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HB 1509

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1509

House Judiciary Committee

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A. Penrose

Minutes:

Chairman DeKrey: We will open the hearing on HB 1509.

Rep. Randy Boehning: I am a sponsor of this bill. This bill will allow instant racing of previously run horse races. Currently there is one site in AR that offers this. (Explained the bill.) This is video gambling machines.

Rep. Koppelman: What constitutes a historic race.

Rep. Boehning: A previously run race, which is chosen by the machine at random.

Rep. Koppelman: Why would you want the term historic, when it already says previously run race.

Rep. Boehning: I don't know. It is a race that was previously run and you don't know what is going to come up on the machine. You may not have seen it earlier.

Chairman DeKrey: Thank you. Further testimony in support.

Ron Lynch, Exec. Director of Horse Race ND: We are a non-profit charitable organizations that operate the ND Horse Park (see attached testimony and power point presentation).

Rep. Delmore: How many locations would this be located in.

Ron Lynch: There is only one at this time, we would like to see additional sites. There have been a number of sites that closed because the margin has been very, very tough to cover. I am hoping that this would be a way to get some more locations.

Rep. Koppelman: Explain to me why historic previously run races, isn't redundant.

Ron Lynch: I believe that the word historic is part of the patent with the Instant Racing Machine. I believe that is why that is in there. The actual word is part of the patent.

Rep. Koppelman: I see that the bill calls for the licensee to deduct up to 17% and then gives the formula as to how it is distributed. Is the other 2% always collected and is that what the location receives.

Ron Lynch: The formula is similar to what is in place for simulcast wagering. With our simulcast regulations that we have right now, 20% on win, place, show is deducted and 25% on the exotic bets. An exotic bet is a trifecta, exactas, that kind of wager. With instant racing, because the bets are much smaller. These are many bets in a small race, 17% is the actual limit that was set for it by the Arkansas legislature when they dealt with this. Oak Lawn Park is dealing with about a 9.5% take right away, but the Southland Park near Memphis is up towards 17%. The bottom line on that difference is the amount that you take out from the wager, and leave the rest in the pool is very dependent on the market that you're in. Some markets have full blown casinos across the street. They have to set themselves at a different place. A market like Hot Springs, AR, that has about 350 machines operating right now, they are in a situation right now where they don't have to have that big payout on the marketing side, so they can take a smaller portion to attract more people to play. If you take that \$1 that was wagered, 90 cents stays in the pool that the folks play against it; 10% comes out and from that 10%, 5% to the promotion fund, 5% to the breed fund, 5% to the purse fund. From that also is a percentage that goes to the horse tracks that provide their video. We have a totalizer

company that has a percentage because they have a piece in there as well, the patent holder has a percentage in there as well. But the track, or the charity in our case, Horse Race ND, operates this as a business, we're the bottom line recipient. But out of that 10 cents of that \$1, all of those pieces come out first. Security, surveillance, all of the pieces to run the facility.

Rep. Koppelman: The royalties would come out of that are not in the bill, because that's just considered a cost of doing business, I assume and comes out of your profits.

Ron Lynch: That's how we do it with our simulcast system today.

Rep. Klemin: These video gaming terminals that you are using these re-runs. I got the impression that you tried to make them user friendly so that pretty anybody, even if you didn't know anything about horse racing, you could sit down and place a bet on this machine.

Ron Lynch: Absolutely, they are user friendly. They have help functions and what not. At the live track, for example, we have those machines that actually talk to you and walk you through how to place the wager. Then we also have live tellers with the same machine, they keyed in by hand.

Rep. Klemin: Then your goal is to try and set up these video gaming devices at as many locations around the state as you can.

Ron Lynch: That would be up to the ND Racing Commission. Obviously I am here on behalf of Horse Race ND. We feel that we would like to have these machines placed at our racetrack so that we can have a year round activity there. It's my hope, as I mentioned to Rep. Delmore that we will be able to place these machines in off-track betting locations as this grows and catches on, so that we can show that there is a margin in that kind of activity. At this point, there is very little margin and we had a number of locations close.

Rep. Klemin: How is this different than the video gaming that you can use to play poker on the machine.

Ron Lynch: It is quite different. With a video gaming terminal, that would do poker or slot machine, again there is the house that takes the amount of your bet, it is a free standing piece of machinery that takes money that gives money; it's not connected into any totalizer system as it is in pari-mutuel wagering. Basically, you put the money in, you run whatever reels and you have an outcome. It is completely random. With horse racing, with live racing, with simulcast and with this previously run races, there are a lot of factors that separate it from that particular machine. The biggest difference is this is pari-mutuel wagering, pool wagering. With video gaming terminal you described, it is not a pool wagering. You've basically got the pool, the totalizer company that is operating the system which is what we have with a simulcast system right now. The only difference is that you may have wagered on a particular live race at Oak Lawn Park, or Santa Anita and you've gone to the park and wagered on that race. This is an opportunity to actually wager on this race again at a later time, but you don't know it's that race. You basically have the graph information. There are choices to be made.

Rep. Klemin: These races are randomly selected I think you said.

Ron Lynch: Yes. They are randomly sent from a central server into the machines. It's not completely impossible but statistically the number are very long that you could figure out what race is being run. Even the person next to you would probably be running a different race.

Rep. Klemin: What is a totalizer and how is that different than the house.

Ron Lynch: The totalizer company, all the machines are connected to a server. Through that connection, they manage the pool, So as more people at a live race wager on horse #1, those odds get shorter. You can see these changes on the tote board as people are making a decision and placing wagers. If you're in a situation where you are the only guy betting on horse #8 and those odds are very long, but you enter into different pools, those number continue to change. The totalizer company manages all that. They secure the integrity of

those pools. With simulcast wagering it is the same thing, but they are doing it with many, many tracks. You've got a race at Santa Anita, CA, there are off-track betting locations all over the country that are taking that signal on that particular race, so you may be at CHIPS here in Bismarck, placing a wager on that particular race, somebody may be in an off track betting location in Montana, placing a wager, and somebody may be at a live track placing that wager. The totalizing company is a company that handles all the wagers. That's a requirement through the ND Racing Commission rules now that we have that. Instant racing does not operate without a totalizer company. Thus, this makes it a pari-mutuel wagering system.

Rep. Klemin: This kind of bill was before us once before and it was done in AR and it seems to me that this is still only done in Arkansas.

Ron Lynch: You are correct. It was in 2005 session, a bill very similar to this came through. I was not here for that testimony. Arkansas has expanded within themselves, they've expanded many times. There are several states that are looking at full blown slot machines for their racetracks to promote their horse racing industry. Many of those states are looking at instant racing as well. The AR group grew pretty quickly. The pari-mutuel business, which has been around for many year is very competitive. They went through some slow growth but they have seen some incredible growth actually since you saw a similar bill in 2005.

Rep. Charging: Where do the machines come from, how much do they cost.

Ron Lynch: These machines are not a cheap ticket item. They are fairly expensive, they are very technologically sound and cost about \$10,000 a piece. It's our intention to have about 50 of these machines placed at the ND Horse Park to start with. That's what we are shooting for. As more sites come on line, more machines would be available. These machines are built to order. Should this bill go through, we would go ahead and place that order and they would begin developing them. This is not a situation where the day that this legislation becomes

enacted that the machines could go online immediately. There is a period of time where the machines will need to be manufactured, put into place. Because of the totalizer system, there are pieces and agreements that have to be put into place as well.

Rep. Charging: So there is no fiscal note for the cost. Who's going to bear the responsibility of managing these machines once they are out there, the Racing Commission?

Ron Lynch: Similar to any of our simulcast or pari-mutuel businesses, the charity that actually comes in and puts the project together, applies for the license, is granted the license. They are responsible for running the operation. So the charity, would be responsible for putting that together.

Rep. Charging: So the charity would pay for the FTE or whatever it takes to manage the system.

Ron Lynch: The charity bears all the costs involved. That's paid for by that take-out. Out of the take-out, the state racing funds, the machines, security, all licensing, all aspects of the business come out of there. In ND you have a charity that is the recipient. Also have a service provider in ND. Their role is to assist in the actual service on the actual technology as they do with the machines that we have in our off-track betting locations now. The service provider brings those machines in and it's their people.

Rep. Kretschmar: Can more than one person play the machine at the same time.

Ron Lynch: Only one person would be able to use the machine. The machines that we have at our off-track betting locations today, it's the same way. Only one person can use the machine at a time.

Rep. Delmore: I think there are a lot of unknowns that go into this. What would be the typical number of games that someone might play and hours of operation. Would it be open 24/7 so that people could come in when they felt like going and using the machines.

Ron Lynch: AR had a similar situation to ND with the exception that we have fledgling tracks right now and off-track betting locations closing. They didn't have enough revenue coming in to support what they were trying to do. They put together a pretty good model that's been fairly proven in the last six years. If you look at their model, which is what we are looking at, they're not open 24 hours a day. They are open when events are going on and with their simulcast facilities on site as well. I think the rooms open up at 11:00 am and goes until 1:00 am when the bar closes. It is not a 24 hour facility.

