

Testimony in Opposition of
SENATE BILL NO. 2347
Senate Judiciary Committee
February 5, 2025

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

SB 2347 would allow “equine racing facilities” to conduct historic horse race (HHR) wagering through electronic “stand-alone” terminals, very similar to e-tab devices. That type of wagering would be considered pari-mutual and, other than licensing, would not fall under the rules, oversight, and policing of the Attorney General’s Gaming division and the Gaming Commission. It places this type of gaming under the Racing Commission to adopt rules and police operations without regard to standards set for other charitable gaming in North Dakota.

SB 2347 states that historic horse racing is to be conducted ONLY within an equine racing facility. The facility may have no LESS than 2 terminals, with no upper limit on the number of terminals. A very large potential number, far exceeding the number of e-tab machines could be allowed per site. It would permit this wagering at only one or two currently existing racing facilities.

While 2347 does allow for various organizations to get involved by “assisting in the conduct” of pari-mutual wagering, their primary purpose must be either “equine education”, “community recreation”, or “economic development”. No other type of charitable gaming has such a restrictive definition.

There are no limits set on the amount that may be wagered. There is no requirement for any specific percentage of proceeds to be contributed to eligible uses as with all other charitable gaming. 2347 does not identify just what eligible use of proceeds may be. It does state that the licensee (the business that provides the system) may deduct up to 25% of the amount wagered. It appears that those organizations who conduct will receive a small percentage of the wagers handled for the “assist” they provide the provider. The same is true for handling simulcast or “live” racing wagers.

One-fourth of one percent would go to the State’s general fund in lieu of any taxes. One-fourth of one percent to the county, and the same to the city in which the equine racing facility is located. Page 13, lines 24-28 in 2347 separates the wagers under the certificate system from HHR. HHR does not use the certificate system as defined earlier in 2347.

“Live” horse racing is currently allowed on a preset, limited number of days during a year. 2347 would open historic horse race wagering to be conducted daily, all year around, regardless if “live” or simulcast racing is taking place.

“Historic Horse Race” just means an electronic version of a pre-run horse race. They are in stand-alone cabinets, just as e-tabs exist now. Historical horse racing terminals (HHRs) look much like slots from the user’s perspective, but they generate results using the outcomes of past horse races. They are not governed by the rules of conduct that e-tabs operate under.

Historical horse racing gives players a slot-like experience in states where full-fledged slots are not legal. In short, it is legal pari-mutuel horse racing betting with a slots-like patina. Only the last few seconds of the race are displayed on a small part of the screen. The rest of the monitor displays reels and symbols to show the player what, if anything, they won off their wager.

Unsurprisingly, there’s significant debate regarding the legality of HHRs. One of the main points of contention is whether HHRs meet the legal definition of “pari-mutuel betting.” Also known as totalizator or tote betting, pari-mutuel wagering currently legal in most states.

Recently, Minnesota horse race tracks briefly received permission to offer historical horse racing but lost the opportunity before they could install a single machine. The Minnesota legislature passed a bill reversing that position and banned historical horse racing less than two months later.

Imagine the Fargo Horse Park having their regular racing season with the addition of year-round HHRs. It would become a Canterbury Downs, operating all year round, even without “live” racing. With it open for most charities to conduct; blackjack, poker, paper jars, and e-tabs, and all other games that could be offered to go with the unlimited number HHR machines.

Because the availability of HHR would be limited to locations and organizations, once the door is open, calls will come from many to allow the use of them in all gaming locations so they can compete with the "equine racing facilities". Should that come about, this expansion would multiply exponentially. This is an expansion of gaming that we do not need or want.

Accordingly, 2347 is opposed. We urge a **DO NOT PASS** recommendation on 2347.

Sincerely,
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