

Testimony of HB 1444.

Chairman Johnson and honorable members of the committee.

My name is LaRoy Kingsley from Mandan ND. I own KK Bold a full-service advertising, marketing, and public relation firm with offices in Bismarck and Minot. I am here today representing the United Tribes Gaming Association and to ask that this committee send a strong DO Not Pass on HB 1444.

Currently my agency is entering our 32nd year in business. For 27 of those years, we have had the distinguished pleasure of being the Agency of Record for Prairie Knights Casino and Resort which is owned by the Standing Rock Sioux Tribe. My firm is also the agency of record for the ND Lottery although I am not here to speak on their behalf today. We also work with nearly a dozen tribal, charitable, and commercial gaming entities across the US and we are considered one of the top casino marketing firms in the country.

HB 1444 in our opinion is a bad proposition for all gaming related entities currently in the state including tribal, charitable and the lottery, but I will focus specifically on the problems with the bill and its potential negative impact to Tribal Gaming and the tribal members in our state.

These are the reasons we oppose

1. First, we are very disappointed that this bill has been reintroduced. It is basically a poor copy of HB 1443 that was introduced and soundly defeated in 2019. It is obvious that the machine manufacturers and distributors are unwilling to realize that the people of North Dakota are opposed to this type of gaming expansion in the state.
2. There is no limit whatsoever to the number of machines per site or as a total in the state. In fact, it also proposes opening up Historical Horse Racing Machines to be allowed by:

"Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and other public-spirited organizations".

3. The rental structure is set up to allow rapid expansion and it provides great incentive to the manufacturers to get as many machines as possible online. At \$150 per machine per month for the first 5 machines and \$75 per machine per month up to \$3000 a month gives them 35 machines at an average of \$85 per month. But what happens if we have one property with 800 machines? Then your monthly rent drops to a very advantageous \$3.75 per machine per month

4. The way this bill is set up it will allow the Horse racing association to regulate their own gaming. All gaming in the state is regulated by the Attorney General's office, but this group is proposing to set up their own commission to regulate their gaming entities. Tribal gaming, for example, is actually regulated on a federal, state, and tribal level. This sounds a little like the fox guarding the hen house. In fact, the term "all wagering" has been added to the commission's duties.

"Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and equipment at all races held for all wagering under the certificate system."

They also state "The attorney general may not grant a license denied by the commission."

5. These are slot machines disguised as historic horse racing terminals and they are the sole purpose behind this entire bill. Everything within this bill is nothing more than a disguise to open the door to these machines and the people who manufacture and distribute them.

- a. The Kentucky Supreme Court ruled in September 2020 that the machines used widely across the state, do not constitute pari-mutuel wagering and must stop operating.
- b. The backers of the machines in Virginia announced plans to purchase an old 140,000 square-foot Kmart building in south Richmond and turn it into an off-track betting facility (OTB) with up to 700 of these machines lining the walls. Many of the machines on the market feature only cartoon pictures of horses (all representing races already run), and do not appear to even meet the basic criteria for "pari-mutuel" wagering — the kind Virginians authorized for the live horse racing industry.

- c. In 2015, the Idaho Legislature voted to ban the machines, arguing they had been tricked two years earlier into approving them by a deceptive sales pitch.
 - d. The machines have an option that allows you to bypass any of the actual “choosing a horse” and “betting on a race” aspect and turns it into slot machine play with the race betting automated.
 - e. To the greatest extent possible, the machines should be a true extension of the horse racing industry, rather than merely an excuse for casino gaming. For starters, the machines should display the actual video replay of the horse races that are being wagered on, and the machines must fully comply with the definitions of pari-mutuel wagering — just like live horse races.
6. This bill also allows for betting on simulcast dog racing.

“The certificate system allows a licensee to receive money from any person present at on alive horse race, simulcast horse race, or simulcast dog race who desires to bet on any entry in that, or historic horse race”.

Now the question we must ask ourselves is if dog racing is illegal within the state of North Dakota because of its inhumane nature then why would we turn around and support it by allowing people to bet on it? Dog racing is being phased out around the country and is only legal now in 4 states (soon to be 3) as Arkansas is phasing it out.

7. This bill also tries to open the door to international wagering, and it comes from a lot further than Canada. International wagering opens the door to money laundering.

“Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions.”

According to Lucas Marquardt of Longitude LLC who is the inventor and distributor of the Longitude Enhanced Pari-Mutuel System “Illegal gambling has

always existed, but what we are facing now is a fundamentally new threat," he said. "The illegal markets have gone from local markets to international markets. The major change is now the global consolidation of illegal betting on internet platforms. The illegal operators are exploiting technology to grow their business. The astronomic scale and multi-jurisdictional character of illegal gambling is now such that it is one of the greatest challenges facing racing and other sports."

In closing, we typically oppose any expansion of gaming in the state that does not include close dialogue and approval of the tribal nations based upon their compacts with that state of North Dakota. But we oppose this bill specifically because it is a sham and it is looking to take advantage of everyone involved besides manufacturers, distributors, a few management level people and a lot of out of state interests. Thank you.