

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
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ROLL NUMBER

DESCRIPTION

1440

2007 HOUSE JUDICIARY

HB 1440

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1440

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/29/07

Recorder Job Number: 2107

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will open the hearing on HB 1440.

Rep. Frank Wald: I am a sponsor of this bill. This is a change to the poker law that we have on the books today and it allows for live poker that would be conducted by charities, the same as other charity gambling. Live poker with small bets I believe is more entertainment than it is gambling. I believe that this form of entertainment in the state of ND and I think it would attract people from border states. I know in my community, you can drive out to Wibaux, MT which is right across the border from Beach, and you'll see a lot of cars on the weekends from ND. As you can see in the bill, this is not a high roller type game. The maximum bet is \$5.00. That might even be reduced by the AG's office or amend in this committee.

Rep. Delmore: Would you have any objections to looking at the two bills and maybe try to find one of the bills to go forward that would be the most favorable.

Rep. Frank Wald: I would not have a problem with that, so long as we don't gut the intent of what we're trying to accomplish in this bill. If you want to put it into another bill that is comparable or a companion type bill, I wouldn't have a problem with that.

Rep. Koppelman: You've explained the basics of what I see in the bill, but there is quite a bit of language taken out of the statute in this bill that basically regulates how the game is played.

In addition to the increase of \$1 to \$5 maximum bet, what was your intent there, to open it up and not have regulation on the game itself.

Rep. Frank Wald: I don't know if opening it up would be the right phraseology. \$1 in a poker game, and I'm not a high roller by any means, isn't much. I would just as soon see \$5. This is more of an entertainment bill to keep people from moving to other locations outside the state than it is of going there to get rich. I don't see that in the bill.

Rep. Koppelman: The language following that in the bill, which is over struck in the law. The law governs how much raises are and how many you can do. It looks like a fee for the players, and regulates how the game is played. I was just wondering why you wanted to eliminate that. Is that not working or are there problems with the way it is currently set up.

Rep. Frank Wald: As I run through the MT law, their law was very brief and the betting, raises and all that kind of technical language is in the rules and regulations made by the AG's office.

Chairman DeKrey: Thank you. Further testimony in support.

Rick Stenseth, Charitable Gaming Association of ND: We support this bill.

Rep. Griffin: In regard to the question about the raises, if we move the single bet to \$5, what would that allow for a maximum per hand, once the other language is gone.

Rick Stenseth: It would depend on the game type, whether 5 or 7 card game. I would think that a \$5 wager, with no limit on the number of raises, it would depend on the number of players at the table, the number of cards involved in the game, or traditional hold 'em game. We could calculate that and get it to you.

Chairman DeKrey: Thank you. Further testimony in support.

Bill Shalhoob: I am in favor of this bill. I point out that this is a very small game in relative poker terms. Presently, on the reservations, \$50 bets are allowed. This is a very small game with the \$5 bets. I agree that this is more of a game of skill rather than chance.

Chairman DeKrey: Thank you. Further testimony in support.

Lance Hagen, ND Hospitality Association: We too support this bill.

Chairman DeKrey: Thank you. Further testimony in support. Testimony neutral.

Keith Lauer, AG's office: (see attached handout).

Rep. Koppelman: I remember us making some changes in the past, I'm wondering if we had a bill in recent sessions that dealt with the number of times per year and other issues. You gave us a chart in the other bill.

Keith Lauer: A history was passed out detailing the poker history.

Rep. Kretschmar: The State Gaming Commission is it under administrative rules.

Keith Lauer: That's correct. It is not our office's responsibility, it is actually the State Gaming Commission; however, they have no paid staff, it's a five member board appointed by the Governor, so our office does all of the work for them as far as compiling administrative rules, through input from the industry and interested parties and then it goes to public hearing and goes through the whole process of administrative rules.

Chairman DeKrey: Thank you. Further testimony neutral. Testimony in opposition.

Warren DeKrey, ND Council on Gambling Problems: (see attached testimony).

Rep. Koppelman: Is poker being played in homes legal. What is the status of that.

Warren DeKrey: Yes.

Keith Lauer: According to the state's constitution, the only way that poker could be played in the state, it would be by a charitable organization. However, in 12.1-28, which is the criminal code, it says that it is an infraction if you wager more than \$25 on a game of chance. The

legislature hasn't legalized it, but said there is no penalty for it unless you wager more than \$25 on a private premise.

