

2021 HOUSE JUDICIARY

HB 1389

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary

Room JW327B, State Capitol

HB 1389

2/9/2021

Relating to the definition of gambling; and to provide a contingent effective date.

Chairman Klemin called the hearing to order at 9:30 AM.

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

Discussion Topics:

- Internet live poker
- Definition of a "rake" in gambling
- 60% property tax relief.
- On line poker in 4 states
- Charities.
- Gambling license
- Amendments.
- Taxing revenue inside the state.
- Changing from credit card to debit card only.
-

Rep. Cory: Introduced the bill. Testimony #6060

Rep. Kasper: Answered questions. 9:38

Collette Brown, Spirit Lakes Tribes Executive Gaming Director: Testimony #6079

Mark Levitan, Legal counsel, Turtle Mountain Chippewa Tribe: Testimony in opposition.
10:16

Additional written testimony: #5989

Chairman Klemin closed the hearing at 10:21 PM.

DeLores D. Shimek
Committee Clerk

Chairman Klemin and members of the Judiciary Committee,

I am Representative Claire Cory, from District 42, in Grand Forks, North Dakota. House bill 1389 is a simple bill on taxation and regulation of internet live poker. This bill is contingent on house concurrent resolution 3012 (see section 3).

Going through the bill:

Page 1, Line 12, Adds "including internet live poker, or lawful contests of"

Page 2, Line 1, Adds definitions as follows;

 "Adjusted gross proceeds"

 "Internet live poker"

 "Licensed internet live poker establishment"

Page 2, Line 15, "licensure operation and regulation"

Page 2, Line 21, taxing through the attorney general's office

Page 3, Line 9, proceeds fund

Page 3, Line 24, "Contingent Effective Date"

This bill does not legalize any form of poker. There are already four states that allow legal online poker. New Jersey, Nevada, Pennsylvania, and Delaware. Can North Dakota be the next?

Online live poker is already being played illegally in the state but it is not being regulated OR taxed. Vote for a do pass to allow the legislature to pre approve regulation and tax plans for live online poker.

I will stand for any questions.

Representative Claire Cory

February 9, 2021
HB 1389 Internet Live Poker

#6079

Good morning, Chairman Klemin and the members of the committee

My name is Collette Brown from Warwick, representing the Spirit Lake Tribe. My professional title in the gaming industry is, Gaming Commission Executive Director of the Gaming Regulations and Compliance Department, our casino is located seven miles south of Devils Lake. I am here to oppose HB 1389.

As you all are aware there is tremendous amount of etabs throughout North Dakota that has undermined Indian gaming, reducing our revenues substantially and undercutting our ability to provide jobs and generate essential services to your State citizens.

The current problem is that the state has currently oversaturated the gambling industry. And now wants to add more ways to make North Dakota the next Nevada without have any regulatory structure in place.

Since legalized gambling has emerged in the U.S., Gaming Laboratories Incorporated has served gaming regulators as the independent technical expert tasked with evaluating gaming technology against the government's technical standards, they have a white paper I am wanting to share with you all, ~~they have a white paper~~ on illegal and unregulated gaming in America.

"Unregulated and illegal gaming venues operate without any supervision. They do not adhere to prescribed operational guidelines designed to prevent fraud, theft, money laundering and a variety of other criminal behaviors, along with preying on the problem gamblers; Moreover, they circumvent the purposeful gambling policy goals set by the states and sovereign tribal governments. Gambling overall has provided an invaluable resource to many Tribes throughout the country, to improve the safety, economic security and quality of life in Tribal communities; the unregulated movement threatens this progress."

The studied view is that the only effective way to protect the fidelity of a jurisdiction's purposeful gambling policy is to require regulatory review of every type of gambling.... The technology used in these devices is becoming increasingly complex. Understanding how the games function and the software logic behind game play requires specific expertise that can only be managed by a dedicated gaming regulatory agency such as a gaming commission, or a gaming control board... States and tribes have worked together to design well-meaning strategies to protect the fidelity of a jurisdiction's purposeful gambling policy and that are to require regulatory review of every type of gambling device."

