



# North Dakota House of Representatives

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**COMMITTEES:**  
Appropriations

March 8, 2023

Chairman Larry Klemin and House Judiciary Committee  
North Dakota State Capitol Building – Room JW 327B  
RE: HCR 3032 – Racing, Sports, and Gaming Regulation Study

Chairman Klemin and Members of the House Judiciary Committee,

North Dakota has a rich history of agencies, boards, and other governing entities. Some – like our Legislative Assembly, Office of the Governor, and Supreme Court – have existed since statehood. Others were born of necessity. Change varies but is inevitable; some governing entities modify to meet evolving needs, merge with others when redundancies are found, or dissolve when found to be superfluous.

House Concurrent Resolution 3032 is a study resolution that may be the prologue for regulatory evolution.

Charitable gaming, combative sports, horse racing, lottery, sports betting, and tribal-operated casinos are each controversial matters in their own right. HCR 3032 is not a resolution to study the merits, existence, expansion, or discontinuation of any of these activities. Instead, it is a practical, logistical, and legal review of their respective regulatory agencies.

In short: HCR 3032 ensures we are regulating and administering combative sports, games of chance, pari-mutuel horse racing, lottery, and Tribal-State gaming compacts the most efficient and effective way possible.

Within my testimony you will find a current summary of regulatory appropriations and FTEs for each existing entity (as of February 27, 2023).

**Note:** *Combative Sports within the Secretary of State's office does not have a specific FTE allocation but 1 individual dedicates part of their time overseeing combative sports operations.*

Also in my testimony is a summarized history of sports, gaming, and racing regulation within North Dakota, with hyperlink citations to Session Law and Congressional Act references. There is a separate spreadsheet laying out entities responsible for each activity. Acronyms are defined as an inset within the chart.

While the fate of sports betting in North Dakota remains unknown – and sports betting itself remains a point of division – we can all agree that any legal activity that carries financial risks should be properly regulated. Sports betting, if permitted in the future, would be considered within a broad study of sports, gaming, and racing regulation.

There are no assumptions or preconceived conclusions with HCR 3032. Distributing oversight of 5 activities across 4 distinct agencies may prove to be the most effective and efficient method. But we also may discover unnecessary duplication and inefficiencies with licensing, auditing, inspections, and enforcement. Recommendations may range from minor adjustments to wholesale consolidation.

If the latter proves to be true, North Dakota may join Iowa, Kansas, Michigan, Wyoming, and many others who have consolidated their sports, gaming, and racing administration under a single agency.

As stewards of public resources and developers of public policy, we owe it to all North Dakotans to ensure our sports, gaming, and racing management is as efficient as it is effective.

Agency/Division	FTE Positions	General Fund	Other Funds	Total
Secretary of State – Competitive sports <sup>1</sup>	N/A	N/A	N/A	N/A
Attorney General – Lottery <sup>2</sup>	10.00	\$0	\$5,433,446	\$5,433,446
Attorney General – Gaming <sup>3</sup>	16.00	\$0	\$6,445,666	\$6,445,666
Racing Commission <sup>4</sup>	2.00	\$474,329	\$172,062	\$646,391

<sup>1</sup>The Secretary of State, pursuant to NDCC Chapter 53-01, charges a fee equal to the actual cost incurred to regulate all boxing, kickboxing, mixed fighting style exhibitions, and sparring exhibitions held in the state. Revenue from this fee, estimated at \$15,000 per biennium, is deposited in the athletic commission fund, from which \$15,000 per biennium is expended pursuant to continuing appropriation authority to regulate these combative sports, including the expenses of the Commission of Combative Sports. The Commission of Combative Sports consists of nine members appointed by the Secretary of State and supports the Secretary of State in the administration of all professional mixed fighting style contests within the state, including approval of licenses, matches, weigh-ins, and gloves. Commission members are not entitled to compensation, except for reimbursement for actual and necessary expenses at the same rate as allowed for state employees in performing their official duties.

<sup>2</sup>The amount shown for other funds is from the lottery fund.

<sup>3</sup>The amount shown for other funds is from the charitable gaming operating fund. Of the \$6,445,666, \$750,100 is considered one-time funding.

