

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2023

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota
2 racing commission; to create and enact two new sections to chapter 53-06.2 of the North
3 Dakota Century Code, relating to historic horse race wagering; to amend and reenact section
4 53-06.2-01, subsection 5 of section 53-06.2-04, subsection 4 of section 53-06.2-05, and
5 sections 53-06.2-06, 53-06.2-08, 53-06.2-10, and 53-06.2-11 of the North Dakota Century
6 Code, relating to historic horse race wagering.

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

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
9 as may be necessary, are appropriated out of any moneys in the general fund in the state
10 treasury, not otherwise appropriated, and from other funds derived from special funds, to the
11 North Dakota racing commission for the purpose of defraying the expenses of the North Dakota
12 racing commission, for the biennium beginning July 1, 2025, and ending June 30, 2027, as
13 follows:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
16 Racing commission	\$630,334	\$63,755	\$694,089
17 New and vacant FTE pool	<u>0</u>	<u>4,953</u>	<u>4,953</u>
18 Total all funds	\$630,334	\$68,708	\$699,042
19 Less other funds	<u>172,257</u>	<u>4,967</u>	<u>177,224</u>

1	Total general fund	\$458,077	\$63,741	\$521,818
2	Full-time equivalent positions	2.00	0.00	2.00

3 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO**

4 **SEVENTIETH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
5 items included in the appropriation in section 1 of this Act which are not included in the entity's
6 base budget for the 2027-29 biennium and which the entity shall report to the appropriations
7 committees of the seventieth legislative assembly regarding the use of this funding:

8	<u>One-Time Funding Description</u>	<u>General Fund</u>
9	Copier replacement	<u>\$13,000</u>
10	Total	\$13,000

11 **SECTION 3. NEW AND VACANT FTE POOL - LIMITATION - TRANSFER REQUEST.** The
12 racing commission may not spend funds appropriated in the new and vacant FTE pool line item
13 in section 1 of the Act, but may request the office of management and budget to transfer funds
14 from the new and vacant FTE pool line item to the racing commission line item in accordance
15 with the guidelines and reporting provisions included in House Bill No. 1015, as approved by the
16 sixty-ninth legislative assembly.

17 **SECTION 4. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **53-06.2-01. Definitions.**

20 As used in this chapter:

- 21 1. "Breeders' fund" means a fund, administered by the commission, established to
22 financially reward breeders or owners of North Dakota-bred horses to be paid in
23 accordance with rules as approved by the commission.
- 24 2. "Certificate system" means the system of betting described in section 53-06.2-10.
- 25 3. "Charitable organization" means a nonprofit organization operated for the relief of
26 poverty, distress, or other conditions of public concern in this state and has been so
27 engaged in this state for at least two years.
- 28 4. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or
29 state organization that is authorized by its written constitution, charter, articles of
30 incorporation, or bylaws to engage in a civic or service purpose in this state and has
31 so existed in this state for at least two years. The term includes a similar local

1 nonprofit organization, not affiliated with a state or national organization, which is so
2 recognized by a resolution adopted by the governing body of the local jurisdiction in
3 which the organization conducts its principal activities, and which has existed in this
4 state for at least two years.

5 5. "Commission" means the North Dakota racing commission.

6 6. "Equine racing facility" means a horse racing facility that conducts at least eight live
7 horse races in a calendar year, which may not all occur within four or fewer
8 consecutive calendar weeks, and which has a minimum racing infrastructure
9 consisting of:

10 a. A five-furlong [1005.84 meters] dirt track for flat racing;

11 b. Capacity for no fewer than five hundred individuals; and

12 c. Barns with no fewer than fifty permanent stalls.

13 7. "Executive director" means the executive director of the commission.

14 ~~7-8.~~ "Fraternal organization" means a nonprofit organization in this state, which is a
15 branch, lodge, or chapter of a national or state organization and exists for the common
16 business, brotherhood, or other interests of its members, and has so existed in this
17 state for two years. The term does not include a college or high school fraternity.

18 ~~8-9.~~ "Historic horse race" means any horse race that was previously conducted by a
19 licensed pari-mutuel facility, concluded with official results, and concluded without
20 scratches, disqualifications, or dead-heat finishes.

