

Senate Bill 2071
ND Racing Commission
Jack K Schulz, Director
January 6, 2021

67th Legislative Assembly
Senate Judiciary Committee
Senator Diane Larson, Chairperson

To the Honorable Chairperson Senator Larson and other Honorable members of the Senate Judiciary Committee. Thank you for the opportunity to appear before you to present my testimony for SB 2071, the ND Racing Commission recommended changes to definitions involving pari-mutuel wagering, directors title, and Association of Racing Commissioners' International (ARCI) standard procedures and rules adoption.

The three areas covered in this bill have distinct goals and reasoning behind their submission.

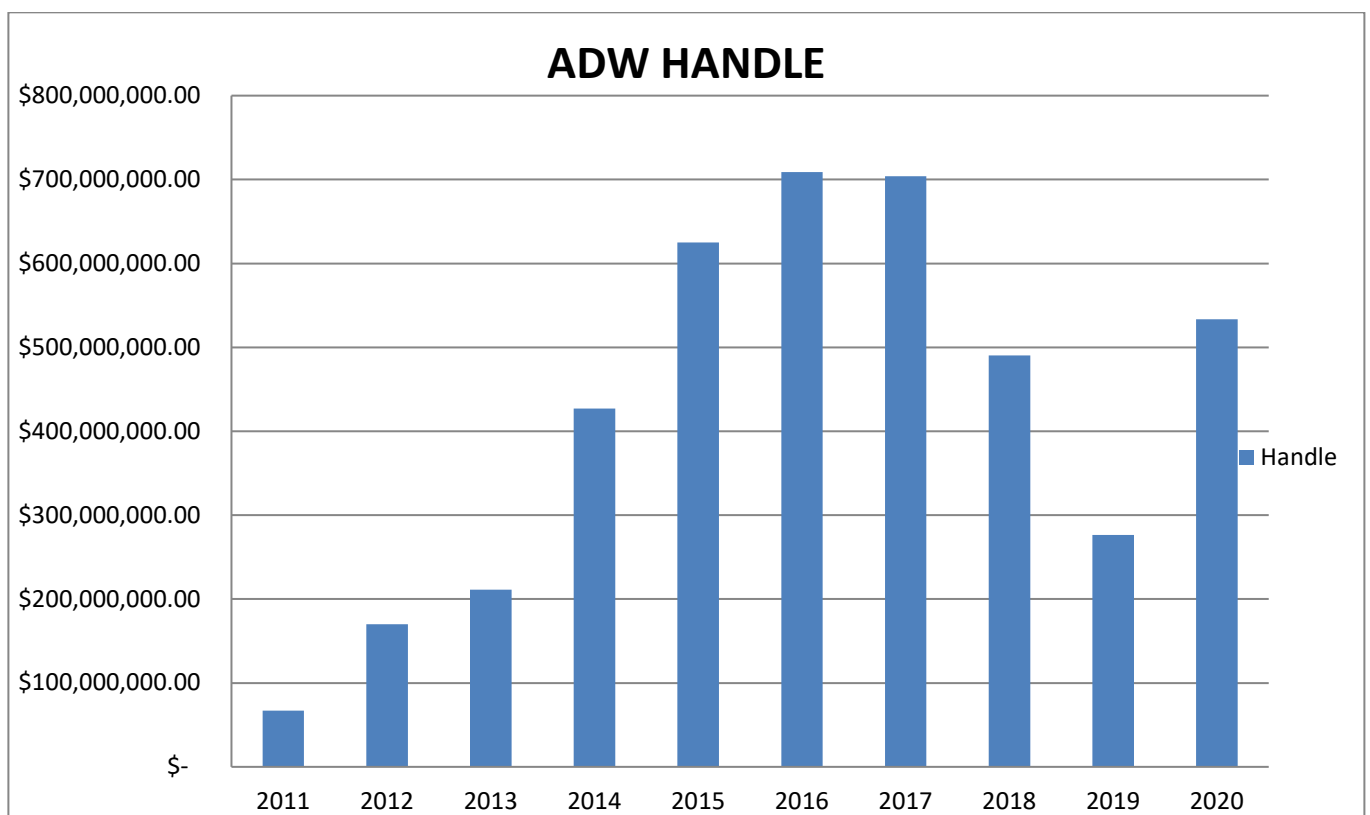
First, we would like to standardize the Directors title to Executive Director. When applying, I applied for the position of Executive Director. Upon accepting the position, I learned the position was referred to as Director, Executive Director and Executive Officer in different areas of the Century Code, Administrative Rules, job descriptions and others. The standard for the position in the industry is Executive Director, including the States of Minnesota, Wyoming, Oklahoma, Kentucky, New York and others. This should also help clarify the position when we hire my replacement when I retire. There would be no fiscal impact with this change.