Rep. Delmore: Many of us have gone to casinos, how long does each game take. Do people stand there and play.

Ron Lynch: There are multiple games. There are many different generations of games. The ND Racing Commission would regulate the generations of machines; the different games. The games that we would introduce to begin with are very basic and easy to understand games. In order to go on to any other games, because there are a number of different types of games that are available, and I'm sure more will be made up. If that would happen, it would be entirely up to the Racing Commission to write rules for those games and move through that process. It's a lengthy process and nothing to be done overnight. How fast can a person play? Actually a person could play quickly or slowly. I have been to Oak Lawn Park and have seen folks in action with these machines and play them. I've done demonstrations for people on these machines. It really depends on your level of interest in horse racing. If you want to watch the entire race or skip to the end. You can choose, it is up to you.

Rep. Delmore: Will there be oversight over this, who would they report to.

Ron Lynch: With our simulcast system currently, there is oversight from the ND Racing Commission. There are audits that are done. There is a bill out there to include the AG's office more heavily in oversight of the ND Racing Commission. But this is a pari-mutuel

product and would currently fall under, in terms of this legislation, would be under the same rules of oversight that are in place now for live racing and simulcast wagering.

Rep. Charging: On page 4, you said that any future expansion must be approved by the ND Racing Commission. Who has that authority.

Ron Lynch: Currently with granting live race states with allowing pari-mutuel wagering at the live tracks, with our simulcast locations, account wagering, the oversight piece there is the ND Racing Commission. This legislation doesn't change any of the oversight. It would fall under the ND Racing Commission.

Rep. Klemin: How much can you bet at one time on a race.

Ron Lynch: There are a number of different generations of machines that go from pennies all the way up to \$5 individuals. The machines that we are looking at right now are 25 cent machines. They are first generation machines and they were set out as 25 cents. They do have a multiple play function on them where you can enter into some additional pools; some higher odd pools which would allow a maximum bet on the machines we're looking at, is \$1.25.

Rep. Klemin: I suppose there wouldn't be any reason for you to have \$20 machines, \$100 machines, would there.

Ron Lynch: What would prohibit that or encourage that would be that it is market driven. The technology changes and there are all sorts of different possibilities out there for these self-service betting machines. Currently the self-service bettors that we take, you can make \$100 wagers on them. Those are the ones we have in place in ND right now that are operating right now. The entire concept of this particular type of pari-mutuel wagering are a lot of small wagers made for entertainment purposes by a lot of people that are enjoying the option, rather than as our simulcast system is built up right now, the bulk of our simulcast system is supported by very few wagers, but very large wagers by very few players. So the idea is that

we want people to have fun and enjoy it. We would certainly look at the market and make sure that we were putting in the right type of technology to allow the folks in that market to play.

Rep. Klemin: What is the charitable purpose for Horse Race ND.

Ron Lynch: The charitable purpose of Horse Race ND is the promotion of equine related facilities and specifically horse racing. The ND Horse Park operated by two non-profit organizations. One is a foundation that is specific to different equine disciplines. The second non-profit organization, Horse Race ND, which is the holder of the licenses from the ND Racing commission is that same purpose, plus specifically horse racing in ND.

Rep. Koppelman: As I listen to this, I think if we were talking about any other video gambling machines, there would be a fair amount of resistance to that because it would be considered an expansion of gambling. I'm not saying that there won't be resistance to this. I think horse racing does benefit the breeders and the people who are racing the horses. Watching a race from halfway across the country, which I wouldn't necessarily do that, other than that the money would go into a charity. It's a difficult thing for me, does it in the long run, in your view, help the track, help the industry, help the horsemen, or does it detract from it, because if people can bet in other ways, are they really encouraged to come out and see live racing.

Ron Lynch: This particular product, and it's been shown to increase the handle that's gone through their simulcast and their live racing. Basically this particular product has rejuvenated that track. The idea was to fix their track. A family owns the track in Arkansas. So the dollars made from this go to that family. We have a very strict mission in our charity that the dollars go back into this product. I see three benefits to this: 1) it puts dollars into our ailing promotion, purse, and breed funds and stabilizes those; 2) because of the structure of the way simulcast is set up in ND for pari-mutuel wagering, it is a business for this charity, no different than charitable gaming for any other charity. We take the bottom line profit which allows us, by

mission, because we have to, to pour that money back into our facilities which help those horsemen as well; and 3) there is a piece there that goes to the horsemen in other states for these races that are provided through this product. There are multiple benefits there, but I think the short answer is, that if we look at that Oak Lawn, AR model and what it's done for their track and what they were able to do with those dollars coming in.

Rep. Charging: What are the federal regulations with machines such as this.

Ron Lynch: It is my understanding that because these are pari-mutuel devices, they operate no differently than the actual terminals that we have operating in ND today, that they fall under the pari-mutuel statutes.

Rep. Meyer: How many simulcast sites are operating now.

Ron Lynch: I believe there are five.

Rep. Meyer: How many closed.

Ron Lynch: I believe there were three or four that closed recently. I know there have been 3 that have closed in Fargo alone. I believe one closed in Wahpeton and Jamestown.

Rep. Meyer: Do you know the number at the all time high across the state of sites.

Ron Lynch: I don't know that.

Rep. Delmore: Do you know where the five locations are now.

Ron Lynch: We have 2 licenses in Fargo, 1 operates year round and the other one only operates during the race meet. One here in Bismarck with CHIPS, there is one in Grand Forks, one in Williston and Belcourt as well.

Rep. Klemin: Thank you. Further testimony in support of HB 1509.

Les Schmidt: I have the seen the benefits of what expanded racing has done for the state of ND. I've raced in the state from where we had a 3 day race meet at the Wells County Fair in Fessendon. From there, it expanded to a 6-8 day race meet at Belcourt. In 2006, we

expanded to a 8 day race meet at Belcourt, a 24 day race meet in Fargo. As the manager of the live racing in the racetrack, if we do not expand these races any more, as far as days and numbers, we want to be able to provide the horsemen with the purses that it takes to maintain this operation. Horses of the quality to be able to go on to the Kentucky Derby, the All American Races in the quarter horse industry. In order for our breeders and owners to be able to do that, we have to be able to give them some funding and give them the purses, the money on the races so that they can earn to improve their breed and go on. There has been an estimate, that in the year 2006, the economic development to the communities of racing has been close to \$10 million dollars indirectly that have come into economic development. This is an estimate that was told to me. Theoretically this could become one of the top livestock industries in the state of ND, with this type of thing going through. I have been fortunate to have been at Oak Lawn Park. It is a 100 year old race course which is beautiful. I am in favor of this bill.

Rep. Meyer: The \$10 million dollars you mentioned, that just basically covers oats and hay.

Les Schmidt: I think it covers a little more than that. In the first year that Fargo was in business, we had 4 weekends of racing and we had 200 horses show up to put on 12 days of racing. In 2006, we had 400+ horses in Fargo. We also set up outdoor stalls. We have cooperation with NDSU. This year, there were only 2 days out of 21 days that we had the entry box open past 11:00 a.m. We filled races anywhere from 6-10 horse gates every day.

Rep. Klemin: Do you work for Horse Race ND.

Les Schmidt: I work on a contract basis with Horse Race ND six months out of the year, April 1 – October 1. I manage the live racing portion of the charity.

Rep. Klemin: If this bill passes and this went into effect, would you have this all year long.

Les Schmidt: We would have.

Rep. Klemin: Thank you. Further testimony in support.

Scott Horst, ND Thoroughbred Association Board Member: Without this bill, we will not have racing two years from now. I was here two years ago, lobbying for this bill also. I've seen purses drop in the last two years. I've been to Belcourt and Fargo, Winnipeg. I race around, I breed, I train myself and horses for other people. My opinion is if we don't have this we will be out. As you can see our promotion fund, general fund, and breed money is going down every year. In two more years, we are done. This isn't a cheap business. We're in trouble. I've seen the machine, anyone can do this machine. I've seen 3-4,000 people at the racetrack sitting there, the people just love it. I don't want to see it leave ND. I've been doing this for the past 10 years hard.

Rep. Koppelman: You say without this, you are in the trouble, why is that.

Scott Horst: Just in the last few years, I've seen the purses go down. The other costs aren't going down. We're not getting money from the government; we're doing this on our own.

Rep. Koppelman: At some point, every industry has to be self-sustaining. One of the things we're continually asked to do here in the legislature is what some would call expansions of gambling, because of other factors that are making things tough. Some of us are concerned about where that ends. It's not that we're not supportive of you raising horses and profiting in that field. Doesn't an industry have to be supported by enough interest in it that people come and pay the money and do what's necessary?

Scott Horst: Yes, I agree. That's what we are trying to do here today. If it were easy, everybody would do it. It's not easy.

