

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2285

Introduced by

Senators Heitkamp, Grindberg

Representatives R. Kelsch, Nelson

1 A BILL for an Act to amend and reenact sections 53-06.2-10.1 and 53-06.2-11 of the North
2 Dakota Century Code, relating to the simulcast wagering and the parimutuel tax levied upon
3 wagers.

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

5 **SECTION 1. AMENDMENT.** Section 53-06.2-10.1 of the North Dakota Century Code
6 is amended and reenacted as follows:

7 **53-06.2-10.1. Simulcast wagering.** In addition to racing under the certificate system,
8 as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast
9 parimutuel wagering may be conducted in accordance with this chapter and interim standards
10 that need not comply with chapter 28-32, or rules adopted by the commission under this
11 chapter. Any organization qualified under section 53-06.2-06 to conduct racing may make
12 written application to the commission for the conduct of simulcast parimutuel wagering or
13 simulcast betting exchange wagering on races held at licensed racetracks inside the state or
14 racetracks outside the state, or both. As used in this section, "simulcast betting exchange
15 wagering" means a form of wagering in which an individual participates in a pool of horse
16 bettors in which the individual has the opportunity to bet on a wager for or against a horse at a
17 price the individual accepts or offers, one on one, against another individual. Notwithstanding
18 any other provision of this chapter, the commission may authorize any licensee to participate in
19 interstate or international combined wagering pools with one or more other racing jurisdictions.
20 Any time that a licensee participates in an interstate or international combined pool, the
21 licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or
22 facility. If a licensee conducts interstate or international simulcast betting exchange wagering,
23 the licensee, as prescribed by the commission, shall retain from all winning wagers the
24 percentage of net winnings in accordance with this chapter. The commission may permit a

1 licensee to use one or more of its races or simulcast programs for an interstate or international
2 combined wagering pool at locations outside its jurisdiction and may allow parimutuel pools in
3 other states to be combined with parimutuel pools in its jurisdiction for the purpose of
4 establishing an interstate or international combined wagering pool. The participation by a
5 licensee in a combined interstate or international wagering pool does not cause that licensee to
6 be considered to be doing business in any jurisdiction other than the jurisdiction in which the
7 licensee is physically located. Parimutuel taxes or commissions, or the commissions or taxes
8 imposed on the percent of net winnings as applied to simulcast betting exchange wagering,
9 may not be imposed on any amounts wagered in an interstate or international combined
10 wagering pool other than amounts wagered within this jurisdiction. The certificate system also
11 permits parimutuel and simulcast betting exchange wagering to be conducted through account
12 wagering. As used in this section, "account wagering" means a form of parimutuel wagering in
13 which an individual deposits money in an account and uses the account balance to pay for
14 parimutuel wagers. An account wager made on an account established in this state may only
15 be made through the licensed simulcast service provider authorized by the commission to
16 operate the simulcast parimutuel wagering system under the certificate system. An account
17 wager may be made in person, by direct telephone communication, or through other electronic
18 communication in accordance with rules adopted by the commission. Breakage for interstate
19 or international combined wagering pools must be calculated in accordance with the statutes or
20 rules of the host jurisdiction and must be distributed among the participating jurisdictions in a
21 manner agreed to among the jurisdictions.

22 **SECTION 2. AMENDMENT.** Section 53-06.2-11 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of**
25 **expenses - Payment to general fund.**

26 1. For each day of a live race meet or a simulcast day in this state on win, place, and
27 show parimutuel pools, the licensee shall deduct up to twenty percent of the total
28 win, place, and show pool. ~~The licensee may retain seventeen percent for~~
29 ~~expenses.~~ One-half of one percent must be paid to the North Dakota racing
30 commission to be used for the North Dakota purse fund. One-half of one percent
31 must be paid to the North Dakota racing commission to be used for the North

1 Dakota breeders' fund for the respective breed of horses racing at that meet. ~~The~~
2 ~~remaining~~ On the first five million dollars of total wagering handle in each calendar
3 year, two percent must be paid to the state treasurer to be deposited in the general
4 fund. On the next ninety-five million dollars of total wagering handle in each
5 calendar year, two percent must be paid to the state treasurer to be deposited in
6 the general fund. On the total wager handle in excess of one hundred million
7 dollars in each calendar year, one and one-half percent must be paid to the state
8 treasurer to be deposited in the general fund.

