might have to move into other quarters. The facilities do not meet regulations for holding juveniles.

Commissioner Carroll Erickson said he was pursuing other space for the service and would report back on what he finds.

Allison Hughes, who directs the juvenile detention center, appeared before the board and told commissioners that her proposal for employing full-time staff would save the county money in her facility's operation. She said the savings would be "pretty big."

She has requested three full-time employees, working eight-hour shifts. She added, however, that some part-timers would still be needed to fill some gaps.

Hughes was told to prepare her upcoming budget with three full-time employees and three part-timers. All five commissioners attending the meeting Tuesday voted in favor of the motion. Commissioner Jim Lee said he was still studying the proposal and said, "I'm concerned that we don't make a step that costs us more money in the end."

Commissioners also approved a reclassification of Hughes' position that would move her up from a G-2 to an H-2 in the employee classification system. County auditor/treasurer Dvora Smestad said the change would be made in January after the county goes to a new pay schedule for all county employees.

The commissioners voted unanimously on a resolution that would see the old Poor Farm building demolished to make way for new buildings at the NDSU Extension station south of Minot. Lee, who proposed the resolution, said the old building is not good for anything except hickering over. He said there are good

things happening at the station and, "We have to get going on this." The vote was unanimous.

The commission directed Highway Engineer Roger Kluck to start the process of vacating Third Avenue Southeast, from Third Street to Fourth Street and from Fourth Street to Front Street.

The two-block street closure would be for possible use as part of the county's proposed new development of a county office building on land it purchased last month for the purpose. Kluck said the process could take as long as two months. North-south traffic on Fourth Street Southeast would not be affected.

Maurice Foley, chairman of the county's water board, appeared before commissioners for a short briefing on what the board is doing about raising Ward County Road 14. The road would be raised 2 feet to provide a slowing action for runoff from the series of coulees that run south of the road.

Foley first talked about the proposed project in May. He said unless the road is raised to ward off water, runoff could top the road and affect a housing development and Dakota Square Mall.

As it happened, Ward County 14 was topped during runoff several days ago and the housing development and mall were threatened by runoff that flowed into the Puppy Dog Coulee and eventually ended up in the Meadowbrook/Eastside Estates area.

Foley said the board plans to negotiate with owners of property along the highway for an easement or even the possible purchase of land there to act as flood control in that area. Foley said he doesn't expect that eminent domain will be needed to secure easements on the property. It remains an option, though.

"We plan to offer them (the owners) a fair price for the land," Foley said. He said the city is also planning to be involved in negotiations because the city would also benefit from controlling the runoff.

Who Lost when bingo went smoke-free?



Jackie Lorentz, staff photographer

North Dakota Association for the Disabled's business devastated by law

By **Tu-Uyen Tran**
Herald Staff Writer

Born with cerebral palsy, a condition that weakened the left side of her body, Joan Schiele never has had an easy time getting around. Too disabled to drive or walk very far or easily get on a bus, she had, until recently, relied on a taxi service for the disabled.

Stricken with gout, diabetes, high blood pressure, high cholesterol, chronic kidney stones and depression, Phyllis Perkerewicz hasn't had an easy time, period. Until recently, she had been taking 13 different medications, but now she only can afford five.

Different conditions but one common problem. Both are clients of the North Dakota Association for the Disabled, based in Grand Forks. Until late last summer, the nonprofit group was able to offer generous financial aid to disabled people who couldn't get similar help elsewhere.

On Aug. 1, 2005, smoking bans enacted by

including the Bingo Palace in Grand Forks — whose customers are, by and large, smokers. The parlors had been the main source of funding for NDAD, allowing the group to help Perkerewicz pay for her medicine and Schiele pay for a powered wheelchair and taxi service.

As things now stand, NDAD has had to cut back financial aid to the bare minimum and cease accepting new clients. It's the worst financial crisis the group has faced since it began offering aid in 1982.

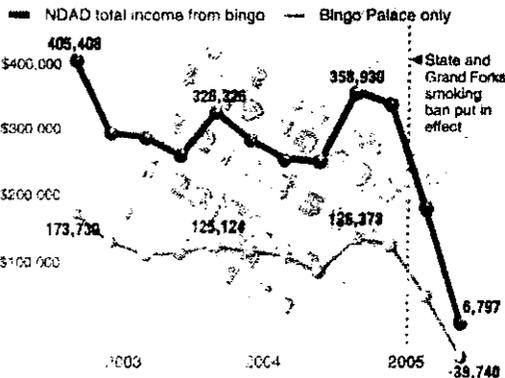
"We've had some setbacks (in the past), but nothing quite this devastating," said president and co-founder Ron Gibbens.

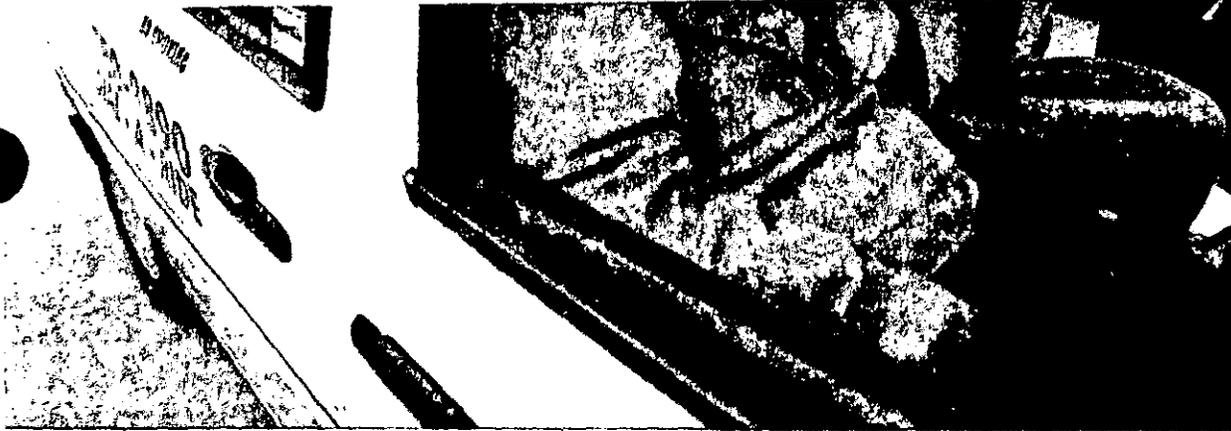
"It's been tough telling people we can't help them with direct assistance," said Jeri Hietala, an NDAD case worker. "All of a sudden, our budget was gone."