Rep. Kingsbury: I can see where it's exciting at a horse race, at a live race. These machines will be exciting for now, but then people will lose interest in them too. We've seen how it has gone with charitable gaming to some extent. In the beginning, it was going really

big and a lot of programs were established and extra games to keep the interest going and then that dropped off. It's a big investment, putting in all these machines. How long will people stay interested in betting on a race that happened before?

Scott Horst: It could go down there, but we don't know. We are trying to look forward into the future.

Rep. Meyer: For the committee, you are sitting Oklahoma City at the sale; explain a little bit about the money that you are going to be spending. You're going to be buying a mare, taking her home, getting her bred, the training fees, just so that people have an idea of how much money is involved in getting the horse to the track.

Scott Horst: I go down to Oklahoma, was just there in October. I did buy one mare, probably about \$700 in fuel, motel down and back, she's got a baby in her belly; it will be three years before that baby is one the track running. I had an opportunity to buy a colt from ND this year as a two year for \$7500. I thought that was a lot of money. I bet he had \$10,000 in it. With all the fees, vet bills, registration, every aspect is expensive.

Rep. Klemin: Thank you. Further testimony in support.

Randy Blaseg, ND Racing Commission: Mr. Arthoudt, head of the commission is in full support of this bill.

Rep. Meyer: At the all time high, how many simulcast sites were there?

Randy Blaseg: I believe there were 11. I would like to point out a little history on this. It started in NE in Oak Lawn Park were two of the premier race tracks in the central portion of US. Before this device was developed, the sport began to lose popularity. Riverboats came into being in the Omaha area; dog racing came in from Iowa. As we all know, gambling has expanded in a very broad form. Until this particular product was developed, the race tracks were going downhill.

Rep. Klemin: Thank you. Further testimony in support.

Lance Hagen, ND Quarterhorse Racing Association: We are in support of this bill. Mr. Lynch is putting 5% into the funds and Mr. Cichy's folks are out competing on a different level and their bill only puts in a small percentage. It is not going to be long before the funds are depleted without help.

Rep. Koppelman: You talk about those funds nearing depletion. If the industry is having trouble not only sustaining itself, but is bleeding so badly that it's consuming that windfall, is this enough to turn it around.

Lance Hagen: I think we have to try what we can and I think this will work. There's a huge investment down in West Fargo. To not try to do everything we can to go and compete in an international market like Mr. Cichy's doing and try to get people more comfortable in Fargo with wagering like Mr. Lynch is doing, we know what the result is now. In two years, I'm afraid that there will be no racing. We have to do everything we can. We have a huge investment. It's good for Fargo, good for racing and it's good for ND. Because most of the people who are going to play the game that Mr. Lynch is talking about are people who are involved in horse racing.

Rep. Klemin: Thank you. Further testimony in support.

Joel Cichy, a service provider in Fargo: I just wanted to clarify something that Lance said. Out of the 17%, 5% of that 17% goes into each of their three funds. It isn't 5% of the total.

Rep. Klemin: Thank you. Further testimony in support.

Chairman DeKrey: Testimony in opposition.

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

Rep. Koppelman: Is there any data on the addictiveness of horse racing gambling of these machines.

Warren DeKrey: The information I've gathered from various people who are concerned about gambling is that this type of electronic machine, is like crack cocaine is in drugs. It is fast, it is instant and it's a very, very addictive form. I can't tell you how addictive. I just don't have that information.

Rep. Koppelman: Do you know, are there some dollars that come back to support the program for people who are suffering from gambling addictions. Is there that kind of component with this?

Warren DeKrey: No.

Rep. Charging: In Indian Gaming, that is a component by law in our compact agreements. The question I have is for the Racing Commission, there is no gambling addiction component.

Keith Lauer, AG's office: No.

Rep. Delmore: I believe the only one that is mandated to do that is the lottery.

Rep. Boehning: You're talking about bailing out the race track at public expense, what public expense is there going to be. The state is going to generate revenue off of that. The state's not going to buy the machines, they're not going to have a FTE for the machines, all they are going to do is regulate the machines through the racing commission.

Warren DeKrey: You ask what the cost to the public is.

Rep. Boehning: The public isn't bailing out the track.

Warren DeKrey: My testimony on that is that this money comes from the business community, this is the general public people who gamble, and this will allow a lot more sites to gamble than we have now. It is another addition to all of the gambling that we have had and it just compounds that situation.

Rep. Boehning: I don't look at it that way. The track generates jobs, generates revenue by bringing people into the hotels, motels, eating, buying things in the state of ND. I don't see that

as a loss to downtown to the local businesses. I think it is actually a gain. People are coming in from out of state, from all over the country to come in and race. It's bringing revenue into this.

Warren DeKrey: I think we are talking about two different things. I'm talking about these machines, slot machines I call them, this money is coming out of our local community. Part of this will go back to the racing people, but we are asking the local community to support this racing community and the racing community once they get their support, and then they're going to bring in these other people in and this will have an affect on the community. At the same time, however, the people who are gambling, will be gambling more because there are increased opportunities, these same people are not going to be spending money down on Main Street. They are going to be spending it on these gambling machines. So the result is that there may be more jobs at the track, but there will be fewer jobs out in the business community because the money isn't going to be spent there. Several studies have been made and found that gambling is a drain on the business community; the money went over to the gambling in area casinos.

Rep. Boehning: I've seen where the town smalls have grown because of local casinos in their communities.

Warren DeKrey: There are a couple of studies, where a majority of the people who gamble live within 30 miles of the casino. Even though there are people that come in from outside the area, the largest supply of gamblers come from a 30 miles radius to that casino.

Chairman DeKrey: Thank you. Further testimony in opposition.

Shelly Traynor: I represent the ordinary people of ND. I just want to acknowledge Rep. Onstad. You asked the most profound question this morning. To hear that from someone in your capacity I was just wowed by it. The question was "what did charities do before there was

gambling, how did they survive". How did the whole state of ND survive before gambling was even thought of? That is a good question to ask ourselves when we are presented with these different situations. In respect to this committee, I just have to tell you that I don't know much about horse racing and the industry. I think that the greatest winner that we raise or breed in this state, are our children. I think the strongest race that we can run is for morality. I love living in this state. It is the place to raise kids. I love what it stands for. I believe our state stands for integrity and for hope. I believe that hope with this definition, to desire something with confident expectation of its fulfillment is alive and well within this state. But it is the integrity part of our state that concerns me. People like myself, put a lot of faith in people like you, and we trust that as elected people you will continue to try and maintain the dignity of this state. We believe that you stand firm and you do what you have to do to maintain integrity. As I look at this program, I don't see a racing issue, I see a slot machine. Sometimes people cannot tell the difference. So where does a slot machine fit in ND. I don't see it representing a hope, and I sure don't see it representing integrity.

Chairman DeKrey: Thank you. Further testimony in opposition.

Harold Neff: I am in opposition to this bill; gambling, games of chance, etc. It produces nothing; it redistributes the wealth but doesn't create new wealth. Once in a while I buy a raffle ticket from a child coming to my door. Some people go to gamble for a variety of reasons. I see older people buying lottery tickets, going to casino, and while some can afford to play, some can't afford to lose their money.

Chairman DeKrey: Thank you. Further testimony in opposition.

Tom Freier, ND Family Alliance: We are opposed to this bill. We see it as an expansion of gambling.

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

Rep. Boehning: Are these machines in the Indian Casinos.

Keith Lauer, AG's Office: Sky Dancer Casino has simulcast machines.

Rep. Boehning: Could they put in these machines now.

Keith Lauer: I don't know the answer to that.

Randy Blaseg: They would have to receive permission from the Racing Commission in order to do this.

Keith Lauer: I know the Racing Commission in WY, went ahead and put these machines in without legislative approval, and the state sued the racing commission to get it stopped and it sent to their Supreme Court and they were found to be illegal in the state of Wyoming. All pari-mutuel sites are approved by the Racing Commission.

Randy Blaseg: That's why the word historic is used.

Rep. Koppelman: You may have more information on what is legal on a reservation vs. the rest of the state. We always bump into the issues of sovereign nation and things that the state can regulate and those you can't regulate.

Keith Lauer: You do bring up a good point. We do have the compact with the Indian Tribes and there are simulcast compacts also. I'm not as familiar with those as the Racing Commission because those are negotiated separately from the primary compact that was signed by the Governor. It was done after the initial contact back in 1992.

Rep. Charging: Just for clarification, they were added to the compact agreement.

Chairman DeKrey: Right now it is illegal to have video gaming devices in the ND, is that right.

Keith Lauer: That's correct. Back in 1989, video gaming devices were approved by the legislature for non-profit organizations to run, but then it went to a public vote and they were

voted down. The matter was deferred, but if you would so desire the legislature could approve video gaming devices for a charity.

Chairman DeKrey: I know a lot of people call it a slot machine, to me it looks like a video gaming device.

Keith Lauer: I think by the definition of our century code, I would agree with you that it is. It says about an insertion of a coin, token or other object that provides an element of chance, there is a payout.