Therefore, a clear, strong and thorough system of regulation is important to stop criminals from abusing gambling and cheating the house and other players. Sophisticated regulation and security are necessary to stop the many ways that operators and players have been known to abuse Internet video poker. Poker games are subject to fraud, cheating and money laundering, including:

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- **Illicit Viewing of “Hole Cards”**—Allows Cheating by Knowing the Other Players’ Cards. In the past, employees had access to “super-user accounts” that could see players “hole cards” and the employees then entered games and used this ability to see the other player’s hands.
- **Poker Bots**—Allows Mathematical/Algorithm Play against Regular Players without their knowledge.
- **Multi-Accounting**—When One Player Opens Multiple Accounts and Plays them in the same On-Line Poker Game, other players can be cheated by manipulation of the game.
- **Collusion**—Collusion between Players also makes Cheating Possible in the On-Line Game World.
- **Ghosting**—When a Player receives expert advice from poker professional is another form of cheating

Currently the states regulatory structure for these etabs are just paper without the means to enforce them, and I believe if HCR was changed to study the committee will report all the items needs to enter into this new world of internet gaming. Lastly, we want to strongly urge a do not pass on HB1389 and on any state base gaming expansion, due to the inability to regulate the current new game of etabs and my Tribe cannot economic^{ally} sustain any further expansion of gaming in the State that will not benefit my Tribe.



Testimony Opposing House Bill 1389

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
February 9, 2021

Chairman Klemin and members of the House Judiciary Committee, this written testimony is in opposition to House Bill 1389 and Family Policy Alliance of North Dakota respectfully requests that you render a “DO NOT PASS” on this bill.

Online poker is not gambling. This bill says so itself, and more importantly, in August of 2012, a federal judge in New York ruled in *US v. Dicristina* that internet poker was not gambling.¹ So that is settled.

But is it really? While online poker does not appear to meet the legal definition of gambling at a federal level, consider these facts.

- *In the same ruling referenced above, Judge Weinstein acknowledged that state courts that have ruled on the issue are divided as to whether poker constitutes a game of skill, a game of chance, or a mixture of the two.*²
- *Online poker, which allows players to play multiple tables at once, resulting in almost constant action, is a fertile ground for developing addiction. Some sites allow a player to open as many as eight tables at a time, and the speed of play is three times as fast as live poker.*³
- *...online poker has a rather addictive nature that often affects younger generations. College age students are especially apt to developing online poker addictions.*⁴
- *Deposit options will vary depending on the state, but the most popular method is to play poker for money with credit card. Visa and MasterCard deposits are instant and come with no fees.*⁵ In other words, you can bet with money you don't have – a huge problem that only feeds those with gambling addictions.

- *As of July 2020, players in New Jersey, Nevada, Pennsylvania, and Delaware enjoy access to legal online poker sites. Michigan and West Virginia have passed legislation to make online poker legal, but the launch of products is pending in those states. On the other side, online gambling in Indiana is expressly outlawed⁶ and participating in online gaming in Washington state is a felony⁷. The dearth of states stepping up to legalize this form of gaming must be for some underlying reason outweighing the revenue gains, and having a very liberal state like Washington make it a felony is also a telling fact.*
- *Online venues may be more vulnerable to certain types of fraud, especially collusion between players.⁸*
- *There has been a deleterious online poker impact of COVID-19 to casino and other in-person gaming. The COVID-19 pandemic has resulted in a massive increase in online poker traffic. The pandemic is believed to have directed both professional and recreational players who normally prefer live poker to online platforms due to the indefinite closure of most casinos and other live gaming venues worldwide, with even many unlicensed venues shutting down.⁹*
- *One of the most dangerous features of online gambling is that wherever a user has Internet access, they have gambling access. Online betting, gambling games, and apps allow users 24/7 access, whereas users would have to travel to a betting shop or casino in normal circumstances.¹⁰*
- *In regular casinos, they may refuse entry or play to users that appear over-intoxicated; thereby, preventing players from making uninformed decisions or betting over their means. With online gambling though, there is no way of preventing an intoxicated player from joining a game and placing bets.¹¹*
- *In a casino or betting shop, players will often meet with friends or go together in groups, where lesser addicted friends making better-informed decisions may influence them. These circumstances are not available when betting online in solitude, allowing users to become carried away by themselves.¹²*

- *Casinos and betting shops run strict over-18-only policies, making it quite difficult for those underage to engage in such activity. Whereas online, no human contact is necessary, making it much easier for underage players to gamble. Younger players are at a much higher risk of developing an online poker addiction, even if they are only playing ‘demo’ or free-play games.¹³*
- *College age students are prone to thinking that they are smarter than the average player ... Online poker is truly a form of “psychological warfare,” and those who are in the prime of their mental enhancement feel they have the psychological edge (Kerkstra, 2006). Those who fail to win often fail to realize that their scholarly intelligence will not always translate into gambling success.¹⁴*
- *When playing traditional poker, people do not usually take their entire bankroll to the casino. Rather, they take only the portion that they are willing to lose. But with online poker, your entire bankroll is just a mouse-click away.¹⁵*

This list of negative effects from online poker could go on. Sure, online poker will bring in revenue to use toward property taxes, education, and the general fund, as written up in this bill. However, like all forms of gaming, it comes with a price.