Total bingo earnings last year was down to \$884,000, nearly 70 percent lower than in 2003 — and that's with two quarters' worth of higher than expected earnings. By the third quarter, during which the smoking bans went into effect, earnings began dropping

BINGO

Bingo incomes by quarter.





Jackie Lorentz, staff photographer

North Dakota Association for the Disabled's business devastated by law

By Tu-Uyen Tran
Herald Staff Writer

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Different conditions but one common problem. Both are clients of the North Dakota Association for the Disabled, based in Grand Forks. Until late last summer, the nonprofit group was able to offer generous financial aid to disabled people who didn't get similar help elsewhere.

On Aug. 1, 2003, smoking bans enacted by the state and the city to protect workers from carcinogenic second-hand smoke went into effect. As an unintended side effect, it dealt a crushing blow to NDAD's bingo parlors —

including the Bingo Palace in Grand Forks — whose customers are, by and large, smokers. The parlors had been the main source of funding for NDAD, allowing the group to help Perkerewicz pay for her medicine and Schiele pay for a powered wheelchair and taxi service.

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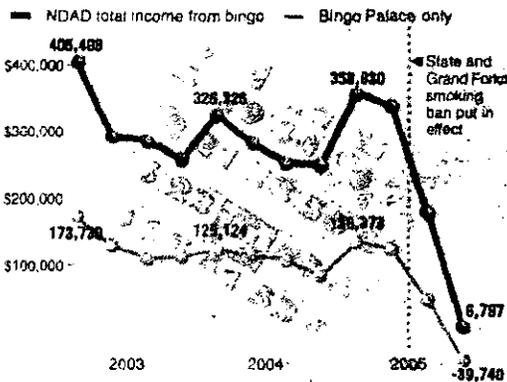
Total bingo earnings last year were down to \$84,000, nearly 30 percent lower than in 2003 — and that's with two quarters' worth of higher than expected earnings. By the third quarter, during which the smoking bans went into effect, earnings began dropping precipitously.

NDAD's three bingo parlors together

SMOKE: See Page 5A

BINGO

Bingo incomes by quarter.



Herald file photo

"It's been tough telling people we can't help them with direct assistance. . . . All of a sudden, our budget was gone."

Jeri Hietala
NDAD case worker

"I tried to make it on my own, but it got to a point where I couldn't do it anymore. . . . And as you get older, you get more diseases."

Phyllis Perkerewicz
NDAD member

Top: Joan Schiele (left), a member of NDAD, gets a ride from Gene Coulter of Grand Forks Taxi. NDAD's budget crunch makes it tough for Joanne to get to work and back.

Left: Between games, smokers at the Grand Forks Bingo Palace step outside to smoke.

SMOKE/

Continued from Page 1A

earned less than \$7,000 in the final quarter. The Bingo Palace actually reported a loss of nearly \$43,000. The same period a year ago, the three parlors earned nearly \$250,000.

If that trend bears out, earnings will be far worse this year than even last year.

The financial aid budget is assuming the worst. For 2004, it expects to provide only \$140,000 worth of aid compared to \$753,000 in 2004.

The impact of all this can range from merely inconvenient to disturbing.

Schiote, for example, can't afford the taxi rides anymore but is still able to get around with the help of her husband Jeff, friends or relatives. That means, though, that she has to inconvenience others and not be as independent as she'd like.

Depending on what she needs to do, get to work or take her 5-year-old Hannah to the doctor, she said she has to juggle three to four people a week.

For 63-year-old Parkerswicz, the impact had been harder to bear.

A widow since she was 38, she'd worked hard to raise three children, one of them still living at home. Several years ago, she was diagnosed with kidney stones, diabetes and then high cholesterol and high blood pressure. Though she had insurance, getting the kidney stones removed put her \$5,000 in debt, most of which she still has to pay off.

She became an NDAD client three years ago when she found herself taking out payday loans to pay for rent and utilities.

"I tried to make it on my own, but it got to a point where I couldn't do it anymore," she said. "And as you get older, you get more diseases."

NDAD paid for most of the 13 medications she needed to stay healthy. Now it only can pay for the diabetes medication and she pays for four others. Not included on the list is the medication to keep kidney stones at bay, which means there's a possibility she'll need surgery down the road.

Parvareaty, Schiote and Parkerswicz probably could get financial aid from other sources, if only they were very poor. Both have jobs and fall into that category known as the "working poor"—people who work but, either because of low pay or high expenses, can't escape poverty.

Parkerswicz has looked into various government programs but found she didn't qualify.

"It almost seems working is put against you a lot of the time when you're looking for help."

That's precisely where NDAD

fits into the gap where other agencies or non-profit groups couldn't help. Sometimes it is because of income that's not low enough and sometimes because it takes time to cut through red tape and qualify for support, she said.

Sometimes NDAD provides aid that is not so much a necessity as a quality-of-life issue, such as powered wheelchairs and lifts to get those wheelchairs into a vehicle. A powered wheelchair could cost \$3,000 to \$14,000, a frequently impossible sum for the disabled who live on a fixed income, according to Hietala.

Not that NDAD is accepting its fate without a fight.

"We haven't given up," said Gibbens.

So far, NDAD has considered putting bars inside the Bingo Palace to get around the smoking ban, which exempts bars, he said. But remodeling costs are estimated at \$750,000, too high for the group's budget, he said.

NDAD has considered other charitable gaming options, Gibbens said, but earnings projections were too low. "At the very best, we're still not going to get back to the profits we were making before," he said.

That leaves the other option: Asking for outside help.

The group is talking with state legislators, presenting six possible ways to save itself.

One is to amend the smoking

ban so cigarette smokers move NDAD officials think is pretty unlikely. The others are considered less controversial. Three involve some sort of tax relief, one involves state funding of NDAD programs and another would let the group deploy slot machines.