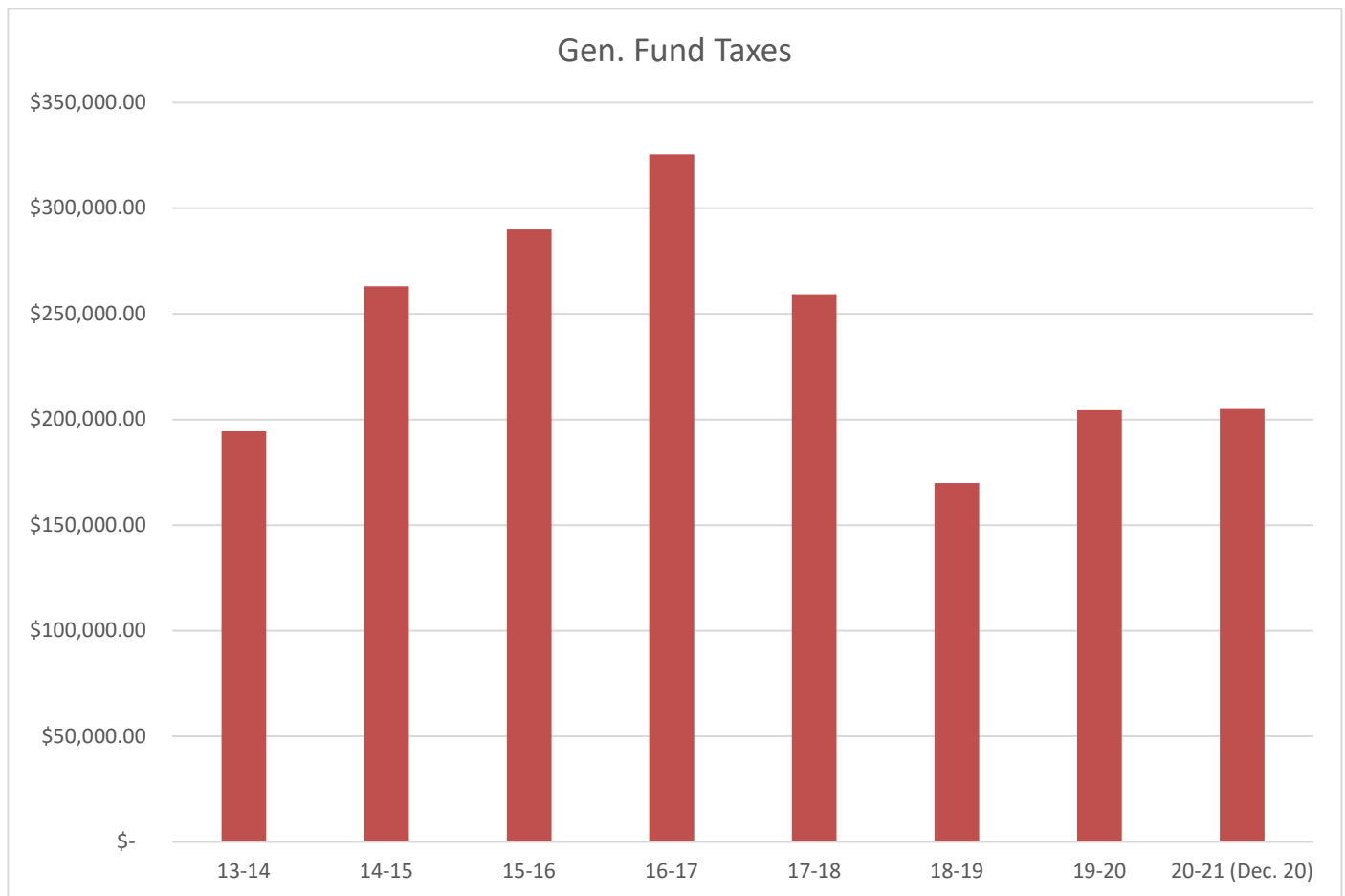
The second item is the adoption of the ARCI Standard Rules into the duties of the commission. These Rules are widely accepted around the country and would