Rep. Koppelman: Does the removal of this language concern you or do you have a preference between the bills in terms of what's before you to remove the restrictions on wagers and what the charitable organization can charge a player vs. the other bill.

Warren DeKrey: I've looked at those three bills and someone suggested that they might be combined. They are all getting at the same ability to increase the bets, etc. but they aren't similar. I would probably be against them.

Rep. Boehning: How much money is raised for compulsive gambling to help this. I know that we did something with the lottery.

Warren DeKrey: I don't know that exact figure. I do know that the lottery puts a certain amount into a fund, I believe it is a quarter of the money up to a cap.

Chairman DeKrey: Thank you. Further testimony in opposition.

Tom Freier, ND Family Alliance: We oppose this bill. There isn't any positive effect on ND families.

Chairman DeKrey: Thank you. Further testimony in opposition.

Taylor Pope: (see attached testimony).

Rep. Koppelman: Thank you for coming in and testifying today.

Rep. Delmore: Are there informal games on campus that aren't legal. Is that a part of why you are here.

Taylor Pope: It is a part of it because poker, especially a few years ago, was absolutely huge among the youth. Everyone was playing it. I did see a few people definitely lose some money. Just in my social life, I observed that a couple of people would go home happy, and

everyone else wouldn't have had a good night, because they lost money. I just think that people could spend their time and money doing better things.

Chairman DeKrey: Thank you. Further testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1440

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 1/30/07

Recorder Job Number: 2303

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1440.

Rep. Koppelman: I move a Do Not Pass.

Rep. Meyer: Second.

14 YES 0 NO 0 ABSENT

DO NOT PASS

CARRIER: Rep. Boehning

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1440

House Judiciary Committee

Check here for Conference Committee

Hearing Date: 2/5/07

Recorder Job Number: 2842

Committee Clerk Signature



Minutes:

Chairman DeKrey: We have to bring this bill back to the committee.

Rep. Delmore: I move that we reconsider our actions on HB 1440.

Rep. Wolf: Second.

Chairman DeKrey: We will take a voice vote. The clerk will call the roll on motion.

Rep. Delmore: Would it be helpful if we knew the reason for the reconsideration.

Rep. Kretschmar: We are bringing it back and only making one change to the bill. The reason that 1440 was not passed was because it opened up poker games to any time. I would propose the amendment that the only change with the bill would be that the bet would go from \$1 to \$5. The other bill will deal with two times a year per site.

Chairman DeKrey: We will take another voice vote. Motion still under doubt. Clerk will call the roll on a Motion for reconsideration.

7 YES 6 NO 1 ABSENT MOTION FOR RECONSIDERATION PASSES

Rep. Kretschmar: I move the Kretschmar amendments.

Rep. Boehning: Second.

Chairman DeKrey: We will try a voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

Rep. Kretschmar: I move a Do Pass as amended.

Rep. Delmore: Second.

6 YES 6 NO 2 ABSENT

SEND TO FLOOR WITHOUT RECOMMENDATION

CARRIER: Rep. Kretschmar

FISCAL NOTE
 Requested by Legislative Council
 02/07/2007

Amendment to: HB 1440

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$2,000		\$2,000	
Expenditures			\$0		\$0	
Appropriations			\$0		\$0	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill increases the maximum poker bet from \$1 to \$5.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based on the quarter ended September 2006, the only quarter for which poker activity was tracked separately, the fiscal impact of this bill on revenue is estimated to be \$2,000 for the 2007-09 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

This bill increases the maximum poker bet by \$4, from \$1 to \$5.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

Name:	Kathy Roll / Keith Lauer	Agency:	Office of Attorney General
Phone Number:	328-3622 / 328-3234	Date Prepared:	02/07/2007

FISCAL NOTE
 Requested by Legislative Council
 01/16/2007

Bill/Resolution No.: HB 1440

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$40,000		\$40,000	
Expenditures			\$0		\$0	
Appropriations			\$0		\$0	

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill removes the limit on the number of occasions poker can be offered. It increases the maximum poker bet from \$1 to \$5.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Based on the quarter ended September 2006, the only quarter for which poker activity was tracked separately, the fiscal impact of this bill on revenue is estimated to be \$40,000 for the 2007-09 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