21 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city,
22 and with respect to a site not inside the city limits of a city, the county in which the site
23 is located.

24 ~~9-11.~~ "Other public-spirited organization" means a nonprofit organization recognized by the
25 governing body of the appropriate local jurisdiction by resolution as public-spirited and
26 eligible under this chapter.

27 ~~10-12.~~ "Pari-mutuel wagering" means a method of wagering approved by the commission in
28 which one or more patrons wager on a horse race, whether the race is a live,
29 simulcast, or historic horse race.

30 13. "Purse fund" means a fund, administered by the commission, established to
31 supplement and improve purses offered at racetracks within the state.

1 ~~11.14.~~ "Racing" means live or simulcast horse racing under the certificate system or
2 simulcast dog racing under the certificate system.

3 ~~12.15.~~ "Racing promotion fund" means a fund administered by the commission established to
4 assist in improving and upgrading racetracks in the state, promoting horse racing in
5 the state, and developing new racetracks in the state as necessary and approved by
6 the commission.

7 ~~13.16.~~ "Religious organization" means a nonprofit organization, church, body of
8 communicants, or group gathered in common membership for mutual support and
9 edification in piety, worship, and religious observances, and which has been so
10 gathered or united in this state for at least two years.

11 ~~14.17.~~ "Veterans' organization" means a congressionally chartered organization in this state,
12 or a branch, lodge, or chapter of a nonprofit national or state organization in this state,
13 the membership of which consists of individuals who were members of the armed
14 services or forces of the United States, and which has so been in existence in this
15 state for at least two years.

16 **SECTION 5. AMENDMENT.** Subsection 5 of section 53-06.2-04 of the North Dakota
17 Century Code is amended and reenacted as follows:

18 5. Adopt rules governing, restricting, or regulating bids on licensees' concessions and
19 leases on equipment, and governing historic horse racing.

20 **SECTION 6. AMENDMENT.** Subsection 4 of section 53-06.2-05 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 4. License all participants in the racing ~~and~~, simulcast, advance deposit wagering, and
23 historic horse race pari-mutuel wagering industry and require and obtain information
24 the commission deems necessary from license applicants. Licensure of service
25 providers, totalizator companies, site operators, and organizations applying to conduct
26 or conducting pari-mutuel wagering must be approved by the attorney general. The
27 attorney general may not grant a license denied by the commission. The commission
28 may obtain a statewide and nationwide criminal history record check from the bureau
29 of criminal investigation for the purpose of determining suitability or fitness for a
30 license. The nationwide check must be conducted in the manner provided in section

1 12-60-24. All costs associated with obtaining a background check are the
2 responsibility of the applicant for a license.

3 **SECTION 7. AMENDMENT.** Section 53-06.2-06 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **53-06.2-06. Organizations eligible to conduct ~~rac~~ing and ~~simuleast~~assist in**
6 **~~conducting~~ pari-mutuel wagering.**

7 ~~Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and~~
8 ~~other public-spirited~~

9 1. ~~Public-spirited~~ organizations ~~the primary purpose of which is for equine education,~~
10 ~~community recreation, and economic development~~ may be licensed to ~~conduct rac~~ing
11 ~~and simuleast~~assist in ~~conducting~~ pari-mutuel wagering as authorized by this chapter.

12 2. ~~The following types of organizations may be licensed to conduct simulcast pari-mutuel~~
13 ~~wagering under this chapter:~~

14 a. ~~Civic and service clubs;~~

15 b. ~~Charitable, fraternal, religious, and veterans' organizations; and~~

16 c. ~~Other public-spirited organizations.~~

17 **SECTION 8. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **53-06.2-08. License authorization and fees.**

20 1. Each license issued under the certificate system must describe the place, track, or
21 racecourse at which the licensee may hold races. Every license must specify the
22 number of days the licensed races may continue, the hours during which racing may
23 be conducted, and the number of races that may be held each day. Races authorized
24 under this chapter may be held during the hours approved by the commission and
25 within the hours permitted by state law.

26 2. ~~Wagering on historic horse races may be conducted;~~

27 a. ~~At only one equine racing facility in the state.~~

28 b. ~~On any day, regardless of whether live racing or simulcasting is taking place.~~

29 3. The commission may charge a license fee for racing commensurate with the size and
30 attendance of the race meet.