Chairman DeKrey: My question is, if it passes in this law, we would be legalizing this form of video gaming, what would stop the rest of the industry that wants to run video gaming, from saying you already approved it in ND, so it's viable.

Keith Lauer: I think it is pretty limited to what we are doing here. I don't think the rest of the charitable gaming industry could go in, they might come in and because you've done this in the past, we would like to see you expand it to a large industry. I think that based on the limited language in this bill, it would pretty much be restricted to just being wagering in a pari-mutuel setting.

Rep. Charging: Where does this fall under with video gaming. This seems to be an expansion of gaming. Just because it is for horse racing now, but next you will have NASCAR and other forms of racing in this world. Where is the definition of what's legal and what isn't for gaming.

Keith Lauer: I think because of the fact that you have not approved video gaming devices for the charitable gaming industry, they would; therefore, be restricted to only those game types that you've approved so far.

Rep. Charging: And that's because of the people's choice on the way they voted.

Keith Lauer: Back in 1976, it was changed in the state's constitution where the people voted to allow non-profit organizations to conduct gaming as provided by the legislature. So you set the game types. If you wanted to allow video gaming devices, I think you could, as was done in 1989.

Rep. Charging: Do you know, of all the charitable organizations in the state, is this the only organization that stays within itself.

Keith Lauer: I don't understand.

Rep. Charging: The charitable organization is typically is people providing services for other people. That's the premise of what charitable means.

Keith Lauer: The eligible organizations that come under the charitable gaming statute, are both fraternal and veteran's organizations which give their money to uses, which could be given away for a number of purposes. Then there are also charities that receive the money for themselves and could use it for their own operations, including paying staff for manning homes for disabled people, buying wheelchairs, also. They are their own charity the money goes for their own purposes. They still have to use that money for what is called an eligible use. That is defined by the legislature. In this case, the charity funds the promotion of that particular industry, but it is still a non-profit organization.

Rep. Charging: And they are charitable how?

Keith Lauer: I believe just in the way that they are set up legally in the state of ND as a non-profit organization.

Rep. Klemin: We've only been talking about horses, but this also applies to dog races.

Keith Lauer: That's correct.

Rep. Klemin: So we could have the horse track and have dog races on it.

Keith Lauer: I think only in the previously run races, historic.

Rep. Klemin: But you could have dog races.

Keith Lauer: There could be, yes.

Rep. Boehning: When you read on line 8, dog racing is already allowed under ND law. That is not an expansion.

Keith Lauer: This part in here with the dog racing, has to do with simulcasting, and so we're just videoing the signal of a dog race.

Rep. Boehning: So we're basically using the same machine, just applying it for a different use for the machine. I am assuming that it is the same simulcast machine.

Keith Lauer: This machine is a self-contained unit that shows the video signal sent to it. You could still broadcast a live race also, whether dog or horse and bet on those through the pari-mutuel system, sure. But this is completely different, because this is a historic race that was previously run, and that's what you're wagering on.

Chairman DeKrey: Thank you.

Keith Lauer: I am here today because there is a SB 2209 that would require the AG's office to approve the licenses of the simulcast providers, the totalization companies, and also would give us some increased audit responsibilities. The only thing we do now is investigate and that is more when there is a problem already. The audit responsibility is more of an immediate things where we keep track of it as it goes, rather than waiting for a problem. We are neutral on this particular bill.

Chairman DeKrey: Thank you. We will close the hearing on HB 1509.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1509

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/31/07

Recorder Job Number: 2463

Committee Clerk Signature

N. Penrose

Minutes:

Chairman DeKrey: We will take a look at HB 1509. I have an amendment. Explained amendment (see attached testimony). I think this bill will pass. I want the State to get something out of this bill and do some regulating. That's what my amendment does. This divides up the 17% and stated where it goes.

Rep. Koppelman: I move the DeKrey Amendment and further amend it to change (d) after sites that, remove "at any time, have been" and replace with "are". Also to remove (e) entirely.

Rep. Meyer: Second.

Rep. Charging: Anytime there is an increase in gaming in the State, the Reservations can also increase, does the amendment need to reflect that.

Chairman DeKrey: That is covered under the Gaming Compact. That is a totally separate matter. We will take a voice vote. Motion carried. We now have the bill before us as amended. What are the committee's wishes.

Rep. Klemin: I move a Do Not Pass as amended.

Rep. Kingsbury: Second.

Rep. Klemin: To me, this is a video gaming device, and is an expansion of gaming.

Rep. Meyer: We need to keep the racing going. In the states where this is occurring, they are making money.

Rep. Klemin: Arkansas is the only state where this is going on.

Rep. Boehning: If we don't do this, we will have an empty track in less than 2 years.

Rep. Kingsbury: This is an expansion of gambling.

Rep. Charging: There is a cost to the State, maybe racing will bring in more dollars.

Rep. Boehning: This will put more money into the three funds.

Chairman DeKrey: The clerk will call the roll on a DNP as amended.

8 YES 5 NO 1 ABSENT DO NOT PASS AS AMENDED CARRIER: Rep. Kingsbury

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1509

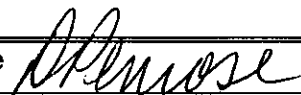
House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/5/07

Recorder Job Number: 2844

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1509.

Rep. Meyer: I would move to reconsider our actions on HB 1509.

Rep. Boehning: Second.

Rep. Klemin: A point of order, to bring a motion to reconsider, don't you have to be on the prevailing side. Rep. Meyer wasn't on the prevailing side.

Rep. Onstad: I move to reconsider our actions.

Rep. Wolf: Second.

Chairman DeKrey: We have a motion to reconsider by Rep. Onstad and seconded by Rep. Wolf. Discussion on the reconsideration.

Rep. Klemin: Why are we making that motion.

Rep. Delmore: Sometimes the circumstances warrant bringing a bill back. Sometimes there is more information that we need to look at. It doesn't mean that we can't still send out a bill with a Do Not Pass. I think it is a courtesy to listen to what somebody may have to say.

Rep. Klemin: I think the argument could be made in support of a motion to reconsider, as to why we are doing it.

Rep. Meyer: I was one of the people that requested that we have it reconsidered, basically because of what we are hearing, that these were video gaming terminals, and I just believe they aren't really correct. What we're doing is just a historic horse race. It's just looking at a horse race that's taken place in the past. It's a pari-mutuel pool. They are similar to live horse racing. It's not a slot machine and I don't feel like it, in any way, it threatens our gaming casinos that we have now. It gives us such an opportunity so that if we could just have a couple of years to get our race track to where they can financially support itself, it's very important to Fargo, it's very important to anyone who is breeding and racing these horses. This is a tool and vehicle that's worked and I believe it would help our cause a great deal if we could reconsider this and hopefully get it out with a Do Pass and have a little longer look at it.

Rep. Klemin: I guess I really haven't heard anything that changes my mind. You're saying that these aren't video gaming devices, but they were certainly described as video gaming devices in the hearing. I haven't heard anything yet that says there not video gaming devices, although they are reruns of horse races, you don't have to watch the race, you can go right to the end of it and whether you want to spend time picking the horses or just want to push buttons, 3, 5, and 9 and go right to the end of the race. You do have to put in money or something. I don't see how it's not a video gaming device.

Rep. Meyer: I believe the difference is that it is a pari-mutuel pool. These are like, with the live horse races right now, we can only 6 weeks out of the year in ND just because of the nature of it. The people that love the live horse racing understand trifecta, and these other terms. They like to watch the actual horse race and it is in a pari-mutuel betting pool. That's one of the differences, it's not a slot machine. It isn't a random display, it is a pari-mutuel pool, where you can, it's based on a horse race that was previously run. You aren't going to know what that is. The odds are very similar to when you have a live horse race. Sometimes you

have a horse that you bet everything on, and loses completely and vice versa. You are 99 to 1 odds. Those would be in place. It isn't the same as a slot machine. It just doesn't do that. Those are all preprogrammed odds with 97% payout. These are a very different machine and with the help of the Fargo racetrack, this is just a machine that will do that, it will encourage people who are interested in live horse racing to be able to do that more times of the year than just the six weeks that we race.

Rep. Klemin: As I understand it, you basically want us to revote on the same bill, for instant racing, from randomly selected historic races. That these machines would be located at the Fargo track and any other place in the state where pari-mutuel betting is done, off track.

Rep. Meyer: I'm reading the amendments that were on it.

Rep. Klemin: Simulcast racing.

Rep. Meyer: If the committee would send it out as a Do Pass, my basic intent with this is that we can save the Fargo racetrack long enough for it to have a chance. And if you wanted to amend this where these sites should take place at the Fargo horse park. That could be considered.

Rep. Klemin: Have you come prepared with new amendments to this bill, or are we just voting on the same bill.

Rep. Meyer: No, I have not.

Rep. Kingsbury: How long has the horse park been in business since its inception.