This office began tracking poker activities separately for the quarter ended September 30, 2006. For that quarter \$94,010 was wagered. This reflects current law provisions which allow poker to be played on two occasions per year.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

N/A

Name:	Kathy Roll/Keith Lauer	Agency:	Office of Attorney General
Phone Number:	328-3622/328-3234	Date Prepared:	01/25/2007

Date: 4/30/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1440

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Koppelman Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	—	
Rep. Klemin	✓		Rep. Griffin	—	
Rep. Boehning	✓		Rep. Meyer	—	
Rep. Charging	✓		Rep. Onstad	✓	
Rep. Dahl	✓		Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep. Boehning

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 30, 2007 4:39 p.m.

Module No: HR-20-1584
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1440: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1440 was placed on the
Eleventh order on the calendar.

Date: 2/5/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1440

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Motion for Reconsideration

Motion Made By Rep. Delmore Seconded By Rep. Wolf

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey		✓	Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad	✓	
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Heller					
Rep. Kingsbury		✓			
Rep. Koppelman		✓			
Rep. Kretschmar	✓				

Total (Yes) 7 No 6

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Passes

House Amendments to HB 1440 (70727.0101) - Judiciary Committee 02/05/2007

Page 1, line 6, remove the overstrike over "~~on not more than two occasions per~~"

Page 1, line 7, remove the overstrike over "year" and remove "by any licensed organization or organization that has a local permit"

Page 1, line 8, remove the overstrike over "~~Not more than three~~"

Page 1, remove the overstrike over lines 9 through 13

Renumber accordingly

Date: 2/15/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1440

House JUDICIARY Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Kretschmar Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey		✓	Rep. Delmore	✓	
Rep. Klemin		✓	Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad	✓	
Rep. Dahl			Rep. Wolf		✓
Rep. Heller					
Rep. Kingsbury		✓			
Rep. Koppelman		✓			
Rep. Kretschmar	✓				

Total (Yes) 6 No 6

Absent 2

Floor Assignment No Recommendation

If the vote is on an amendment, briefly indicate intent:
Carried: Rep. Kretschmar

REPORT OF STANDING COMMITTEE

HB 1440: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (6 YEAS, 6 NAYS, 2 ABSENT AND NOT VOTING).
HB 1440 was placed on the Sixth order on the calendar.

Page 1, line 6, remove the overstrike over "~~on not more than two occasions per~~"

Page 1, line 7, remove the overstrike over "year" and remove "by any licensed organization or organization that has a local permit"

Page 1, line 8, remove the overstrike over "~~Not more than three~~"

Page 1, remove the overstrike over lines 9 through 13

Renumber accordingly

2007 TESTIMONY

HB 1440

House Bill No. 1264 and 1440
History of Poker Law Changes
January 29, 2007

Prepared by the Office
of Attorney General

1987

Draw and stud poker were first authorized on not more than two occasions per year. Four conditions were established as follows:

1. The eligible organization may supply a dealer;
2. The maximum single bet was \$1.00;
3. Not more than 3 raises, of not more than \$1.00 each, made among all players in each round of bets; and
4. The eligible organization shall assess the players \$10.00 per player, or for games with a pot of at least \$10.00, 2% of the pot in each game. For games with a pot of less than \$10.00, an assessment was not required.

1989

The organization's assessment (item 4. above) was modified to assess each player a fee not to exceed \$2.00 per half hour of playing time, collected in advance. A fee was also allowed to be charged each player for entry into a tournament for prizes.

1991

The organization's assessment for entry into a tournament for prizes was clarified to allow a fee which could be in lieu of or in addition to the fee assessable at one-half hour intervals.

1995

The reference to draw or stud poker was eliminated to allow additional variations of poker games.

2001

The assessment of a fee to each player not to exceed \$2.00 per one-half hour of playing time was qualified for nontournament play only. For tournament play, organizations were required to charge each player an entry fee and prizes could not exceed 90% of the gross proceeds.