NDAD's finance chief Tracy Ladouceur said taxes eat up a huge chunk of the group's earnings. She pointed out, for example, that in the devastating final quarter of 2003, when the Bingo parlors earned only \$7,000, the state took in \$275,000 in taxes.

The slot machine idea is not as far-fetched as it sounds, either. A study conducted by UND for the Charitable Gaming Association of North Dakota found that 79 percent of state residents would vote to allow charities for the disabled to operate slot machines.

Gibbens said the response from the legislators NDAD has spoken with appears favorable, but he hasn't gotten any assurances.

Which means when a new client comes to the group, caseworkers like Hietala won't be able to do more than refer them to another agency. "I just have to tell them we have no idea when things will change."

Restore the services that smoking bans took away

Two conclusions can be drawn from the fact that as a result of new anti-smoking laws, clients of the North Dakota Association for the Disabled now have seen their financial-aid checks slashed ("Who lost when bingo went smoke-free?" Page 1A, April 23).

The first conclusion is that it's time to drive a stake through the heart of the argument that anti-smoking laws don't hurt businesses or organizations whose customers tend to smoke. As decried before in this space, that argument gets floated time and again in campaigns to mandate smoking bans: "Every single study on the topic (except those sponsored by tobacco companies) has shown that smoking bans do not hurt businesses," a spokesman for the North Dakota Tobacco Quitline said a year ago.

Smoking-ban proponents made that and similar claims in Grand Forks, Bismarck, Fargo, Minneapolis and St. Paul before the councils and legislatures there passed smoking bans. And after the bans in Grand Forks, Bismarck, Fargo, Minneapolis and St. Paul came stories of bar owners and others whose smoking customers apparently hadn't read the reassuring studies, and stayed away from the newly smoke-free businesses in droves.

As a result of their complaints, Hennepin County commissioners even voted in December to scale back part of their smoking ban.

To repeat: The argument that smoking bans "do not hurt businesses" is false. It has been disproven by real-life events, to the point where supporters of the bans no longer can credibly make the claim.

Then there's the fact that the nature of the pain that the bans cause has changed. In the Twin Cities, the complainants tended to be bar owners — a strong constituency, no doubt (as shown by Hennepin County's retreat), but not one that most people associate with charitable virtues such as helping people with disabilities and the poor.

But in North Dakota, charities that perform those exact services rank high among the groups that got the most attention. The charities provide money, wheelchairs, medicine and other services in North Dakota that, in Minnesota, tend to be paid for by the state.

That's why the North Dakota As-

...a strong constituency, no doubt (as shown by Hennepin County's retreat), but not one that most people associate with charitable virtues such as helping people with disabilities and the poor.

But in North Dakota, charities don't perform those exact services rank high among the groups that got hurt. The charities provide money, wheelchairs, medicine and other services in North Dakota that, in Minnesota, tend to be paid for by the state.

That's why the North Dakota Association for the Disabled's plummeting income must trouble even committed anti-smoking activists. For it's one thing to hear a bar owner complain that the ban means his establishment isn't selling enough beer. It's another thing to learn about a woman with cerebral palsy, whose Dial-a-Ride money dried up because of the ban.

Her example gives the phrase "unintended consequences" a cruel and tragic ring.

Which brings us to the second conclusion to be drawn: Something must be done to ease the charities' losses.

North Dakotans chose to subcontract services for people with disabilities to groups such as the North Dakota Association for the Disabled. As part of the bargain, the state let the groups raise money through charitable gaming.

Well, now the bargain has changed: As a result of state action, gaming isn't as lucrative any more. That means people with disabilities now are being denied important services.

The association suggests amending the smoking ban, funneling tax dollars to the group, letting the bingo parlors install slot machines and so on. At this point, the specific solution seems less important than a commitment from the state to seek a solution. North Dakota's system for delivering services to people with disabilities recently took a very bad hit. The state should accept responsibility for the wrong and resolve in some fashion to make it right.

— Tom Dennis for the Herald

lawmakers say
compromise isn't

Tuesday, May 30, 2006 - 3:51 pm

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Bingo halls seek tax break due to smoking ban effect

By TOM RAFFERTY
Bismarck Tribune

Ron Gibbens said there's a "very strong likelihood" two charitable bingo halls will close because of a statewide anti-smoking law, yet he is not asking legislators for an exemption to the law.

Gibbens, who founded the North Dakota Association for the Disabled 30 years ago with his wife, Faye, has dismissed the idea of asking for a smoking exemption because of the nature of the organization.

"As an organization that provides for the health of citizens, we don't want the NDAD to be portrayed as being pro-smoking," Gibbens said.

Instead, Gibbens, the president and CEO of NDAD, is asking legislators to consider granting tax relief to charitable gaming organizations.

The state currently charges a 5 percent tax on the first \$200,000 of adjusted gross gaming proceeds, 10 percent on the second \$200,000, 15 percent on the next \$200,000 and 20 percent on proceeds of more than \$600,000.

One of Gibbens' suggestions is to set the tax at a flat 5 percent rate regardless of the amount of proceeds collected.

Another option he presented to a group of legislators and nonprofit executives in Bismarck on Wednesday was to eliminate the sales tax on bingo sales. Gibbens said if the sales tax is eliminated, bingo halls could maintain their current prices but keep the amount they would have normally collected for sales taxes.

Gibbens estimated that the state would lose about \$1 million a year if either one of those proposals passes but that the state risks even more losses if two bingo halls in eastern North Dakota - one operated by the NDAD in Grand Forks and another by the Plains Art Museum in Fargo - close.

Since the statewide ban on smoking in most public places went into effect in August of last year, bingo halls have blamed it for lagging sales.

The eastern bingo halls are more susceptible to closure because customers cross the border to Minnesota, where they can smoke in bingo halls there, Gibbens said.

Legislators at Wednesday's meeting were open to the idea of looking at the tax structure or making other changes to help charitable bingo.

Sen. Bob Stenehjem, R-Bismarck, suggested that charitable gaming organizations could

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Bingo halls seek tax break due to smoking ban effect

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lobby cities to ban smoking in all bars that conduct bingo games so that a level playing field is created. He also said legislators could consider a flat tax rate that is higher than 5 percent.

"Coming up with a big tax break is probably going to be hard to do," Stenehjem said.

