

January 26, 2021

House Agriculture Committee, North Dakota Assembly

Re: HB 1444

Chairman & members:

My name is Charles Bailey, Sr. of Fort Yates, North Dakota. I am the Gaming Commission Chairman of the Standing Rock Sioux Tribe. I come here today in opposition of HB 1444.

Please accept this testimony in opposition to HB 1444.

HB 1444 Historic Horse Racing, would expand gaming within North Dakota with devices that have slot machine functions. The functionality of the historic horse races serves as a “deck” of random numbers to operate instant video slot machines similar to that of an electronic pull tab device. Manufacturers may say it’s a gaming of skill, to which I would reply—It is still a slot machine.

**The Kentucky Supreme Court Affirmed that Historical Horse Racing Machines Operate Like Slot Machines, and are Not Pari-Mutuel Horse-Racing**

On January 21, 2021, the Kentucky Supreme Court in the *Family Trust Foundation* case affirmed its September 24, 2020 ruling that Historical Horse Racing is not Pari-Mutuel Horse Racing because patrons do not wager in a common pool on the same horse race, but rather, the Historical Horse Racing machines operate as slot machines with each better placing wagers against the machine.

The Kentucky Supreme Court explained:

To the extent that our prior opinion is read by some to suggest that random generation of multiple Historical horse races with patrons placing wagers on different races qualifies as pari-mutuel wagering, that reading is simply wrong. To be clear, pari-mutuel wagering requires that patrons generate the pools based on wagering on the same discrete, finite events. Only in that way are patrons “wagering among themselves” and setting the odds and payouts, the exceptions being possible minimum payouts and minus pools.

One of the Kentucky Supreme Court Justices said, “gaming vendors developed a gaming product whereby parties may wager on “Historical” races by means of a device that looks like a slot machine.”

Historical Horse Racing machines are not Pari-Mutuel Horse Racing, they are slot machines. This bill isn’t about horses or the impact real horse races have on local economies when conducted on the track.

This bill doesn't bring the success stories of direct hires or creation of jobs in our local towns or regions. This bill doesn't offer dedication of revenue to programs, such as education and health, police and fire, child and elders, and water and sewer.

This bill offers cannibalization of existing charitable gaming and Indian gaming industries. It brings about an end to Indian gaming success stories of direct hires and creation of jobs in our local towns or regions and the dedication of gaming revenue to essential tribal government services and programs. This bill does provide convenience gambling within our local towns, cities, and major cities across North Dakota which will compound our local government issues with problem gambling. This bill also adds to the duties of the regulatory authority which has been doing its best to keep pace with the expansion of gaming within North Dakota.

In contrast, Indian gaming is well and fully regulated by our tribal gaming regulatory bodies with the oversight and support of the National Indian Gaming Commission. Under our Class III tribal-state compacts, we partner with the State Attorney General's Office on Regulation. We have audits from the IRS, which ensures we are providing and reporting bank secrecy activity to the Dept. of Treasury Financial Crimes Enforcement Network to protect our communities from criminal money laundering and the elements that come with it. Furthermore, the FBI and the U.S. Attorneys protect our Indian gaming facilities by means of FBI investigations and U.S. Attorney prosecutions of any dishonesty by players or operators at Indian gaming facilities.

HB 1444 only seeks to expand gaming within North Dakota with minimal to no regulation that would provide protection of the great residents of this state.

People of North Dakota need our jobs, our charities, and the protections through proper regulation. For the reasons I stated, Standing Rock Sioux Tribe is in opposition of HB 1444, and we respectfully ask you vote no on this bill.

Thank you for listening.



Charles Bailey, Sr.  
Chairman, SRST Gaming Commission