Rep. Meyer: Mr. Lynch is here from the Horse Park. Four years.

Rep. Boehning: I'd like to have a chance to work with Rep. Meyer to try and get amendments for us to change this bill. I think we can work something out with some amendments.

Chairman DeKrey: We need you to remove your seconds and we'll the bill to later.

Rep. Onstad: I will remove my motion.

Rep. Wolf: I will remove my second.

Chairman DeKrey: We will take this up later.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1509

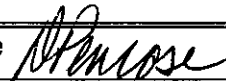
House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/6/07

Recorder Job Number: 2915

Committee Clerk Signature



Minutes:

Chairman DeKrey: We will take a look at HB 1509.

Rep. Boehning: Explained the amendments, 78271.0103. Basically we took out the dog racing with the instant racing. We have to keep it in the definition, because we do offer dog racing in the simulcast wagering system. We did take dog racing out of the instant racing, the reruns. Also we left in 1, 2 and 3 and limited the number of sites to the two horse tracks, the one in Belcourt and the one in Fargo and the live simulcast wagering sites, which Belcourt is also an off-track betting site. That is what the amendments are for.

Chairman DeKrey: This will make it much more restrictive than what we originally put on.

Rep. Boehning: Correct.

Rep. Klemin: So the previous amendments has the total number of machines statewide may not exceed 400. This amendment has no limitation on the number of machines.

Rep. Boehning: Correct. Since the machines cost \$10,000 we don't believe that the off-site betting sites are going to have any more than 10 because of the fact they are so costly.

Rep. Klemin: Well there was a limit or cap on the number of machines and now there's no cap.

Rep. Meyer: We thought we were addressing that issue by limiting it to just the two live race tracks and the simulcast sites. It's a lot more limited than it was in the first one. We were trying to address those concerns.

Rep. Klemin: The amendment that was previously adopted stated that placement of historic racing machines would be limited to site that are licensed to conduct simulcast wagering. So we'd have to change that.

Rep. Boehning: From what we did last time was, it said sites that were, present and past.

Rep. Klemin: I think that was correct. That amendment was amended to limit it to ones that were in existence. The net result of this is that there used to be a cap of 400, now there's no cap.

Rep. Meyer: These machines are so expensive, we thought that by limiting the sites of where they were, there's not going to be a lot of these machines at \$10,000 a piece. It is cost prohibitive. We were limiting them to the sites right now, where live horse racing is taking place. This is just live horse racing.

Rep. Koppelman: Have we amended the bill already.

Chairman DeKrey: Yes.

Rep. Koppelman: Are these amendments drafted to amend the amended bill or are they drafted from the original bill.

Rep. Klemin: I am assuming that they are amended to amend the bill as amended. These are additional amendments.

Rep. Meyer: I think these were designed to amend the original bill, because of the concerns expressed by the amendments.

Rep. Klemin: Can I talk about procedure. So we had previously amended HB 1509, and those amendments were adopted and then the bill received a Do Not Pass as amended. So

what you are asking us to reconsider is two things: 1) to vote on the Do Not Pass as amended; 2) to remove the previous amendments and substitute the newer amendments.

Rep. Meyer: That's correct.

Rep. Klemin: So does that take two separate motions.

Chairman DeKrey: First thing we have to have a motion to reconsider our actions.

Rep. Onstad: I move that we reconsider our actions.

Rep. Griffin: Second.

Chairman DeKrey: It has been moved and seconded that we reconsider our actions by which we did a Do Not Pass as amended on HB 1509. Further discussion. The clerk will call the roll on a motion for reconsideration for HB 1509.

8 YES 6 NO 0 ABSENT

MOTION FOR RECONSIDERATION PASSES

Rep. Onstad: I really think that now that we've reconsidered the bill as amended. If these amendments here get adopted, they are going to further amend the bill to make those corrections. If you're going to go back to the original bill, then we would have to vote to remove the original amendments as amended. I don't know what the wishes of Rep. Boehning are.

Rep. Boehning: You want to bring it back, we can amend the amendments. We can further amend the bill.

Rep. Onstad: I think that's the way to go.

Rep. Boehning: The amendments would probably take care of that amendment.

Rep. Kretschmar: We don't know what the original amendments were.

Rep. Koppelman: It seems to me that the cleanest way to do this is, unless Rep. Boehning wants to have these amendments redrafted to be written in such a way that the amendment

amended the bill, it seems to me that the cleanest thing to do is to remove the amendments on the bill and move the new amendments.

Rep. Meyer: The reason we took that approach is because there was some aspect of the amendment that got passed and I think that was why some of the committee members were having problems with how the bill was coming out as it was amended. We were just trying to address the concerns and we didn't really have time to work on it before, which is our fault, and we didn't see the amendments until they were here. I don't know who had them drafted. We didn't have a chance to really absorb the amendments and we tried to address the concerns the committee had to make it as clean a bill as we possibly could. Also to limit the sites where these are going to be operating.

Rep. Charging: One thing I never asked, what is the amount of wagering on these machines.

Rep. Meyer: We don't have.

Rep. Charging: How do you play.

Rep. Meyer: These machines are a pari-mutuel pool. It's exactly the same thing, you're at the track at Fargo, and you're watching a horse race. You go up and say I want to do a trifecta on horse 1,3 and 5 in any order. These are just horse races that were already run and already in the pari-mutuel pool. That's how these are handled. It's no different than sitting there watching a horse race.

Rep. Charging: How much money can you play.

Rep. Meyer: Any amount, it can be any amount.

Rep. Klemin: Unlimited.

Rep. Meyer: I don't know. Mr. Lynch is here and he can answer that question.

Rob Lynch: Your question of how much can be wagered at a time. Those wagers can be as low as 25 cents and as high as \$5.00. The \$5.00 amount are in a later set of generations of

games, but we're not proposing them at this time. But the actual infrastructure of the machine itself could go up that high.

Rep. Klemin: The 25 cents and the \$5 is not set out in the statute. That's just a programming that you can have in those different machines.

Rob Lynch: That would be a decision that the track would make. That would be a decision that the ND Racing Commission would make. They would regulate as they do with current wagering. They regulate the amounts that can be wagered. They regulate how much can go into each of the pools. They make that decision.

Rep. Klemin: Do they have limits on wagering now for pari-mutuel betting.

Rob Lynch: Yes, they do. They do have amounts for each one of those pools, Win-place-show pools, a minimum bet for example is \$2.00. There is no maximum in that particular pool. A trifecta bet has a \$1 minimum, so they do have numbers set out in their rules.

Rep. Klemin: Is there a maximum in the trifecta.

Rob Lynch: I don't believe there is.

Rep. Klemin: So what we said was correct then, there is no maximum on the wagers, and that was Rep. Charging's question.

Rob Lynch: With this particular technology, there is a limit, \$5 is the high as that could go with this technology today.

Rep. Klemin: Is that a programming thing.

Rob Lynch: I guess I can't answer that question, if they could be programmed to another number, but the model that we're looking at, the limit is \$5.00.

Rep. Klemin: But if you bought a different model, it would have a different number.

Rob Lynch: Because this is a patented machine, we don't have the option to shop out and go to different companies. We have to use the machinery that the patent holder uses in their machines at this point are capped at \$5.

Rep. Klemin: You said, at this point, they are capped. So it leads me to conclude that at some point in the future, that it could be different.

Rob Lynch: At some point in the future, that company could change that technology, correct. That would be up to the company.

Rep. Klemin: In response to the customer's request.

Rob Lynch: I would imagine that would be a market-driven situation.

Rep. Klemin: You would be the customer.

Rob Lynch: Actually, we as the non-profit have no interest in the wager, because it is pari-mutuel wagering.

Rep. Klemin: To the service provider.

Rob Lynch: The service provider would be purchasing the machine. Obviously, from input they would, in terms of customer service and what not, we would be giving input that that's what the customers are asking for, if it were a larger number or a smaller wager. We would certainly pass that on.

Chairman DeKrey: I just had a question on the original amendment we had, money going to the state's general fund and also money going to the compulsive gambling prevention and treatment fund.

Rob Lynch: Yes, that has been removed in the proposal.

Rep. Meyer: One of the reasons that we removed that was because that was taken care of in another part of the statute, with all of the compulsive gambling components. It's been removed

and it shouldn't just be here as a stand alone component. That has been taken to a different section that deals with the charities with the compulsive gambling component.

Rep. Klemin: Can you tell us what section that is.

Rep. Meyer: I can't.

Rep. Charging: It was possibly removed from that because they are a charity, they aren't in there. It brings the question, it is a charity within a charity. It's a charity, meaning it's racing within itself; whereas the other charitables that are by law, in the state, are primarily for the benefit of the community.

Rep. Meyer: You are correct. That's why we removed it. We shouldn't have it as a stand alone thing in this bill.

Rep. Charging: It's not required for the Racing Commission.

Rep. Klemin: Why take out the one about the general fund.