9 2. For each day of a live race meet or a simulcast day in this state for each daily
10 double, quinella, exacta, trifecta, or other wager combining two or more horses for
11 winning payoffs, the licensee shall deduct up to twenty-five percent of each
12 wagering pool. ~~Of this amount, the licensee may retain twenty-one percent for~~
13 ~~expenses.~~ One-half Of each wagering dollar, the amounts to be deposited in the
14 general fund and other funds are as follows:

15 a. On the first five million dollars of wagering handle in each calendar year,
16 one-half of one percent must be paid to the commission to be deposited in the
17 purse fund. ~~One-half;~~ one-half of one percent must be paid to the
18 commission to be deposited in the promotion fund. ~~One-half;~~ one-half of one
19 percent must be paid to the commission to be deposited in the breeders' fund-
20 ~~The remaining;~~ and two and one-half percent must be paid to the state
21 treasurer to be deposited in the general fund.

22 b. On the next ninety-five million dollars of wagering handle in each calendar
23 year, one-half of one percent must be paid to the commission to be deposited
24 in the purse fund; one-half of one percent must be paid to the commission to
25 be deposited in the promotion fund; one-half of one percent must be paid to
26 the commission to be deposited in the breeders' fund; and one percent must
27 be paid to the state treasurer to be deposited in the general fund.

28 c. On wagering handle in excess of one hundred million dollars in each calendar
29 year, one-third of one percent must be paid to the commission to be
30 deposited in the purse fund; one-third of one percent must be paid to the
31 commission to be deposited in the promotion fund; one-third of one percent

1 must be paid to the commission to be deposited in the breeders' fund; and
2 one percent must be paid to the state treasurer to be deposited in the general
3 fund.

4 3. Unclaimed tickets and breakage from each live race meet and simulcast program
5 as defined by the commission and the percentage of the wagering pool to be paid
6 to the racing promotion fund under subsections 1 and 2 must be retained by the
7 commission in a special fund to assist in improving and upgrading racetracks in the
8 state, for the promotion of horse racing within the state, and in developing new
9 racetracks in the state as necessary and approved by the commission.

10 Notwithstanding this section, the commission may, upon approval of the attorney
11 general, receive no more than twenty-five percent of this fund for the purpose of
12 payment of operating expenses of the commission.

13 4. The licensee conducting a live race meet or simulcast program shall retain all other
14 money in the parimutuel pool and pay it to bettors holding winning tickets as
15 provided by rules adopted by the commission.

16 5. A licensee may not use any of the portion deducted for expenses under
17 subsections 1 and 2 for expenses not directly incurred by the licensee in
18 conducting parimutuel racing under the certificate system. After paying qualifying
19 expenses, the licensee shall use the remainder of the amount so withheld only for
20 eligible uses allowed to charitable gambling organizations under subsection 2 of
21 section 53-06.1-11.

22 6. The racing commission shall deposit the moneys received pursuant to
23 subsections 1, 2, and 3 and from the North Dakota horse racing foundation
24 pursuant to subsection 5 of section 53-06.2-05 in three special funds in the state
25 treasury. These funds must be known as the breeders' fund, the purse fund, and
26 the racing promotion fund. Moneys, and any earnings on the moneys, in the
27 breeders' fund, purse fund, and racing promotion fund are appropriated to the
28 commission on a continuing basis to carry out the purposes of those funds under
29 this chapter and must be administered and disbursed in accordance with rules
30 adopted by the commission.

1 7. For each day of a live race meet or a simulcast day in this state in which simulcast
2 betting exchange wagering on races is held at licensed racetracks inside the state
3 or at racetracks outside the state, or both, the licensee shall deduct up to five
4 percent of the total net winnings on all winning wagers. Three percent of the gross
5 deducted revenue from total net winnings must be paid to the commission to be
6 deposited in the purse fund; three percent must be paid to the commission to be
7 deposited in the breeders' fund; one percent must be paid to the commission to be
8 deposited in the promotion fund; and three percent must be paid to the state
9 treasurer to be deposited in the general fund.