It is up to you whether that price is worth another form of gaming for North Dakota. Is there an outcry for online poker from North Dakotans? Does it align with their values and beliefs? I can tell you that the thousands of families and individuals across our state that Family Policy Alliance of North Dakota represents certainly don't think so.

Online poker gaming is bad social policy, and governmental support of it is bad governmental policy. For these reasons, Family Policy Alliance of North Dakota respectfully asks that you please vote House Bill 1389 out of committee with a “DO NOT PASS” recommendation.

Thank you for the opportunity to submit this testimony and feel free to contact me if you have any questions.

¹ <https://www.nbcnewyork.com/news/local/poker-federal-court-ruling-skill-chance-gambling-new-york-judge/1955229/#:~:text=By%20Larry%20Neumeister%20%E2%80%A2%20Published,millions%20of%20dollars%20from%20gambling.>

² <https://casetext.com/case/united-states-v-dicristina>

³ <https://www.cardschat.com/poker-addiction.php>

⁴ <https://www.ocf.berkeley.edu/~brianz/theAddictionOfInternetPoker.html>

⁵ <https://www.pokerwebsites.com/faq/>

⁶ <https://upswingpoker.com/us-online-poker-sites-update/>

⁷ <https://www.legaluspokersites.com/state-laws/washington/#:~:text=Online%20poker%20is%20specifically%20prohibited,law%20and%20considered%20a%20felony.>

⁸ https://en.wikipedia.org/wiki/Online_poker

⁹ Ibid.

¹⁰ <https://www.charterhouseclinic.com/addictions/gambling/online/>

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary

Room JW327B, State Capitol

HB 1389

2/17/2021

Relating to the definition of gambling; and to provide a contingent effective date.

Chairman Klemin called the meeting to order at 4:02PM

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

Discussion Topics:

- Amendment

Rep. Cory: Went over amendment 21.0915.01003. Testimony # 6854, #6855

Rep. Cory: Motion to adopt amendment 21.0915.01003.

Rep. Christensen: Seconded

Voice vote carried

Rep. Christensen: Do pass as amended

Rep. Magrum: Seconded

Roll Call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Rick Becker	Y
Representative Ruth Buffalo	N
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Karla Rose Hanson	N
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	N
Representative Gary Paur	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	N
Representative Steve Vetter	Y

7-7-0 Tied

Rep. Roers Jones: Without recommendation as amended
Rep. Satrom: Seconded

Roll Call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Rick Becker	Y
Representative Ruth Buffalo	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	N
Representative Bob Paulson	Y
Representative Gary Paur	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Steve Vetter	N

12-2-0 Motion carried

Carrier: Rep. Cory

Stopped 4:10

DeLores D. Shimek
Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

Page 2, line 15, after "licensing" insert "- Fees"

Page 2, line 18, remove "in the state"

Page 2, line 20, after the underscored period insert "The one-time fee for initial registration is ten thousand dollars, and the annual licensing fee is five thousand dollars."

Internet live poker - Authorized players.

An individual playing internet live poker must be twenty-one years of age or older. An individual may not use a credit card to play internet live poker.

Page 2, line 21, remove "sites"

Page 2, line 23, remove "sites"

Page 2, line 24, remove "in the state"

Page 2, line 25, remove "and an annual licensing fee of ten dollars for each player who"

Page 2, remove line 26

Page 2, line 27, remove "internet live poker at any site licensed under this chapter"

Page 2, line 28, replace "The following" with "A"

Page 2, line 28, after "tax" insert "of ten percent"

Page 2, line 29, replace the underscored colon with an underscored period

Page 2, remove lines 30 and 31

Page 3, remove lines 1 through 4

Page 3, line 5, replace "The" with "A"

Page 3, line 6, replace "quarterly" with "monthly"

Page 3, line 13, replace "transfer" with "transfers"

Page 3, line 13, replace "counties for direct property tax relief" with "gambling disorder prevention and treatment fund"

Page 3, line 13, remove "The amount allocated to a"

Page 3, remove lines 14 through 16

Page 3, line 17, remove "under section 57-15-06."