1 ~~3.4.~~ Each applicant for a license under this chapter shall give bond or a letter of credit
2 payable to this state with good security as approved by the commission. The bond or
3 letter of credit must be in the amount the commission determines will adequately
4 protect the amount normally due and owing to this state in a regular payment period
5 or, in the case of new or altered conditions, based on the projected revenues.

6 ~~4.5.~~ The commission may grant licenses to horse owners, jockeys, riders, agents, trainers,
7 grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires,
8 service providers, employees of racing associations, and such other persons as
9 determined by the commission. Licensure of service providers, totalizator companies,
10 site operators, and organizations applying to conduct or conducting pari-mutuel
11 wagering must be approved by the attorney general. The attorney general may not
12 grant a license denied by the commission. License fees are as established by the
13 commission.

14 ~~5.6.~~ The commission may establish the period of time for which licenses issued under this
15 chapter are valid.

16 ~~6.7.~~ The commission shall deposit all fees collected under this section in the racing
17 commission operating fund. Subject to legislative appropriation, the commission may
18 spend the fees for operating costs of the commission.

19 **SECTION 9. AMENDMENT.** Section 53-06.2-10 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **53-06.2-10. Certificate system - Rules.**

22 The certificate system allows a licensee to receive money from any person ~~present at~~ on a
23 live, simulcast, or historic horse or dog race, ~~simulcast horse race, or simulcast dog race who~~
24 ~~desires to bet on any entry in that race.~~ A person betting on an entry to win acquires an interest
25 in the total money bet on all entries in the race, in proportion to the amount of money bet by that
26 person, under rules adopted by the commission. The licensee shall receive the bets and for
27 each bet on a live or simulcast horse race shall issue a certificate to the bettor on which is at
28 least shown the number of the race, the amount bet, and the number or name of the entry
29 selected by the bettor. A certificate may not be issued for a wager on a historic horse race. The
30 commission may adopt rules for place, show, quinella, combination, or other types of ~~betting-~~
31 ~~usually connected with racing~~ pari-mutuel wagering.

1 **SECTION 10.** A new section to chapter 53-06.2 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Historic horse race wagering.**

4 1. In accordance with pari-mutuel wagering under the certificate system, and if
5 conducted at an equine racing facility, pari-mutuel wagering on historic horse races
6 may be conducted in accordance with this chapter or rules adopted by the
7 commission. An equine racing facility under this chapter may offer wagering on historic
8 horse races on electronic devices if:

9 a. Wagering is conducted within an equine racing facility, using the pari-mutuel
10 method of wagering;

11 b. A licensee maintains no fewer than two terminals offering the same type of wager
12 on historic horse races;

13 c. The terminal used for conducting a historic horse race:

14 (1) Provides true and accurate past performance information on each historic
15 horse race before a patron makes selections;

16 (2) Displays the official results of each race;

17 (3) Has been tested by an independent testing laboratory to ensure integrity
18 and proper working order; and

19 (4) Displays pool amounts the patron will receive for a winning wager; and

20 d. The identity of each race is revealed to the patron after the patron has placed a
21 wager.

22 2. The terminal used for conducting a historic horse race may display a photographic
23 recording or digital simulation or recreation of a portion of the race.

24 3. Notwithstanding any other provision of this chapter, in addition to any bond provided to
25 the attorney general as security for other licensed activity pursuant to section
26 53-06.2-08, each licensed service provider approved by the commission to offer
27 wagering on historic horse races shall post a bond of five hundred thousand dollars
28 payable to the state. A licensed service provider posting a bond under this section is
29 not required to post more than one bond in the amount of five hundred thousand
30 dollars, regardless of the number of simulcast facilities at which it offers wagers on
31 historic horse races.

1 **SECTION 11.** A new section to chapter 53-06.2 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Racing commission operating fund.**

4 There is created in the state treasury the racing commission operating fund. The fund
5 consists of all racing taxes, monetary fines, and interest and penalties collected under this
6 chapter.