Rep. Dwight Wrangham, R-Bismarck, said he was surprised the NDAD doesn't want an exemption to the smoking ban. Wrangham said people should be allowed to smoke in bingo halls, but the age to enter a bingo hall should be increased to 21.

"We should allow those people to exercise their right to smoke," Wrangham said.

Rep. George Keiser, R-Bismarck, said the Legislature needs to re-examine taxes on all gaming revenue and could consider a flat tax that is revenue neutral to the state.

According to Gibbens, the NDAD collects 70 percent of its revenue from gaming. To make up for lagging bingo sales, the NDAD has eliminated their medical equipment budget for 2007 and other budgets and has put a freeze on raises for staff. The NDAD provides medical equipment, drugs, transportation and attendant care for people across the state with a variety of disabilities.

Gibbens said the NDAD bingo hall in Grand Forks lost \$27,800 from October 2005 to this March, and he presented a report showing a combined 74.4 percent decrease in net income for NDAD bingo halls in Grand Forks, Minot and Williston from that time period compared to the previous year.

John Harris III, president and CEO of Prairie Public Broadcasting, which operates Dakota Skies Bingo in Bismarck, said the bingo hall will survive if no changes are made, but the lost revenue will affect the services the company provides to the public. Harris said Dakota Skies Bingo made about \$211,000 less from October 2005 to April 2006 compared to the same period of time a year ago. Harris said bingo income is about 12 percent of the company's total income.

Ed Pauley, president and CEO of the Plains Art Museum, said the museum has reduced staff by 16 at the museum and has made other cuts.

"We will have to consider closing altogether if it doesn't turn around," Pauley said.

(Reach reporter Tom Rafferty at 223-8482 or tom.rafferty@bismarcktribune.com.)

Taxes on charitable bingo oppressive

By EDWARD PAULEY
Fargo

I am disappointed by the opinion expressed in the Tribune editorial (June 8, "Tax break for bingo would be unfair") concerning charitable gaming and taxes. At the very least, one would hope the

writer's line of reasoning would be based on factual information and empathy for communities. The tone seems more vested in protecting the tax code than supporting nonprofit organizations that provide services at little, to no, cost to the taxpayer.

The current tax structure for charitable bingo is so oppressive that, for the most recent quarter, the state's four largest halls paid nearly 285 percent more in taxes than their collective net income. It would seem that a system in which the state makes substantially more from charitable gaming than organizations it is intended to support is inherently flawed.

The Tribune's opinion is that bingo halls were not singled out for the smoking ban. Although other businesses were affected by the ban, bingo halls were specifically referred to in the law. As a result, bingo halls are not on an equal playing field with other forms of gaming in North Dakota. Charitable bingo is also played, for example, in bars and fraternal clubs that were unaffected by the smoking ban.

Let me be clear, the nonprofits seeking tax relief are not asking for the smoking ban law to be repealed. We accept the ban, even though it has devastated charities. We do ask for some tax relief so we can continue to provide services that would not exist without charitable gaming.

The Tribune further conveys a "sink or swim" viewpoint. Unfortunately, the difference between for-profit and nonprofit businesses is not acknowledged by the newspaper.

As nonprofits, we have limitations that are not imposed on for-profit businesses. We do not exist for personal financial gain. Nonprofits are created by communities to serve our communities. If our income decreases, we can't change our product. Our product is our purpose, which is to provide programs that, without charitable gaming, many communities could not afford.

The bottom line is that charitable gaming is legal in North Dakota so communities can enjoy greater social and cultural services. With a statewide population base of 600,000, grant and government funding is extremely sparse.

Ironically, in North Dakota it is the state that is dependent on community-based charities for support. Another irony is that North Dakota will lose the tax revenue altogether if bingo halls are forced to close. Without tax reform, the state, the communities served and nonprofit organizations will suffer.

Regrettably, the Bismarck Tribune editorial chose to offer only ill-informed platitudes in the face of a real crisis.

(Pauley is the president and CEO of the Plains Art Museum, of Fargo. The organization receives

money from bingo. — Editor)

SMOKING BAN

Some businesses hurt

Smokers find acceptance in East Grand Forks

By **Elisa L. Rineheart**
Herald Staff Writer

It's been a year since the Grand Forks smoke ban passed, and local businesses that were expecting a negative impact on revenue say numbers have gone down because of it.

The smoking ban, a less stringent version of a similar state law, says enclosed areas of most public places and places of employment must be smoke-free. Exceptions to the rule are hotels, bars, and bars attached to bowling alleys.

Bingo Palace in Grand Forks, for instance, has experienced a 95 percent decrease in net income since the smoke ban was adopted last Aug. 1, said Ron Gibbens, president of the North Dakota Association for the Disabled.

NDAD — a nonprofit organization for people with disabilities — owns Bingo Palace and two other bingo halls, one each in Minot and Williston, N.D.

The Minot parlor, where there's a smoking ban, is down 48 per-

SMOKE: See Page 8A

SMOKE/

Continued from Page 1A

The income difference between the two bingo halls is mainly based on Grand Forks' proximity to smoke-friendly establishments in East Grand Forks, Gibbens said.

NDAD is responding to the decrease in revenue by cutting down programs and trimming down operating expenses, he said.

Gibbens said he's lobbying legislators for a tax break to counteract the loss of income.

He said he's heard of a movement to introduce a statewide version of the smoking ban in the 2007 legislative session that would include bars in the list of smoke-free places.

The movement found renewed energy in a report from the U.S. Surgeon General issued in June stating the dangers of secondhand smoke and confirming there is no safe level of exposure to secondhand smoke.

Sen. Ralph Kilzer, R-Bismarck, main sponsor of the state's anti-smoking bill in 2005, said anti-smoking groups discussed a bill to in-

clude bars, but he does not know if one will be introduced.

Josh Gilleland, owner of Gilly's Bar and Grill in downtown Grand Forks, says the smoking has had a positive impact on his business because it draws clients out of nonsmoking restaurants and into his establishment, which serves alcohol and starting next week will feature a complete lunch menu and gambling tables.

"You've got restaurants that are doing a phenomenal amount of business in the bar end of it, so it helps us level the playing field," he said.