Page 3, line 17, replace "sixty" with "ten"

Page 3, line 20, replace "twenty" with "fifty"

Page 3, line 23, replace "twenty" with "forty"

Renumber accordingly

4/17
CH
2 of 2

REPORT OF STANDING COMMITTEE

HB 1389: Judiciary Committee (Rep. Klemin, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (12 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1389 was placed on the Sixth order on the calendar.

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Renumber accordingly

21.0915.01003
Title.

Prepared by the Legislative Council staff for
Representative Cory
February 16, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1389

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Page 3, line 6, replace "quarterly" with "monthly"

Page 3, line 13, replace "transfer" with "transfers"

Page 3, line 13, replace "the counties for direct property tax relief" with "gambling disorder prevention and treatment fund"

Page 3, line 13, remove "The amount allocated to a"

Page 3, remove lines 14 through 1

Page 3, line 17, remove "under section 57-15-06."

Page 3, line 17, replace "sixty" with "ten"

Page 3, line 20, replace "twenty" with "fifty"

Page 3, line 23, replace "twenty" with "forty"

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1389

Introduced by

Representatives Cory, Kasper, Louser, Mock, M. Ruby

1 A BILL for an Act to create and enact a new chapter to title 53 of the North Dakota Century
2 Code, relating to the licensing and regulating of live poker; to amend and reenact subsection 1
3 of section 12.1-28-01 of the North Dakota Century Code, relating to the definition of gambling;
4 and to provide a contingent effective date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 12.1-28-01 of the North Dakota
7 Century Code is amended and reenacted as follows:

- 8 1. "Gambling" means risking any money, credit, deposit, or other thing of value for gain,
9 contingent, wholly or partially, upon lot, chance, the operation of gambling apparatus,
10 or the happening or outcome of an event, including an election or sporting event, over
11 which the person taking the risk has no control. Gambling does not include:
- 12 a. Lawful contests of skill, including internet live poker, or lawful contests of speed,
13 strength, or endurance in which awards are made only to entrants or to the
14 owners of entries;
 - 15 b. Lawful business transactions, or other acts or transactions now or hereafter
16 expressly authorized by law; or
 - 17 c. Use of gaming equipment and devices that may not otherwise be lawful in the
18 state when the equipment or devices are used by any institution under the control
19 of the state board of higher education which awards degrees of bachelor's or
20 higher for the purpose of conducting scientific research in a controlled
21 environment on the campus of that institution.

22 **SECTION 2.** A new chapter to title 53 of the North Dakota Century Code is created and
23 enacted as follows:

1 **Definitions.**

2 As used in this chapter, unless the context otherwise requires:

- 3 1. "Adjusted gross proceeds" means any sums wagered in an internet live poker hand
4 which may be retained by the licensed internet live poker establishment as
5 compensation.
- 6 2. "Internet live poker" means a card game played by players who are dealt cards by an
7 online nonplayer dealer with the objective of each player betting the superiority of the
8 player's own hand and winning the other players' bets by either making a bet no other
9 player is willing to match or proving to hold the most valuable cards after the betting is
10 over. The internet live poker games include Texas hold'em, Omaha high/low, Omaha
11 high, draw, stud, low ball, any combination of these games, or any other similar poker
12 game.
- 13 3. "Licensed internet live poker establishment" means a premises licensed by the
14 attorney general pursuant to this chapter to conduct games of internet live poker.

15 **Internet live poker authorization and licensing - Fees.**

16 Internet live poker games may be operated by a licensed internet live poker establishment
17 in accordance with this chapter. The attorney general shall license and regulate the playing of
18 internet live poker at licensed internet live poker establishments~~in the state.~~ The attorney
19 general shall adopt rules for the licensure, regulation, and operation of internet live poker in the
20 state. The one-time fee for initial registration is ten thousand dollars, and the annual licensing
21 fee is five thousand dollars.

22 **Internet live poker - Authorized players.**

23 An individual playing internet live poker must be twenty-one years of age or older. An
24 individual may not use a credit card to play internet live poker.