<sup>4</sup>The amount shown for the general fund includes \$20,000 of one-time funding.

## **ND Sports, Gaming, and Racing Regulatory History**

### **Commissioner of Combative Sports**

The 1935 Legislative Assembly created the State Athletic Commission ([S.L. 1935, ch. 91](#)).

In 1971, the Legislative Assembly required the Secretary of State to Act as State Athletic Commissioner ([S.L. 1971, ch. 484](#)).

The 1991 Legislative Assembly authorized the Secretary of State to appoint an athletic advisory board to assist and advise the Secretary of State in matters relating to boxing, kickboxing, and sparring ([S.L. 1991, ch. 543](#)).

In 2005, the Legislative Assembly authorized the Secretary of State to also appoint a mixed fighting style advisory board, whose members may include one or more members of the athletic advisory board ([S.L. 2005, ch. 464](#)).

The Legislative Assembly, in 2011, changed the title of the State Athletic Commissioner to the State Commissioner of Combative Sports and authorized the Secretary of State to appoint a Commission of Combative Sports to assist and advise the Secretary of State in matters relating to the regulation of boxing, kickboxing, mixed fighting style competition, and sparring ([S.L. 2011, ch. 377](#)).

### **Games of Chance**

A 1976 constitutional amendment permitted the Legislative Assembly to authorize bona fide nonprofit veterans', charitable, educational, religious, or fraternal organizations, civic and service clubs, or such other public-spirited organizations as it may recognize, to conduct games of chance when the entire net proceeds of the games are devoted to educational, patriotic, fraternal, religious, or other public-spirited uses ([S.L. 1977, ch. 600](#)).

The 1981 Legislative Assembly enacted legislation to allow nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and public-spirited organizations to conduct certain games of chance and provided for licensure through the Attorney General ([S.L. 1981, ch. 514](#)).

In 1991, the Legislative Assembly created the State Gaming Commission ([S.L. 1991, ch. 28, § 21](#)).

### **Pari-Mutuel Horse Racing**

The 1987 Legislative Assembly established the North Dakota Racing Commission in the Secretary of State's Office and required it to appoint a director of racing ([S.L. 1987, ch. 618](#)).

The 1989 Legislative Assembly moved the Racing Commission from the Office of the Secretary of State to that of the Attorney General ([S.L. 1989, ch. 624](#) and [S.L. 1989, ch. 625](#)).

In 2005, the Legislative Assembly removed the Racing Commission from the Office of the Attorney General ([S.L. 2005, ch. 467](#)).

### **Lottery**

The 2003 Legislative Assembly established the North Dakota Lottery as a division of the Attorney General's Office, required a director to administer the lottery under the supervision of the Attorney General, and created the North Dakota Lottery Advisory Commission ([S.L. 2003, ch. 454](#)).

In 2005, the Legislative Assembly repealed North Dakota Century Code Chapter 53-12 and enacted Chapter 53-12.1. This new chapter again established the North Dakota Lottery as a division of the Attorney General's Office, required a director to administer the lottery under the supervision of the Attorney General, and created the Lottery Advisory Commission ([S.L. 2005, ch. 470](#)).

### **Tribal-State Gaming Compact**

In 1988, the 100<sup>th</sup> Congress passed the Indian Gaming Regulatory Act ([Pub. L. 100-497](#)).

In 1997, the North Dakota Legislative Assembly passed legislation providing a tribal-state gaming compact is a duly executed agreement between the state and a federally recognized Indian tribe as approved by the Secretary of the Department of Interior of the United States pursuant to the Indian Gaming Regulatory Act of 1988 [Pub. L. 100-497; 102 Stat. 2467; 25 U.S.C. 2701 et seq.] and authorizing the Governor or the Governor's designee to represent the state in any gaming negotiation in which the state is required to participate pursuant to 25 U.S.C. 2701 et seq. by any federally recognized Indian tribe, and on behalf of the state to execute a gaming compact between the state and a federally recognized Indian tribe subject to certain conditions ([S.L. 1997, ch. 470](#)).