help standardize rules for North Dakota Horsemen throughout the Industry. An earlier version of the ARCI Rules is part of the administrative rules, this addition would ensure continued use with the most updated version from ARCI. There would be no fiscal impact with this change.

The third item is removing the limitation of horses and greyhounds to our definition of pari-mutuel wagering. The change would allow our Account Deposit Wagering (ADW's) licensees to add other forms of pari-mutuel wagering in other jurisdictions including events like boat racing, drone racing and Jai alia.

The racing industry has seen significant financial variances over the last few years as documented by the charts below.





The rapid changes in handle are caused by many different items including the decline of ADW retail operations, consolidation and buyouts of smaller ADW's by larger organizations, the expansion of sports betting, racino's and historic horse racing, along with the closing of most of the greyhound tracks in the U.S. These events along with COVID-19 have caused a situation where it is difficult to predict and maintain a stable revenue stream in our current environment. It is our belief that by eliminating the restriction on our ADW's to accepting wagers only on horse and greyhounds we can stabilize the revenue stream by balancing it over several different areas rather than relying on only two. Additional areas that have been requested over the last two years include boat and drone racing along with Jai alia.

The future of racing in North Dakota has other significant risks as other states expand their allowable wagering activities. While North Dakota maintains a favorable tax structure for ADW's, we are limiting in the types of wagering that ADW's can accept. By removing the limitation of horses and greyhounds it would allow our current licenses to diversify their wagering into different areas thereby not relying on one industry for their entire revenue stream. We are seeing that minor changes in a company's business structure, regulatory changes in other jurisdictions, sports betting or rate differences between companies result in significant shifts in wagering volume away from North Dakota. We are also at risk from the loss of ADW's to jurisdictions that allow an expanded betting menu including sports betting even though their taxes are greater than ours. Our goal is to maintain our current base of licensees and not lose them to other jurisdictions. I believe that with this change we would be able to maintain our current fiscal status with no immediate increase to revenues based on our largest ADW hitting its yearly tax and breakage caps this year. Failure of this change may result in the loss of one or more of our licensees. If these losses occurred, it could result in a reduction of over 50% of our annual revenue.

Another area of concern is the Federal Horse Racing Integrity & Safety Act (HISA) was passed this past December by Congress and signed into law with the continuing appropriations spending bill. HISA creates an independent authority to regulate horse racing nationwide with few if any controls put on their actions or taxing authority. At this time, we don't know what impact this agency may have on our budget or horse racing in the State of North Dakota. Consensus in the industry is that it has the potential to close most small and medium sized tracks across the country

that don't have additional sources of income to support these new racing regulation costs produced by the creation of this agency. Items such as lifting the restrictions on pari-mutuel wagering would allow us to at least maintain our licensees and tax revenue stream for the general and special funds.