25 **Internet live poker ~~sites~~ - Tax.**

- 26 1. The attorney general may contract with a private entity for the development and
27 implementation of a program for the licensing and regulation of internet live poker ~~sites~~
28 ~~in the state.~~ The program must include a license fee for each person that operates an
29 internet live poker site~~and an annual licensing fee of ten dollars for each player who~~
30 ~~plays internet live poker at a site. A single annual licensing fee entitles a player to play~~
31 ~~internet live poker at any site licensed under this chapter.~~

2. ~~The following~~A tax of ~~ten percent~~ is imposed on the adjusted gross proceeds of internet live poker games for each establishment authorized under this chapter:

- ~~a. Eight percent on the first one million dollars;~~
- ~~b. Six percent on the second one million dollars;~~
- ~~c. Four percent on the third one million dollars;~~
- ~~d. Two percent on the next five million dollars;~~
- ~~e. One-half of one percent on the next fifty million dollars; and~~
- ~~f. One-fourth of one percent on any amount in excess of fifty-eight million dollars.~~

3. ~~The~~A licensed internet live poker establishment shall remit the tax to the attorney general on a ~~quarterly~~monthly basis. The attorney general shall remit the tax, licensing fees, and any other moneys collected under this chapter to the state treasurer for deposit in the internet live poker proceeds fund.

Internet live poker proceeds fund.

There is created in the state treasury an internet live poker proceeds fund. The fund consists of the internet live poker tax, licensing fees, and any other moneys collected under this chapter. Annually, all moneys in the fund must be allocated for:

1. Annual ~~transfer~~transfers to ~~the counties for direct property tax relief~~gambling disorder prevention and treatment fund. ~~The amount allocated to a county must be subtracted from the county's base year levy under section 57-15-01.1 to determine the county's maximum levy under section 57-15-01.1 and subtracted from the maximum levy in dollars that would be produced by the maximum levy in mills under section 57-15-06.~~ Transfers under this subsection must equal ~~sixty~~ten percent of total annual transfers from the internet live poker proceeds fund.
2. Annual transfers to the common schools trust fund to become a part of the principal of that fund. Transfers under this subsection must equal ~~twenty~~fifty percent of total annual transfers from the internet live poker proceeds fund.
3. Annual transfers to the general fund. Transfers under this subsection must equal ~~twenty~~forty percent of the total annual transfers from the internet live poker proceeds fund.

- 1 **SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on the date the
2 secretary of state certifies to the legislative council that House Concurrent Resolution No. 3012,
3 as adopted by the sixty-seventh legislative assembly, has been approved by the voters.

2021 SENATE FINANCE AND TAXATION

HB 1389

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1389
3/15/2021

A BILL for an Act to create and enact a new chapter to title 53 of the North Dakota Century Code, relating to the licensing and regulating of live poker; to amend and reenact subsection 1 of section 12.1-28-01 of the North Dakota Century Code, relating to the definition of gambling; and to provide a contingent effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:33]

Discussion Topics:

- Regulation of gambling by state and local officials
- Taxation and fees
- Age restrictions regarding gambling

Representative Cory [10:34] introduces orally in favor.

Representative Kasper [10:39] orally in favor.

Cynthia Mouteau [10:39] Executive Director, United Tribes Gaming Association in opposition #9206

Mark Jorritsma [10:40] Executive Director, Family Policy Alliance of North Dakota in opposition #9108

Collette Brown [10:43] Gaming Executive Director, Spirit Lake Nation in opposition.

Troy Seibel [10:45] Chief Deputy Attorney General, North Dakota Attorney General's Office provides oral information

Chair Bell adjourns the meeting. [10:48]

Joel Crane, Committee Clerk

**HOUSE BILL 1389
SENATE FINANCE AND TAXATION COMMITTEE
MARCH 15, 2021**

TESTIMONY OF CYNTHIA C. MONTEAU, EXECUTIVE DIRECTOR

Madam Chair and members of the Committee, my name is Cynthia Monteau, I am the Executive Director of the United Tribes Gaming Association (UTGA). I come before you today as an Opponent of House Bill 1389, a bill that compounds the already detrimental impact to casino revenue by allowing internet live poker, if supported by the voters after a legislative referral.

There is only so much disposable income in the state and electronic pull tabs have already generated \$1.6 billion in gross proceeds from August 2018 thru December 2021. The electronic pull tab laws allowed manufacturers of these machines to capitalize on the benefits to the tune of \$65 million of the \$1.6 billion generated. Manufacturers took so much of this revenue because the charities did not have the expertise, similarly, HB1389 allows the attorney general's office to contract with a private entity for the development and implementation of internet live poker. This could be money going out of state, similar to the e-tab revenue; while ignoring the \$300 million that casinos generate in the state's economy. In addition, this bill creates a new commission and will require a new division within the Attorney General's office when this office currently does not have the ability to regulate electronic pull tabs.