Rep. Boehning: The reason we took that out of the general fund, because of the problem that we're flush right now, we do have plenty of money in the general fund right now. To get this on track, I think we need to keep the money in the fund. We never did have a fiscal note on it, but I think the numbers would be quite low on that end of it; 1/16 of 1%, was quite a low number so that's why we removed it.

Rep. Kingsbury: I think we worked on HB 1126, and passed out some new restrictions on the Racing Commission, reportable to the legislature, and I think we're jumping ahead too much in permitting it at this time. The Commission needs to get a handle on what they are doing.

Rep. Klemin: It seems to me that we need to substitute the new amendments 78271.0103 for the previous amendments.

Rep. Meyer: I move the new amendments 78271.0103, to substitute the previous amendments 78271.0102.

Rep. Boehning: I second that motion.

Chairman DeKrey: The clerk will call the roll on a motion to replace 78271.0103 amendments for the previous amendments of 78271.0102.

8 YES 6 NO 0 ABSENT MOTION PASSES

Chairman DeKrey: We now have the bill before us as reamended. What are the committee's wishes.

Rep. Koppelman: The bill we have before us now, is that there is no money for the general fund, no money for the compulsive gambling prevention. I talked with legislators in SD and they said that video gambling is the most addictive kind. I'm disappointed.

Rep. Meyer: In response to that, this is not a slot machine. This is pari-mutuel betting pool. They are two different machines. You are comparing an apple to oranges. This isn't a slot machine. There aren't predetermined slots in it. The pari-mutuel pool is exactly the same thing as watching a live horse race and why people at the track are interested in this, is because it takes between 22 minutes between races. They like to go in and watch another horse race.

Rep. Koppelman: I wasn't going to comment at all, but it is my understanding that in the state of WY they had this, and the Supreme Court said they were slot machines, and struck them down as illegal in Wyoming.

Rep. Boehning: They are not slot machines. This is like voting down on the floor, all the votes are connected to the same thing. You place your bet and it goes into a pari-mutuel pool. We're not playing against the house. We are playing in a pool.

Rep. Kingsbury: I move a Do Not Pass as amended.

Rep. Klemin: Second.

Chairman DeKrey: The clerk will call the roll on a Do Not Pass as amended.

7 YES 7 NO 0 ABSENT MOTION FAILS

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

Rep. Boehning: Second.

Chairman DeKrey: The clerk will call the roll on a Do Pass as amended.

7 YES 7 NO 0 ABSENT MOTION FAILS

SEND IT OUT OF COMMITTEE WITHOUT RECOMMENDATION

CARRIER: Rep. Kingsbury

FISCAL NOTE
Requested by Legislative Council
02/08/2007

Amendment to: HB 1509

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						
Expenditures						
Appropriations						

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).*

I would be unable to determine fiscal impact at this time given the information provided in the proposed bill.

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.*

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.*

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.*

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.*

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	701-328-4290	Date Prepared:	02/08/2007

FISCAL NOTE
Requested by Legislative Council
01/16/2007

Bill/Resolution No.: HB 1509

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						
Expenditures						
Appropriations						

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).*

I would be unable to determine fiscal impact at this time given the information provided in the proposed bill.

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.*

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.*

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.*

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.*

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	701-328-4290	Date Prepared:	01/22/2007

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1509

Page 1, after line 12, insert:

"a."

Page 1, line 15, replace "From this" with "Of this amount deducted:

- (1) Five percent must be paid to the commission for deposit in the purse fund;
- (2) Five percent must be paid to the commission for deposit in the breeder's fund; and
- (3) Five percent must be paid to the commission for deposit in the racing promotion fund.
- b. One sixteenth of one percent of the gross amount wagered must be paid to the state treasurer to be deposited in the general fund.
- c. One sixteenth of one percent of the gross amount wagered, not to exceed seventy-five thousand dollars per biennium, must be paid to the state treasurer for deposit in the compulsive gambling prevention and treatment fund.
- d. Placement of historic racing machines is limited to sites that, ^{are} at any time, have been licensed to conduct simulcast wagering. The total number of machines statewide may not exceed four hundred.
- e. Notwithstanding subdivision d, after July 1, 2008, the commission may review and modify the criteria for determining the locations at which historic racing machines may be located and may increase or decrease the number of machines that may be in operation statewide."

Page 1, remove lines 16 through 19

Renumber accordingly

Date: 1-31-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1509

House JUDICIARY

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DNP as Amended

Motion Made By

Rep. Klemin

Seconded By

Rep. Kingsbury

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) 8 No 5

Absent 1

Floor Assignment

Rep. Kingsbury

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

REPORT OF STANDING COMMITTEE

HB 1509: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1509 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new" and after "subsection" insert "7"

Page 1, line 11, replace "A new subsection" with "Subsection 7"

Page 1, after line 12, insert:

"7. a."

Page 1, line 15, replace "From this" with "Of this amount deducted:"

- (1) Five percent must be paid to the commission for deposit in the purse fund;
- (2) Five percent must be paid to the commission for deposit in the breeders' fund; and
- (3) Five percent must be paid to the commission for deposit in the racing promotion fund.
- b. One-sixteenth of one percent of the gross amount wagered must be paid to the state treasurer to be deposited in the general fund.
- c. One-sixteenth of one percent of the gross amount wagered, not to exceed seventy-five thousand dollars per biennium, must be paid to the state treasurer for deposit in the compulsive gambling prevention and treatment fund.
- d. Placement of historic racing machines is limited to sites that are licensed to conduct simulcast wagering. The total number of machines statewide may not exceed four hundred."

Page 1, remove lines 16 through 19

Renumber accordingly

Date: 2/6/07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1509

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Motion To Reconsider Action

Motion Made By Rep. Onstad Seconded By Rep. Griffin

Representatives	Yes	No	Representatives	Yes	No
Chairman 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) 8 No 6

Absent 0

Floor Assignment _____

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

Pass

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1509

Page 1, line 1, remove "a new" and after "subsection" insert "7"

Page 1, line 2, remove "and dog"

Page 1, line 10, remove "and dog"

Page 1, line 11, replace "A new subsection" with "Subsection 7"

Page 1, line 13, remove "and dog"

Page 1, after line 12, insert:

"7. a."

Page 1, line 15, replace "From this" with "Of this amount deducted:

- (1) Five percent must be paid to the commission for deposit in the purse fund;
 - (2) Five percent must be paid to the commission for deposit in the breeders' fund; and
 - (3) Five percent must be paid to the commission for deposit in the racing promotion fund.
- b. Placement of historic racing machines is limited to the two live racetracks and to the sites that are licensed to conduct simulcast wagering as of the effective date of this Act."

Page 1, remove lines 16 through 19

Renumber accordingly

Date: 2-6-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1509

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Replace 78271.0102 with 78271.0103

Motion Made By Rep. Meyer Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman 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) 8 No 6

Absent 0

Floor Assignment _____

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

Passed

Date: 2-6-07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1509

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass as Amended

Motion Made By Rep. Kingsbury Seconded By Rep. Klemin

Representatives	Yes	No	Representatives	Yes	No
Chairman 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 7

Absent 0

Floor Assignment

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

Fails

Date: 2-6-07
Roll Call Vote #: 4

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1509

House JUDICIARY Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass as Amended

Motion Made By Rep. Meyer Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman 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 7

Absent 0

Floor Assignment

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

Fails -
Send to Floor w/out
Recommendation.

REPORT OF STANDING COMMITTEE

HB 1509: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION (7 YEAS, 7 NAYS, 0 ABSENT AND NOT VOTING).
HB 1509 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "a new" and after "subsection" insert "7"

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(3) Five percent must be paid to the commission for deposit in the racing promotion fund.

b. Placement of historic racing machines is limited to the two live racetracks and to the sites that are licensed to conduct simulcast wagering as of the effective date of this Act."

Page 1, remove lines 16 through 19

Renumber accordingly

2007 TESTIMONY

HB 1509

House of Representatives Judiciary Committee

Rob Lynch's Testimony on HB1509

January 29, 2007

Chairman DeKrey and members of the House Judiciary Committee, I am Rob Lynch, Executive Director of Horse Race North Dakota, operators of the North Dakota Horse Park in Fargo. I am here today to testify on in support of HB1509. HB1509 changes the definition of horse racing to include "previously run" horse and dog races and designates funds from this type of pari-mutuel wagering to benefit horsemen in North Dakota. HB1509 would be the enabling legislation for a pari-mutuel product called "Instant Racing".

Instant Racing is a self service method of wagering on horse racing. Similar self service totalizator machines are in use today at waging locations around the state. The Instant Racing wagers are pari-mutuel wagers similar to those placed at North Dakota's live and off track betting locations. Instant Racing was introduced in Hot Springs, Arkansas in January, 2000. The technology is patented by RaceTech at Oaklawn Park. In 2005, Instant Racing handled \$150 million and provided the Arkansas horsemen \$2.3 million for purses. In 2006, Instant Racing handled \$220 million and continues to show growth. The racetrack sponsoring Instant racing deducts a set amount from the pari-mutuel pool to pay for horsemen's purses, operating expenses and other costs. The balance of the pool is returned to the patrons who placed the wagers. This is the same method as we use at our live tracks and off track betting locations. The only substantive difference between Instant Racing and traditional pari-mutuel wagering on horse races is that in Instant Racing, the patron wagers on a previously run horse race.

