

FISCAL NOTE
Requested by Legislative Council
01/13/2017

Bill/Resolution No.: SB 2221

- 1 A. **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.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$563,625	\$1,810,050	\$1,062,500	\$3,175,000
Expenditures				\$285,000		\$595,500
Appropriations				\$285,000		\$595,500

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

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties		\$563,625	\$1,062,500
Cities		\$563,625	\$1,062,500
School Districts			
Townships			

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

Authorizes pari-mutuel wagering on historic horse racing to be regulated by the Racing Commission and provides a tax on wagering remitted to the State, County, City and Commission administered continuing appropriation funds.

- 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.*

NDCC 53-06.2-04, 53-06.2-05, 53-06.2-10.1, 53-06.2-10.2:

These sections of the measure provide for legal parameters under which pari-mutuel historic horse racing may be conducted and that the Racing Commission shall license and regulate entities conducting this wagering pursuant to the existing certificate system. Further, the Commission must insure conformance of the historic racing terminals with the specifications described therein. By engaging in these regulatory activities the Commission will incur the attendant expenditures of implementing industry best practices, oversight of daily operations, and enforcement. As the North Dakota Racing Commission has not conducted pari-mutuel historic horse racing previously, anticipated expenditures have been assessed by referring to the Wyoming Pari-Mutuel Commission budgets over the last three biennia as Wyoming approved pari-mutuel historic racing in 2013 and are the state conducting such wagering most roughly analogous to North Dakota in population, racing industry development and racing commission size. Further detail is provided in section three of this fiscal note.

NDCC 53-06.2-11:

This section of the measure provides for a tax on pari-mutuel historic horse racing to be remitted to the State, county and city of location as well as the three continuing appropriation funds administered by the Racing Commission (Promotion, Purse, and Breeders' Funds). For the same reasons stated previously, anticipated revenue was assessed by reference to published yearly total wagering on pari-mutuel historic racing reported by the Wyoming Pari-Mutuel Commission.

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.*

Utilizing yearly pari-mutuel historic racing wagering estimates slightly lower than those published by the Wyoming Pari-Mutuel Commission, total wagering for each calendar year was estimated as provided below. Anticipated tax dollars to the State, county, city, and Racing Commission continuing appropriation funds were estimated by applying the tax rates provided by the changes proposed to NDCC 53-06.2-11 to these estimated wagering amounts.

2017: \$450,000
2018: \$100,000,000
2019: \$250,000,000
2020: \$200,000,000
2021: \$200,000,000

After the third year which correlates to Wyoming's 2015 year, the last year for which we have Wyoming actuals, wagering was estimated approximately \$86 million below 2015 Wyoming actuals to insure more conservative forecasting.

Additional dollars are expected to be generated to the Racing Commission's Horse Racing Operating Fund (Fund 334) through a license fee imposed on the operators of the simulcast and historic racing sites. Wyoming currently imposes a daily fee on each site of \$400. Until such time as the Commission would pass administrative rules the license fee cannot be definitively identified nor can it be determined if a flat rate or a graduated rate will be used. However, for estimating purposes a rate of \$300 has been used for the first biennium and a rate of \$200 for the second. This rate should compensate for the possible application of a graduated rate and be sufficiently conservative so as not to overestimate revenues based on a flat rate.

Again using a conservative approach based on Wyoming actual days of operations, one site is anticipated to operate 26 days in 2017, four sites averaging 300 days of operation in 2018, seven sites averaging 300 days of operation in 2019, nine sites averaging 300 days of operation in 2020, and ten sites averaging 300 days of operation in 2021. Wyoming by comparison has 14 locations after four years of operation, some operating 365 days a year. Anticipated revenue to the Horse Racing Operating Fund for the 2017-19 biennium is \$682,800 and \$1,050,000 in the 2019-21 biennium. As provided in 3B & C, this revenue is anticipated to be the primary source of funding for additional Commission regulatory operations.

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.*

The expenditures from "Other Funds" are based on estimates of cost to the Commission of regulating this new activity. It is anticipated that these expenditures will come from the Commission's Horse Racing Operating Fund (Fund 334) from which it currently derives a portion of its budget funding and will be supported by pari-mutuel historic horse racing licensing fees as provided previously.

Again, estimates were based on the Wyoming Pari-Mutuel Commission budget as the entity is a similar size and has somewhat similar live racing in the state. Therefore, an attempt was made to identify costs associated with regulation of pari-mutuel historic racing that are not otherwise provided for in the Commission's executive budget. Estimated costs for the 2017-19 biennium include approximately \$250,000 in contractual services for auditing, operational reviews, investigations, and inspections, \$20,000 in in-state travel for location inspections, and \$15,000 in other operation expenses. Estimated costs for the 2019-21 biennium also include approximately \$250,000 in contractual services, \$20,000 in in-state travel, and \$63,000 in other operation expenses. The 2019-21 estimated costs also contain an additional \$250,000 for the possible addition of two FTE positions with benefits based on Wyoming's addition of two employees in the second biennium. While the need for positions can be better identified after operations begin in the 2017-19 biennium, possible positions based on discussions with Wyoming include auditor, investigator, and administrative staff.

Please note that this line item does not account for any additional grants from the three continuing appropriation funds administered for the benefit of racing in the State by the Racing Commission (Promotion, Purse, and Breeders' Funds). With increased revenues to these funds the Commission would almost certainly make larger grants than currently available to support an increased quality and quantity of North Dakota racing. However, as no

grant requests are pending and grants are assessed based on the merits of each and the funding available, additional contributions to the racing industry from these funds cannot be assessed at this time.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

The appropriation amount from "Other Funds" represents the spending authority from the Horse Racing Operating Fund (Fund 334) that the Commission would request in order to offset the anticipated expenditures for regulation of this activity and identified in the "Other Funds" expenditures line. As discussed in previous sections, it is anticipated that the expenditures from this fund would be funded by daily site licensing fees paid by the operators of pari-mutuel historic horse racing.

Name: Gunner laCour

Agency: Racing Commission

Telephone: 701-328-4290

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