Gaming is in most cases our sole source of revenue, jobs, and economic development; it is not simply entertainment and convenience gambling. HB 1389 is an expansion of gaming outside of tribal casinos – which we are adamantly opposed. We urge a Do Not pass of HB 1389.

Thank you, Madam Chair.

Testimony Opposing House Bill 1389

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
March 15, 2021

Good morning Madam Chair Bell and honorable members of the Senate Finance and Taxation Committee. My name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. We respectfully request that you render a “DO NOT PASS” on House Bill 1389.

Online poker is not gambling. This bill says so itself, and more importantly, in August of 2012, a federal judge in New York ruled in *US v. Dicristina* that internet poker was not gambling.¹ So that is settled.

But is it really? While online poker does not appear to meet the legal definition of gambling, consider these facts.

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- *As of July 2020, players in New Jersey, Nevada, Pennsylvania, and Delaware enjoy access to legal online poker sites. Michigan and West Virginia have passed legislation to make online poker legal, but the launch of products is pending in those states. On the other side, online gambling in Indiana is expressly outlawed⁶ and participating in online gaming in Washington state is a felony⁷. The dearth of states stepping up to legalize this form of gaming must be for some underlying reason outweighing the revenue gains, and having a very liberal state like Washington make it a felony also gives one pause.*
- *Online venues may be more vulnerable to certain types of fraud, especially collusion between players.⁸*
- *There has been a deleterious online poker impact of COVID-19 to casino and other in-person gaming. The COVID-19 pandemic has resulted in a massive increase in online poker traffic. The pandemic is believed to have directed both professional and recreational players who normally prefer live poker to online platforms due to the indefinite closure of most casinos and other live gaming venues worldwide, with even many unlicensed venues shutting down.⁹*
- *College age students are prone to thinking that they are smarter than the average player ... Online poker is truly a form of “psychological warfare,” and those who are in the prime of their mental enhancement feel they have the psychological edge (Kerkstra, 2006). Those who fail to win often fail to realize that their scholarly intelligence will not always translate into gambling success.¹⁰*
- *When playing traditional poker, people do not usually take their entire bankroll to the casino. Rather, they take only the portion that they are willing to lose. But with online poker, your entire bankroll is just a mouse-click away.¹¹*

This list of negative effects from online poker could go on. Sure, online poker will bring in revenue to use toward education and the general fund, as written up in this bill. However, like all forms of gaming, it comes with a price.

It is up to you whether that price is worth another form of gaming for North Dakota. Is there an outcry for online poker from North Dakotans? Does it align with their values and beliefs? I can tell you that the thousands of families and individuals across our state that Family Policy Alliance of North Dakota represents certainly don't think so.

For these reasons, Family Policy Alliance of North Dakota respectfully asks that you please vote House Bill 1389 out of committee with a “DO NOT PASS” recommendation. Thank you for the opportunity to testify and I will now be happy to stand for any questions.

¹ <https://www.nbcnewyork.com/news/local/poker-federal-court-ruling-skill-chance-gambling-new-york-judge/1955229/#:~:text=By%20Larry%20Neumeister%20%E2%80%A2%20Published,millions%20of%20dollars%20from%20gambling.>

² <https://casetext.com/case/united-states-v-dicristina>

³ <https://www.cardschat.com/poker-addiction.php>

⁴ <https://www.ocf.berkeley.edu/~brianz/theAddictionOfInternetPoker.html>

⁵ <https://www.pokerwebsites.com/faq/>

⁶ <https://upswingpoker.com/us-online-poker-sites-update/>

⁷ <https://www.legaluspokersites.com/state-laws/washington/#:~:text=Online%20poker%20is%20specifically%20prohibited,law%20and%20considered%20a%20felony.>

⁸ https://en.wikipedia.org/wiki/Online_poker

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1389
3/29/2021

A BILL for an Act to create and enact a new chapter to title 53 of the North Dakota Century Code, relating to the licensing and regulating of live poker; to amend and reenact subsection 1 of section 12.1-28-01 of the North Dakota Century Code, relating to the definition of gambling; and to provide a contingent effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:15]

Discussion Topics:

- Committee vote - Do Not Pass 7-0-0

Senator Weber [10:15] moved DO NOT PASS
Senator Kannianen second

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passes 7-0-0
Senator Meyer carries

Chair Bell adjourns the meeting. [10:16]

Joel Crane, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1389, as engrossed: Finance and Taxation Committee (Sen. Bell, Chairman)
recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1389 was placed on the Fourteenth order on the calendar.