Gilleland, who owned a bar in Fargo and has been in the industry for nine years, said he's also learned of a statewide movement of organizations that want to get a complete smoking ban. He says such measure would work only if it's implemented in Minnesota and North Dakota.

"Unless they do it mutually with their neighboring states, it's definitely going to be a detriment to border cities such as Grand Forks and Fargo," Gilleland said.

He said when the 2 a.m. bar closing law went into ef-

fect in Minnesota, it adversely affected bars in the Fargo side of the state border.

"I have friends that own bars that went down 60 percent in sales because of it," Gilleland said. "I think that you'd find the same type of thing happening if it doesn't happen equally across the border."

Jeannie's Restaurant, a 24-hour family restaurant on South Washington Street, gained a few new customers after it became a smoke-free restaurant, but sales have decreased considerably because of the ban, said Manager Kris Nelson.

"It's hurt us big time," she said. "Especially in the 2 to 10 p.m. shift."

Nelson says she tells her customers to feel free to go smoke outside the restaurant's main entrance, where they'll find a park bench and an oversized ash tray.

"This is a family restaurant," she said. "We'll hold the table for them."

The Associated Press contributed to this report. Rineheart reports on business and military affairs. Reach her at (701) 780-1269; (800) 477-6572, ext. 269; or at erineheart@theherald.com.

Survey says . . .

The Grand Forks Tobacco Free Coalition says it will release the results today of a survey conducted by the Social Science Research Institute at UND to measure public opinion of the city's smoking ordinance.

The survey will be released at 5:30 p.m. in the Italian Moon Restaurant.

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IN-FORUM

B-I-N-G-O

By Dave Forster

The Forum - 02/04/2006

When Stacey Lundberg learned last year that she had cancer, a North Dakota nonprofit helped the single Fargo mother pay her medical bills.

That stopped last fall when the North Dakota Association for the Disabled saw its revenue from bingo halls begin to shrink. NDAD officials attributed the trend largely to the state's smoking ban, which began Aug. 1.

Lundberg, like many others who relied on the NDAD for transportation or medication reimbursements, lost her assistance in December. She said she can't afford to miss work now.

"It's a very frustrating situation," said Lundberg, community relations and event coordinator for the YWCA.

Like the NDAD, two other high-profile nonprofits that depend on bingo halls reported downward trends in the quarter ending Dec. 31. The returns were due this week to the North Dakota attorney general.

Bingo is one of the charitable games the state allows nonprofits to use to fund their work.

The Plains Art Museum in Fargo saw gross proceeds at Big Top Bingo drop 39 percent from the same quarter in 2004. Prairie Public Broadcasting, which runs Dakota Skies Bingo in Bismarck, reported a 13 percent drop.

The hit at Big Top becomes even more drastic when looking at what was left over after prize money, taxes and expenses. It cleared \$60,000 in income during the last quarter of 2004. But in 2005, that figure fell to \$9,000 in the red, according to an NDAD study of the state's four largest bingo halls.

Big Top Bingo went smoke-free Nov. 1, after the North Dakota attorney general refused to give it a pass on the ban by getting a liquor license.

"It has hurt us tremendously," said Laura Slicer, CFO for the Plains.

Ron Gibbens, NDAD president, met with legislators this week to make his case for help. One proposal is to lift the ban in bingo halls meeting an air quality standard. Other ideas include tax relief - the largest bingo halls pay a gaming tax of 20 percent on adjusted gross proceeds over \$600,000.

"Everything's on the table," Gibbens said.

However, a call to lift the ban likely won't find much sympathy next legislative session, said Sen. Duaine Espeland, R-Grand Forks, one of the legislators who listened to Gibbens this week.

Sen. Tim Mathern, D-Fargo, said he'd like to see the state provide more direct funding in areas such as disability coverage and the arts rather than have them rely on gambling.

"We shouldn't fund those important things on the backs of people's smoking habits," he said.

The Plains, which also runs the Blue Wolf Casino in Fargo's Expressway Inn, normally gets about 68 percent of its revenue from its two gaming sites, Slicer said. At the Blue Wolf, where smoking is allowed but bingo is not offered, gross proceeds fell 4 percent in the fourth quarters from 2004 to 2005.

Prairie Public funds about 10 percent of its budget with gaming revenue, said CEO John Harris.

For the NDAD, gaming accounts for 70 percent of the budget, and about 80 percent of that comes from bingo halls, Gibbens

said. The Plains already has made cuts in response to the figures out of Big Top, Slicer said.

Reductions in revenue won't affect exhibits at least until summer 2007, though, said Rusty Freeman, vice president of curatorial and education. The exhibit schedule is full until then, and the Plains has already paid much of the costs for upcoming exhibits, Freeman said.

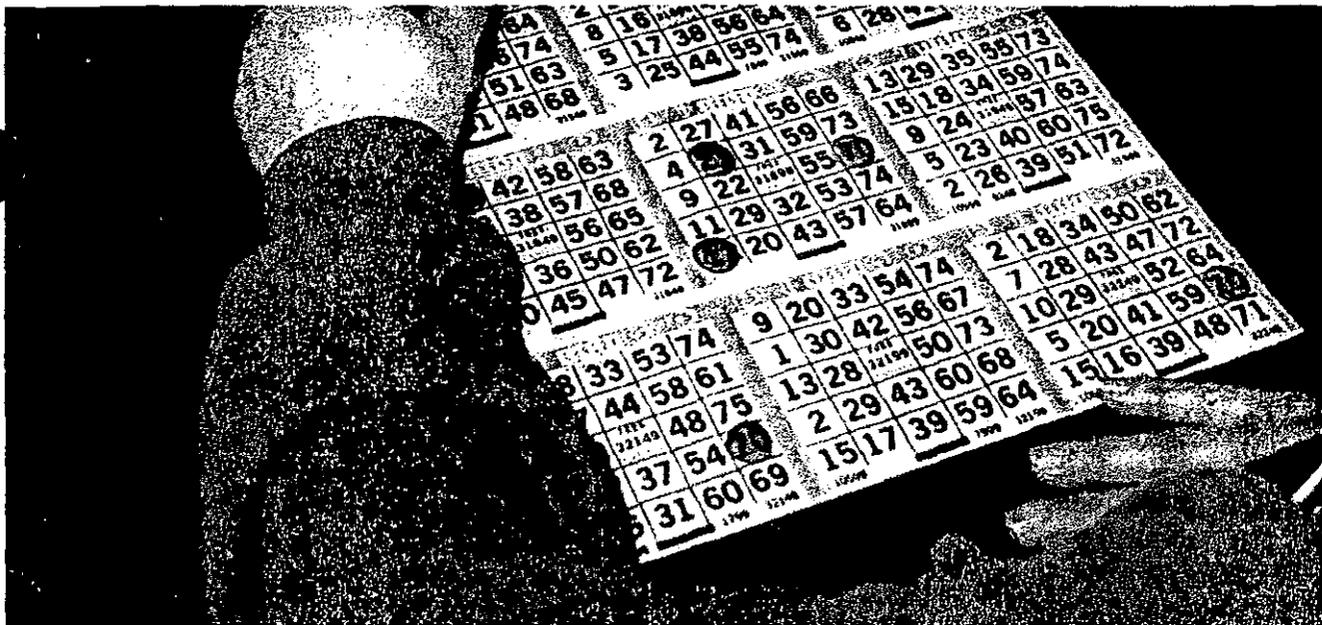
"We're in relatively good shape," he said.

