



North Dakota Senate Judiciary Committee – Testimony in Support of HCR 3002

March 13, 2023

Chair Larson, members of the Senate Judiciary Committee:

It is nice to see you all again. Thank you for the opportunity to provide testimony in support of HCR 3002. And thank you to Representative Stemen and Senator Meyer and the many co-sponsors and other supporters championing this legislation.

My name is Pat Gibbs. I am an attorney with the law firm Orrick, Herrington & Sutcliffe. It is my pleasure to serve as national Public Policy Counsel for the Sports Betting Alliance (or, “SBA”). The SBA is a trade organization comprised of many of the top operators in the mobile sports betting industry—DraftKings, FanDuel, BetMGM, and Fanatics. Together, our members advocate for competitive mobile sports betting in the United States.

And while I look forward to detailed conversations with each of you about the best practices and policies that make a competitive mobile sports betting market successful for the state, operators, and players—we *aren't there yet*. Legal, statewide sports betting is not going to sneak up on anyone in North Dakota.

Currently, the state constitution prohibits the legislature from authorizing any games of chance with a few narrow exceptions. HCR 3002 would place a question on the November 2024 ballot asking the *voters* whether they want to add just one line to the relevant constitutional provision, which would add sports wagering to the games of chance the legislature authorizes and regulates. If passed, the legislature would then convene in 2025 with the power to establish its preferred framework.

So, HCR 3002 would ensure the people’s voices are heard, while ensuring that the legislature and legislative council have control over the language—a concern emphasized by many of your members stemming from citizen-drafted initiatives in recent years. HCR 3002 leaves the

constitutional language clean and concise, empowering the legislature to insert into legislation its preferred consumer protections and limitations; and decide where the revenue goes.

And that's only *if* the voters approve of the question. Your vote "yes" on HCR 3002 ensures that the people's desired policy becomes law in North Dakota. If a majority of North Dakotans do not want statewide mobile sports betting, they will vote "no" and it will remain illegal. If a majority of North Dakotans do want statewide mobile sports betting, they will vote "yes," and your legislature will have the authority to make sure it's carried out the right way.

But voting against HCR 3002 does not stop people from betting on sports. Sports betting is already legal at Native American tribal casinos in North Dakota, pursuant to tribal-state gaming compacts negotiated under federal law. And many individuals are already betting online using illegal offshore websites accessible from anywhere in the state. According to an EY report, ~21% of U.S. adults in states without legal sports betting were placing bets using bookies or offshore websites. And Geocomply data shows over 35,000 attempts to place an online bet in North Dakota over a recent four-month period on the legal, regulated sports betting apps *alone*. These attempts were obviously rejected by the companies operating legally; but offers a glimpse into the reality that North Dakotans want to, and are almost certainly finding ways to, bet on sports online already.

Again, I encourage you to vote "yes" on HCR 3002 and allow the people to have their voices heard—in a way that ensures any potential language fits within North Dakota's existing legal framework and includes the legislature's desired provisions.

Thank you for allowing me the opportunity to provide testimony. I would be happy to answer any questions you may have.