Chairman DeKrey & members of the House Judiciary Committee

My name is Warren DeKrey, Chrm. of the ND Council on Gambling Problems

I appear in opposition to HB 1440

The 1977 Legislature passed a law allowing Charitable Gambling as follows:

**Punch Boards
Pull Tabs
Raffles
Bingo**

Poker was not included as it was illegal under State Law. Poker had previously been played in back rooms, basements and other out of the way places because it was not legal under state law. However the law began to be enforced at that time and stopped Poker.

In 1987 Poker was approved with certain regulations. Poker was allowed only 2 times a year for up to 3 days each time. The maximum single bet only \$1.00 and no more than 3 raises of \$1.00 each.

HB 1440 eliminates all time restriction and raises the maximum single bet to \$5.00 with no restriction on the number of raises or the dollar amount of each additional raise. Essentially this opens Poker wide open, even though it would still be under the ND Charitable Gambling statutes.

This bill is one of many attempts over the past many years to expand Poker and is an expansion of gambling.

Since 1977 there have been constant requests for expanding Charitable Gambling such as:

**Increased Dollar amounts to be wagered
Increased number of times or days to be played
Larger prize amounts
Introduce new games
Lowering taxes on gambling**

As one game increases in one or more of the above ways to become more attractive, others try to do the same, thus competing for the same dollars or hoping to attract new participants. It becomes a never ending cycle.

In reality, gambling creates nothing new and is merely a redistribution of wealth, in contrast to the business community where money turns over 3 to 5 times. It, gambling, is a parasite on the community and the economy, contributing nothing new, and is an uneconomic activity.

Last but not least, gambling falls heavily on those who can least afford to play. Study after study substantiates this in their findings. A few win but most lose.

Charitable gambling has become a very expensive way to raise money for Charities. Expenses often are 50% or higher. As allowance for expenses have been increased from the original 33% to 53%, less and less dollars have been available for Charities.

As Gov. Arthur Link has said, "Gambling has an insatiable appetite that is never satisfied".

Chairman DeKrey and members of the committee I recommend a Do Not Pass on HB 1440

Chairman DeKrey and members of the House Judiciary Committee

My name is Taylor Pope. I am a college student here in Bismarck. I come to you today to speak in opposition of bill HB1440. I decided about a year ago that my number one priority in life was going to be people because people, I realized, are all that matter. They are the most important thing on this planet (except for the ozone layer, of course). I decided I was going to make people my number one priority in life, and I hope adulthood does not ruin this in me. But it is because of my love for people that I stand here today. In my ignorant and inexperienced youth, I like to think that a politician's job is to better society. It is to be there for the poor, the homeless, the widows, the jobless. As one reads about Watergate and other similar political scandals you soon realize that bettering society is far from the front of many politician's minds. Sadly, it has drifted into the back rooms of their priorities and goals.

Is promoting poker building up society? Helping people to get jobs, pay the rent, get out of debt? I don't think so. I think it is encouraging them to keep digging a hole that, for some, is already far too deep. A recent study shows that 70% of Americans believe legalizing gambling encourages people to gamble more than they can afford. 70%! If a person believes something encourages them is that not encouragement in itself? By promoting poker on a larger scale you are encouraging people to gamble more than they can afford? Thus, by encouraging people to gamble more than they can afford, is a person not leading them one step closer to bankruptcy?

This government is not built on morality. This is true. However, laws are made when it has been clearly shown that by prohibiting something society will be benefited. This is why a stranger from the street can't walk in here and kill everyone in this room without going to jail. It wouldn't be good for society. There are a lot of nice people in here. Fathers, mothers, sons, daughters. Poker is the same deal. It is not a question of morality, but a question of how beneficial it is to society. Does it create new products to add to the economy? No. Does it benefit everyone involved? No, it enriches the few, and impoverishes the many. By benefiting a few and impoverishing the vast majority, has the government done its job? Is it looking out for the well being of its citizens?

With this in mind you must ask yourself, are you doing your job? By supporting this bill are you bettering North Dakota by creating new money and jobs? Helping the poor and the bankrupt? Or are you supporting a minority group of people that just want to do a little gambling? A little gambling that, after this bill is passed, will be able to pass into the big gambling phase. Big money means big losses. Same routine, one gets richer, many get poorer. That doesn't sound like good government to me. It sounds like no one is looking out for the common good, the little guy, and the poor. It sounds like too many people have dollar signs shining in their eyes, promoting another bill to eat away at society with a little bigger bite than the last one.