John Klava, general manager of Big Top, said more factors than just the smoking ban contributed to the poor fourth quarter at his site. This time of year is normally slow for business, and a late November ice storm hurt it even more, Klava said.

Casinos, now closer than ever for local residents, continue to siphon off customers, and bingo itself has grown less popular, he said.

There may be reason to hope, though. Big Top saw a slight increase in head counts over January, Klava said.

Readers can reach Forum reporter Dave Forster at (701) 241-5538



Smoking ban creates mixed responses

By **JILL SCHRAMM**
Staff Writer
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The Williston State College Foundation is debating how long it can keep conducting bingo in Williston. Revenue took a nosedive following a statewide ban on smoking in public places last August.

At the VFW hall in Anamoose, bingo continues to go strong. A self-imposed smoking ban a few years didn't put a dent in income. Attendance actually picked up, VFW member Duaine Dockter said.

The mixed response to smoke-free bingo is typical across the Minot region.

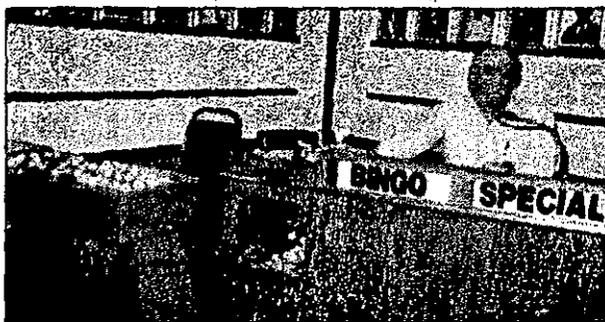
Sites that have voluntarily gone smoke-free are doing well, while those forced to make the change are struggling.

The North Dakota Association for the Disabled, Grand Forks, is looking at requesting legislative relief, possibly in the form of reduced gaming taxes, to survive the financial hit.

NDAD reports a 97 percent overall drop in net income at its sites in Minot, Grand Forks and Williston. Minot's Bingorama income is down nearly 74 percent. The Bingo Barn in Williston is down 4.5 percent on Saturdays when NDAD sponsors the gaming.

The WSC Foundation leases the NDAD's Bingo Barn on Fridays and the Williston Basin Skating Club has it on Tuesdays.

"I used to run bingo in the afternoon on Friday for the college foundation, and I had to close," gaming director Roseanne Marquez said. "We weren't making it. And my evenings for the foundation and the skat-



Jill Schramm/MON

TOP: A bingo player marks her cards at Velva American Legion's bingo night Saturday.
ABOVE: Norm Sollid calls bingo at the Velva American Legion Club Saturday night.

Non-smoking law has gray areas

North Dakota's smoking ban excludes bingo in bars, but who gets the exemption isn't always clear.

The Velva American Legion operates bingo in a local bar and has Saturday-night bingo at its club. Both sites allow smoking.

Norm Sollid, gaming manager, said law officers have visited the Legion club and called it a "gray" area of the no-smoking law. The Velva City Commission has been asked to weigh in but decided that the state needs to rule on this one.

Sollid said the Legion considers bingo a club function and exempt from the state's smoking ban. Members of the public who attend are viewed as club guests.

The Legion has a bar at one end of the room, although sales are minimal, he said. The Legion has set an age requirement of 16 or older to play bingo in its facility.

"The Legion hasn't decided to make it non-smoking because a lot of our good attendees are smokers," Sollid said. Banning smoking would negatively affect bingo income, he said.

— Jill Schramm

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Bingo

Continued from Page B1

ing club have dropped at least 35 people, which has really, really hurt us bad."

The skating club typically sees a \$13,000 to \$15,000 profit in its fourth quarter from bingo. Last year, after the smoking ban, the club made \$3,000 for the quarter.

"We are just barely staying afloat with it — to the point where I don't know if we can even continue with bingo," she said.

John Axtman, skating club president, said with the drop in bingo income, the club will have to add another event to its fundraising schedule for the year.

The bingo money supports the varsity hockey program, which the club runs for the high school. Axtman said if income fails to come back in

bingo, the club could be looking at raising the fees for varsity players.

For now, the club is increasing the advertising for its bingo dance, he said.

The WSC Foundation's bingo money goes to scholarships and other programs that support the college, Marquez said. Its bingo is barely breaking even, she said.

NDAD might do somewhat better because its Saturday bingo draws from a larger area and from the pool of people who work during the week, Marquez said.

The Anamoose VFW ended smoking at its Monday-night bingo at the request of volunteer workers, Dockter said.

More non-smokers now participate, he said. Between 85 and 100 people attend, and a small number will go outside to

smoke at the break.

Dockter said the smoking ban has been overwhelmingly well received.

"There was a lot of people that really were looking forward to that," he said. "We don't plan on ever going back."

The Sherwood American Legion just banned smoking last year after previously allowing smokers to smoke in the back part of the building.

"The bulk of the people were real happy about it," gaming manager Orlin Hanson said. The Legion hasn't noticed any drop in revenue, he said.