Currently, to place a wager on a self service machine at one of North Dakota's live tracks or off track betting sites, the patron selects a track, selects a race, selects an amount to wager, selects the types of pools they wish to participate in and finally makes horse selections. Instant Racing operates in a similar fashion.

Through a series of colorful, contemporary screens, the patron is given actual, Daily Racing Form statistics on the horses racing without revealing the identities of the horses. The pari-mutuel pools are displayed and change as more wagers are made in the system. Rather than revealing "odds" as at the live tracks, the terminal lists easy to understand changing "payouts". When the patron selects their wager, the terminal places that wager into several different pools. To make it easier for the patron, the usual horse racing jargon is substituted with easy to understand descriptions. Based on the graphical information available, the player makes their horse selections. When the "Start" button is pressed, the actual video footage from the race is shown to the player. This footage is the same video that was carried in our North Dakota off track betting sites when the race was live. The patron has the choice whether to view the entire race or just the last furlong. At the conclusion on the race, the identity of the race is made and the player receives the best payout from the best pool that they qualified for. At the press of the "Start" button, the time between the start of the race and the declaration of the officials is reduced to an "instant". From a marketing standpoint, the casual guest of live racing has indicated that the significant time between each race has been a deterrent to playing the game more often.

Frequently asked questions about Instant Racing include **"Who would bet on a race that we already know who wins?"** Instant Racing consists of a database of tens of

thousands of races run in the last 10+ years. Races are randomly selected and sent from a central server to the terminals. The identity of the races is hidden to prevent bettors from gaining an advantage using knowledge of the winners of these previously run races.

Players are provided graphical, past performance information in the form of "pie charts".

"Are these slot machines?" 1.) No. Instant Racing is pari-mutuel wagering with 90% of the wager being returned to the players. The host track has no interest in who wins or loses as there is a set amount of "take-out" on each wager, identical to live and simulcast laws in North Dakota today. Slot machines typically pay to the "house" (Vegas, Native American casinos, etc.). If you lose, someone else captures the wager. 2.) Instant Racing allows the patron to make a win, place, show choice based on statistical information and changing pool numbers. With a slot machine, the result is a random outcome. 3.) Instant Racing terminals are connected through a totalizer company that manages the changing pools exactly as we do with North Dakota's live tracks and simulcast sites. A slot machine is typically a stand alone device. 4.) Instant Racing payouts are determined based on changing pool odds, a method identical to live racing. Slot machines have a predetermined payout. 5.) Instant Racing technology was developed by horsemen and track operators in Arkansas to save the racing industry their state. Slot machines have no connection to horse racing. 6.) Instant Racing directly benefits local horseman, with a slot machine, the "house benefits".

"Is this another expansion of gaming in North Dakota?" No. Proposed legislation only changes the definition of racing to include "historic previously run horse and dog races" to compliment live and simulcast racing. All statutes governing pari-mutuel wagering and racing continue to apply. The North Dakota Racing Commission

regulates generations of machines, locations and related facilities. Any future expansion must be approved by the North Dakota Racing Commission. Instant Racing is pari-mutuel, self-service betting machines placed at horse racing tracks to support live horse racing. This is currently in place in North Dakota today.

This concludes my testimony. I encourage you to support HB1509.

“Instant Racing” at



“Instant Racing”

- “Instant Racing” is a method of simulcast wagering on horse racing.
- IR is conducted through the use of self-service totalizator machines (*currently in use at North Dakota OTB sites and live tracks*).
- Wagers are pari-mutuel wagers (*currently legal at North Dakota OTB sites and live tracks*)

“Instant Racing”

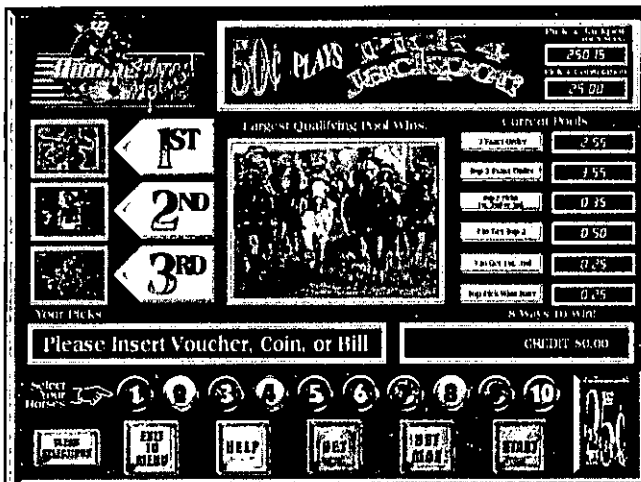
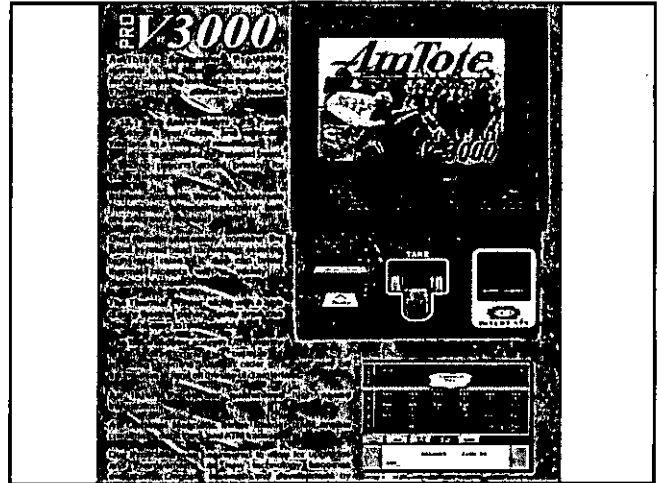
- Introduced at Oaklawn Park in Hot Springs, Arkansas in January, 2000
- Patented technology
- 2005 IR handled \$150 million
- 2006 IR handled \$220 million
- 2005 IR provided \$2.3 million in purses for Arkansas horsemen

“Instant Racing”

- The racetrack sponsoring IR deducts a set amount from the pari-mutuel pool to pay for horsemen's purses, operating expenses and other costs (*same as current North Dakota simulcast rules*)
- The balance of the pool is returned to patrons who place winning wagers (*same as current North Dakota simulcast rules*)

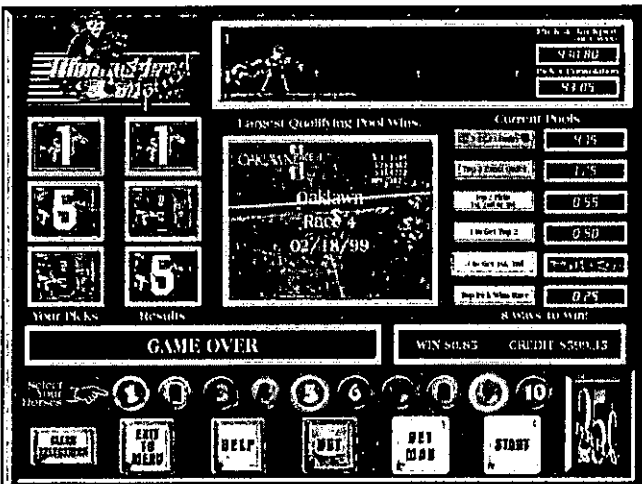
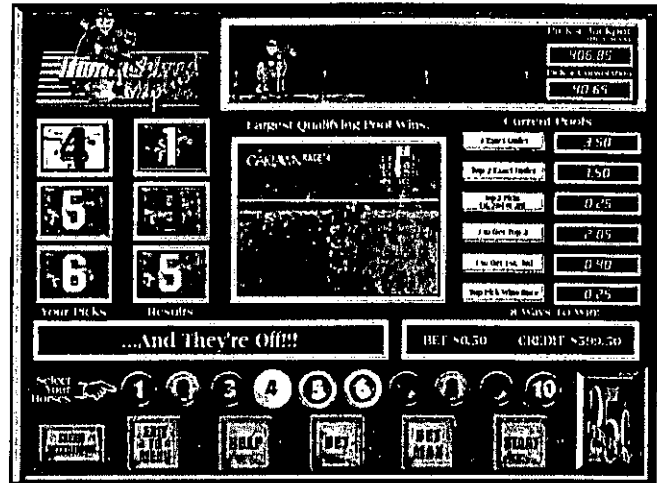
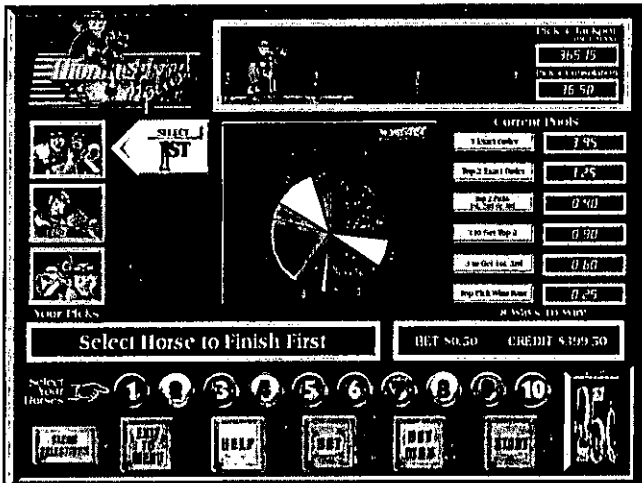
"Instant Racing"

The only substantive difference between Instant Racing and traditional pari-mutuel wagering in North Dakota is that in Instant Racing, the patron wagers on a previously-run horse race.