Hanson said bingo is entertainment in a small town.

People who come for the socialization won't stop because of a smoking ban, he said.

Westhope Senior Citizens runs bingo alternate Saturdays with the Sherwood Legion. That bingo also is smoke-free.

Lorraine Belcourt of the Senior Citizens said a back room is available for smoke breaks, but most people just go outside.

"It's always been smoke-free," she said. "That's just the way we started it and everybody has accepted that because there are so many people around here with asthma who can't stand the smoke. Everybody respects that."

SMOKE

Continued from Page 1A

it continues, we're going to have to continue reducing services."

Gibbens, who admitted that the fourth quarter typically is the worse for sales, said the decrease is not the result of poor management.

"We've tracked numbers from Day One and we've been on an increasing mode over the years," he said. "The day the smoking ban started, our income dropped, and it has stayed in that low number."

NDAD officials said they haven't had similar figures since 1989. The nonprofit charitable organization has been in business for 30 years.

Part of the problem, Gibbens said, is that they're losing high rollers, who typically are smokers, to casinos in Minnesota, where there are no smoking laws.

"That's where our competi-

YOU CAN HELP

To make donations call NDAD at (701) 775-6877, or log on to grandfortsnadad.org.

tion is coming from," Gibbens said.

Other solutions

The proposal to amend amending laws to boost sales in bingo halls wasn't well received by legislators in the lobbying meeting held Tuesday by NDAD in the Best Western Town House in Grand Forks.

But another solution to reduce the current deficit — a tax reduction or abatement for nonsmoking bingo halls that are losing clients because of smoking restrictions — caught the audience's attention.

Larger bingo halls such as NDAD, Plains Art Museum and Prairie Public Broadcasting typically pay a 20 percent gaming tax, Gibbens said.

Legislators didn't seem eager to carve out a special amendment just for bingo halls, but they agreed with Gibbens in that a tax break would be a fair way of dealing with the problem.

"I don't think I would support it if it wasn't universal," said State Sen. Duane Espgaard, from District 43, Grand Forks.

Other proposed solutions included allowing affected bingo halls to generate proceeds through electronic gaming, government aid and a sales, gaming or excise tax relief.

Gibbens said the NDAD

took out \$300,000 from its reserve fund and eliminated 12 full-time positions in the state to reduce expenses. Six of those jobs were in Grand Forks.

Financial assistance

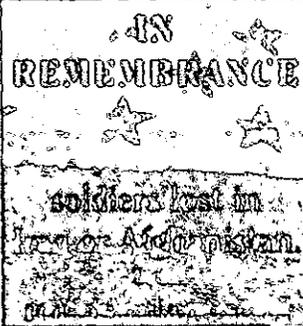
Funds generated by NDAD are used for medication, medical equipment and supplies, accessibility, travel expenses, transportation and recreational activities, Gibbens said.

Financial assistance provided to NDAD clients in 2005 ranged from \$5 for cervical spine osteoarthritis medication to nearly \$5,400 for med-

ical equipment for a quadriplegic beneficiary. NDAD made donations ranging from \$95 to \$20,000 to other organizations for people with disabilities, according to financial records provided by NDAD.

NDAD representatives said they appealed in vein to the attorney general who said that bingo halls can't allow smoking even if they have a bar attached to it as it happens with bowling alleys.

Rineheart reports on business. Reach her at (701) 780-1289; (800) 477-6572, ext. 289; or at erineheart@lineheart.com.



NDAD pleads its case

Association wants exemption or tax cut for bingo halls

By Ellen L. Rineheart
Herald Staff Writer

Citing a loss of revenue, the North Dakota Association for the Disabled asked state legislators at a lobbying luncheon Tuesday to reinstate smoking in bingo halls or give them a tax break.

NDAD is a nonprofit organization that funds assistance programs for North Dakotans with mental and physical disabilities with proceeds from bingo halls throughout the state. Two of those bingo halls, known as Bingo Palace, are in Grand Forks. The remaining two are in Minot and Williston, N.D.

The nonprofit organization devotes 89 percent to 90 percent of its proceeds to direct assistance programs for the disabled, said Ron Gibbens, NDAD president.

Gibbens said that since the smoking ban was enacted in August, all four bingo halls reported lower sales in the fourth quarter of 2005. Figures from October through December

show a 35 percent decrease in proceeds compared with the same quarter last year.

NDAD's bingo halls in Grand Forks brought in \$438,500 in adjusted gross proceeds in 2004. In 2005, that number dropped to \$266,000, Gibbens said.

"It's not a huge drop, but it's significant," he said. "If

NDAD proposes tax break on bingo halls caused by smoking ban

By JILL SCHRAMM

Staff Writer

jschramm@ndweb.com

A tax break for North Dakota's bingo halls would be less costly to state coffers than watching the halls collapse financially because of a smoking ban, says the operator of Minot's Bingerama.

Ron Gibbens, president of the North Dakota Association for the Disabled in Grand Forks, told area legislators Wednesday that his organization favors eliminating the sales tax on bingo cards to try to recoup a 97 percent drop in income caused by the state's smoking ban. The sales tax generated \$1.3 million for the state in 2004.

The drop in NDAD's primary revenue source is directly related to the smoking ban that took effect Aug. 1, Gibbens said.

"That represents the sole reason that our numbers are down. Our trend, typically, has been upward," he said.

Adjusted gross proceeds at Bingerama in Minot were down 33 percent in the fourth quarter of 2005 compared to the same period a year earlier, he said. Net income was down 73.5 percent. Overall for the quarter, net income came to \$7,480, a 97 percent drop.

NDAD's Grand Forks bingo hall saw the largest negative effect. The Williston bingo hall, open only on Saturdays, saw a minor net income loss of 4.5 percent.

"Our taxes are significantly higher than our net income, even when we are doing really well,"

Gibbens said. For the fourth quarter last year, taxes took 40 percent of NDAD's bingo revenue.

By law, charitable gaming operators are required to spend close to 50 percent of revenues on charitable causes. To reach that level, when expenses and taxes take the bulk of revenue, they subsidize the operation with other money. Subtracting the money put into the operation from the money taken out gave NDAD a net of 1 percent last quarter.

NDAD paid \$632,949 in sales tax on bingo cards in 2004. NDAD proposes that the money could better be spent on services to clients.

NDAD has budgeted \$146,166 for client services such as attendant care and medicines in 2006. That's down from a 2005 budget of \$563,320 after cuts were made late in the year. Spending in 2004 was \$753,236.

Gibbens said NDAD still is able to help three of every four people who seek services because its primary goal always has been referral to other programs. It's the remaining one in four who NDAD helps directly.

"The one we used to be able to find help for, we are not going to be able to do it," Gibbens said.

NDAD also pays excise and gaming taxes, and eliminating one of those is an alternative solution, Gibbens said. In 2004, NDAD paid \$250,028 in excise taxes and \$682,529 in gaming taxes.

Sen. Karen Krebsbach, R-Minot, questioned whether the Legislature would want to single

out non-smoking bingo halls for a tax break.

Gibbens reported gaming operators are looking at approaching the Legislature next year with an overall tax-reduction plan that would be in addition to anything requested by bingo halls.

Another possible financial solution is an exemption to the smoking ban for bingo halls. Gibbens said that option might be politically impossible, and legislators at Wednesday's meeting reinforced that assumption.

Gibbens said the Legislature could consider permitting smoking in bingo parlors if minors are prohibited and the parlors meet certain air-quality standards. He said NDAD's bingo halls installed purifiers that were keeping air quality at the level of a non-smoking environment, determined by independent testing.

"We feel we did a very responsible job of controlling the dangers to the health of our customers and our employees," he said.

Gibbens also mentioned electronic gaming to make up for bingo losses. He cited a Bureau of Governmental Affairs poll showing that 79 percent of state respondents would support slot machines and other electronic gaming if proceeds benefitted people with disabilities.

Yet another option is state

funding for disability services that NDAD has been providing, Gibbens said.

"There's been a lot of people we have been helping who really need help. This is vital health care. The state needs to look at doing something to take care of them if we can't," he said.

But eliminating sales tax is the favored option.

Legislators suggested meeting with an interim legislative committee to begin the discussion about legislation. Legislators agreed to help with that process but mentioned a number of questions that NDAD still needs to address.

Rep. Clara Sue Price, R-Minot, said legislators will be interested in knowing whether bingo operators rebound at all in the coming year.

Gibbens presented figures showing Prairie Public Broadcasting and Plains Art Museum in Fargo also took a hit in their bingo operations after the smoking ban. The operations in the eastern part of the state were hurt worse because of the loss of customers to Minnesota, he said.

"I predict there will be halls closed down. We are hoping we can struggle through until the next legislative session," he said.

**TESTIMONY ON HB 1353 FOR HOUSE GOVERNMENT & VETERANS
AFFAIRS COMMITTEE
JANUARY 25, 2007**

Good morning Mr. Chairman and members of the House Government and Veterans Affairs Committee. My name is Ralph Kilzer and I am the state senator from District 47 which is the northwest part of Bismarck. I appear before you in opposition to HB 1353.

On June 27, 2006, the Surgeon General of the United States issued a long document devoted to the serious health hazard of second-hand smoke. Dr. Carmona issued a 670-page document. It confirmed many of the carcinogenic effects of second-hand smoke and brought out the morbidity and mortality associated with the exposure to second-hand smoke. I would urge you to read that document. It can be seen online if you go to the U.S. Surgeon General's website. It can be brought up. I am not going to go through the document now but would certainly urge you to look at the summary of the six points of emphasis that Dr. Carmona used in summarizing the scientific document that he produced.

I would just simply state that the effects are worse than had been previously known. This is particularly true in children and in some cases the risk of cancer from second-hand exposure is even worse than it is to the primary smoker who exposes the lining of his lungs to the carcinogens he is inhaling. Therefore, because it is such a well-known health hazard, I would urge you continue the efforts that are going on in this legislature and many other legislatures throughout the country in reducing the risk of cancer, heart disease and stroke that comes that comes from second-hand smoke exposure.

3rd
The ~~second~~ section of the bill would tie the hands of the political subdivisions because it does not allow cities to have laws regarding smoking that are more restrictive than the state laws. Thus, if a city wanted to prohibit smoking in bars, it could not do so until the state already would be prohibiting that action. It really does reduce the will of the people and their government in political subdivisions. I would object to that.

If the committee desires to do something constructive, I would recommend another action.

We have learned quite a bit during the last couple of years. One of the things we have learned is that the North Dakota Association for the Disabled has received fewer funds because of less revenues to mingle pars. This probably results from several factors including the more widespread availability of the lottery, more Indian gaming, and the smoke-free atmosphere that is now present in bingo halls. I don't think we should take a step backward. I would recommend that this bill look at the real problem and that is the high taxation of bingo halls that have a reduced revenue. I would urge the committee to work with the provisions SB 2225, a bill which is designed to help bingo halls by lowering their tax burden. If this would be carefully thought out by your committee in the House the bill could be doing something positive and together with SB 2225 could bring up a satisfactory solution to the problems that have become apparent in the last two years.

If there are any questions I would be glad to attempt to provide answers.

Testimony on HB 1353
January 25, 2007

Chairman Hass and Members of the Government and Veterans Affairs Committee

I am Kayla Gartner from Bismarck, North Dakota. I am a senior nursing student at Medcenter One College of Nursing. I stand before your committee in opposition to House Bill 1353.

For the pastyears I worked as a server (correct title) in a bar/restaurant in Bismarck, ND. When I started to work as a server I was exposed to secondhand smoke each day I went to work. I came home smelling like smoke....experienced coughing spells....etc (You add what you want). In October of 2005 , the Bismarck City Commission passed an ordinance that strengthened the state law and required a bar/restaurant establishment to be totally smoke free – meaning no walls or enclosures for smoking were allowed. Therefore, my work place became totally smoke free forever. I have felt much better working in a smoke free environment. Etc.

It is important for local communities to have the power to develop policy based on the needs of the community. I believe in local control. HB1353 removes local control and does not allow cities and counties to address the needs of the community. Had it not been for local control I would be working in an unhealthy second hand smoke filled environment. I urge a DO NOT PASS on HB 1353.

Thank you for your time and attention. I am available for questions.