Just like a self-service, pari-mutual betting terminal at a North Dakota OTB...

1. Select track (terminal selects track)
2. Select race (terminal selects race)
3. Amount wagered (patron selects wager)
4. Select type of pool (terminal selects pool)
5. Make horse selections (patron selects 3 horses)



Who would bet on a race that we already know who wins???

- IR consists of a database of tens of thousands of races run in the last 10+ years
- Races are randomly selected and sent from a central server to the IR terminals
- The identity of the races are hidden to prevent bettors from gaining an advantage using knowledge of the winners of these previously run races
- Players are provided graphical, past performance information in the form of "pie charts" (no names of horses are given)

Are these slot machines?

Instant Racing

pari-mutuel wagering
(90% of wager to players)

win/place/show choice
(based on changing info)

totalizer company

changing pool odds

based on horse racing

local horsemen benefit

Slot Machines

"House"
(NA casino, Vegas, etc.)

random outcome

stand alone device

predetermined payout

no connection to racing

"House" benefits

Is this another expansion of gaming in North Dakota?

- Proposed legislation only changes the definition of racing to include "historic previously run horse and dog races"
- All statutes governing pari-mutual wagering and racing continue to apply
- North Dakota Racing Commission (NDRC) regulates generations of machines, locations and related facilities
- Any future expansion must be approved by NDRC
- "Instant Racing" is **pari-mutuel, self-service betting machines placed at horse racing tracks to support live horse racing (currently in place today)**



Questions?

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 1509

HB 1509 would add reruns of historic horse and dog races to previously approved simulcast racing. These races would be available for wagering on electronic devices and would speed up the time a person could gamble. These are slot machines. That is what the state of Wyoming courts determined and as a result they were banned from usage. Slots are illegal in ND except in Indian casinos.

This would be a definite expansion of gambling in ND. If this becomes law, slots will not only be in the track in Fargo but move to other parts of the state as others see the need to compete against this new form of gambling. To see how gambling has increased during the last 30 years, please take a look at the last page of my testimony.

Apparently racing has lost some of its appeal and this bill is a way to get support.

The question is, where will the support come from?

It will need to come from other types of gambling or from local businesses. The more gambling opportunities available the more likely people are to gamble. Study after study has shown that those who can least afford it, are the ones who play the most. These are the people who get hurt the most.

With increased gambling go increased social and community costs such as law enforcement, welfare and others.

The largest cost is to the business community. Gambling continues to cannibalize businesses as the dollars spent gambling are not spent on main street where money turns over 3 to 5 times. Gambling creates nothing new and is merely a redistribution of wealth.

Regulation and enforcement at the track have been a very serious problem, as in the recent case of Susan Bala, where the State reportedly lost \$99 million in taxes due. Additional security would definitely need to be considered, which would be an additional cost.

Summary

The track has financial problems

Racing doesn't support itself

Slots would be installed to support racing

Players will wager their money at slots

These funds will come from other forms of gambling or businesses

Those who can least afford it will be hurt most

Why bail out the track at public expense?

This in reality will be parasite on the business community

If people want to race, fine.

Those who don't shouldn't be asked to finance it

**Mr. Chairman and members of the committee I recommend a Do Not
Pass on HB 1509**

Gambling Approved Since 1977

- 1977** **Punch Boards**
 - Pull Tabs**
 - Raffles**
 - Bingo**
 - Allowable Expenses – 33%**
- 1978** **Sports Pools**
- 1981** **Twenty One**
- 1983** **Allowable Expenses – 35%**
- 1985** **Allowable Expenses -- 40%**
- 1987** **Allowable Expenses -- 45%**
 - Raffle Wheels**
 - Horse Racing**
 - Poker**
- 1989** **Calcuttas**
 - Twenty One bets raised to \$25**
 - Off Track Betting**
 - Slot Machines – Casinos**
 - Allowance Expenses – 50%**
- 2001** **Black Jack bets raised to \$25**
 - Allowable Expenses – up to 53%**
- 2003** **Lottery approved**
 - Power Ball**
 - Hot Lotto**
 - Wild Card 2**
 - 2 by 2**

1509

GAMES & TECHNOLOGY REPORT

www.gametechnologysummit.com
www.ascendgaming.com

June 29, 2006

California racetracks hope Instant Racing will help reverse fortunes

Repeatedly stymied in their efforts to get slot machines, California's racetracks are backing another form of machine gaming to help them stay relevant in a market shared with dozens of tribal casinos. Assembly Bill 2409, introduced by Leland Yee, D-San Francisco, would authorize up to 1,850 Instant Racing machines at each of seven racetracks – a total of almost 13,000 machines.

The bill was scheduled to be heard in a Senate committee on June 27, but it was rescheduled for August 15. Legislators felt it needed more time and attention, and were busy with state budget issues.

Instant Racing was developed by RaceTech LLC, a partnership of Oaklawn Jockey Club and AmTote. It is at Oaklawn in Arkansas where the machines have had phenomenal success – they handled \$153 million last year, more than the track's live and simulcast handle combined. The games have allowed the track to increase purses, and its live meeting continues to grow in popularity. This year, Instant Racing's contribution to purses at Oaklawn is expected to be almost \$3 million.

① "Instant Racing is parimutuel wagering on historic races," explained Louis Cella, vice president of Oaklawn and of RaceTech. "We have a patent. If it were a game of chance, or a slot-like game, we would never get the patent."

Instant Racing machines share the same tote system as live and simulcast racing, and uses the same type of handicapping data. The game just substitutes a vast library of historic races for current races – some 250,000 races are available.

Yet not everyone agrees with that sentiment. Earlier this year, the Wyoming Supreme Court concluded that Instant Racing machines are nothing more than illegal slot machines. The Court wrote "...we are not dealing with a new technology here, we are dealing with a slot machine that attempts to mimic traditional pari-mutuel [sic] wagering. Although it may be a good try, we are not so easily beguiled."

Cella made it clear that the Wyoming court had "no understanding of what parimutuel wagering on horse racing is versus a house banked slot machine." He added that the terminals used for Instant Racing are the exact same self-service terminals used for parimutuel wagering on live racing and simulcasting at Wyoming Downs and other tracks across the country.

② "My view is that I can make a vending machine look like a slot machine," agreed Drew Couto, president of the Thoroughbred Owners of California. "But at the end of the day, it's still going to be a vending machine. The decision was to make Instant Racing look more like a slot machine so that it would appeal to players. But it's simply not the same product. It's not even

close. What we are talking about is the authorization of a wager, not a machine comparable to slots."

California racetracks have failed in their efforts to get slot machines, so they have focused their future energies on Instant Racing. "Slots just did not seem likely," said Couto. "Instant Racing offers us a supplemental source of income based on our own product and our own form of wagering. So it was a very attractive alternative."

It may be possible to move forward with Instant Racing in California simply by obtaining authorization from the California Horse Racing Board, rather than going through the state legislature. But Couto noted that there is a gray area in the law as to whether historic races would impact the limitations on imported simulcast races. The bill was introduced to help clarify that situation, but still faces a battle.

"I think that the tribes will really gear up their opposition, and they are very politically powerful. So it will make passage difficult. But our legislators have been asking us for a while to come back with a proposal that was based on our game, and we think we've done it."

Couto added that it may take a few years for everyone to get comfortable with the idea, and that the industry won't get discouraged if it doesn't fly at first asking.

"The issue here is that we are becoming less competitive with other racing jurisdictions that are able to offer purses supplemented by alternative forms of gaming. The longer that situation exists, the greater peril we will be in."

Those comments would apply to several other racing jurisdictions as well, and Cella hopes that more tracks will come to the realization that slots are still a long way off for many, and consider Instant Racing in the shorter term. While slots surely have significantly more revenue potential, with the recent trend of oppressive tax rates, the difference may not be worth waiting for. "It's now cool to come to Oaklawn for Instant Racing, and we are revitalizing a sport that for too long has been stuck with a very slow environment. This is racing – embrace our product!"

-- Patricia A. McQueen