7 **SECTION 12. AMENDMENT.** Section 53-06.2-11 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **53-06.2-11. Bet payoff formulas - Uses by licensee of funds in excess of expenses -**
10 **Payment to general fund.**

11 1. For wagering on live horse racing:

12 a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than
13 twenty percent of the amount wagered. Of the amount wagered, the licensee
14 shall pay:

15 (1) One-half of one percent to the state treasurer to be deposited in the
16 ~~general~~ racing commission operating fund.

17 (2) One-half of one percent to the commission to be deposited in the breeders'
18 fund.

19 (3) One-half of one percent to the commission to be deposited in the purse
20 fund.

21 (4) One-half of one percent to the commission to be deposited in the racing
22 promotion fund.

23 b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools,
24 the licensee may deduct no more than twenty-five percent of the amount
25 wagered. Of the amount wagered, the licensee shall pay:

26 (1) One-half of one percent to the state treasurer to be deposited in the
27 ~~general~~ racing commission operating fund.

28 (2) One-half of one percent to the commission to be deposited in the breeders'
29 fund.

30 (3) One-half of one percent to the commission to be deposited in the purse
31 fund.

(4) One-half of one percent to the commission to be deposited in the racing promotion fund.

2. For simulcast and account wagering:

a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Except as limited in subdivision c, of the amount wagered by simulcast and account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:

(1) One-sixteenth of one percent to the state treasurer to be deposited in the general racing commission operating fund.

(2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.

(3) One-sixteenth of one percent to the commission to be deposited in the purse fund.

(4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.

b. Except as limited in subdivision c, of the amount wagered by simulcast and account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:

(1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.

(2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.

(3) One-sixteenth of one percent to the commission to be deposited in the purse fund.

(4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.

~~c. For the fiscal year commencing July 1, 2013, the licensee may not pay more than four hundred thousand dollars. For the fiscal year commencing July 1, 2014, and thereafter, the licensee may not pay more than four hundred twenty thousand dollars.~~

1 3. For historic horse race wagering, the licensee may deduct no more than twenty-five
2 percent of the amount wagered. Of the amount wagered, the licensee shall pay:

3 a. One-fourth of one percent to the state treasurer to be deposited in the racing
4 commission operating fund.

5 b. One-sixth of one percent to be deposited in the breeder's fund.

6 c. One-sixth of one percent to be deposited in the purse fund.

7 d. One-sixth of one percent to be deposited in the racing promotion fund.

8 e. One-fourth of one percent to be deposited in the gambling disorder prevention
9 and treatment fund.

10 f. One-fourth of one percent to be deposited in the treasury of the city in which
11 wagering on historic horse racing takes place.

12 4. All moneys in the racing commission operating fund, in excess of those appropriated
13 by the legislative assembly for administrative and operating costs associated with the
14 racing commission, must be transferred to the general fund.

15 5. For all pari-mutuel wagering the licensee shall pay to the commission the amount due
16 for all unclaimed tickets and all breakage on the first twenty million dollars wagered in
17 each fiscal year with each service provider. The amount received must be deposited in
18 the racing promotion fund.

19 ~~4-6.~~ The licensee conducting wagering on live racing, simulcast horse racing wagering,
20 historic horse racing, or account wagering shall retain all other money in the
21 pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules
22 adopted by the commission.

23 ~~5-7.~~ A licensee may not use any of the portion deducted for expenses under subsections 1
24 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel
25 ~~racing~~ wagering under the certificate system. ~~After paying qualifying expenses, the~~
26 ~~licensee shall use the remainder of the amount so withheld only for eligible uses~~
27 ~~allowed to charitable gambling organizations under section 53-06.1 11.1.~~

28 ~~6-8.~~ The commission shall deposit the moneys received pursuant to subsections 1, 2, ~~and~~
29 3, ~~and~~ 5 and from the North Dakota horse racing foundation pursuant to subsection 5
30 of section 53-06.2-05 in the breeders' fund, the purse fund, and the racing promotion
31 fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and

1 racing promotion fund are appropriated to the commission on a continuing basis to
2 carry out the purposes of those funds under this chapter and must be administered
3 and disbursed in accordance with rules adopted by the commission. The commission
4 may not transfer money among the funds. The commission shall distribute in-state
5 awards and payment supplements from the breeders' fund in the same calendar year
6 the money was earned by the recipient. The commission shall distribute out-of-state
7 awards and payment supplements from the breeders' fund, if made available by the
8 commission, within two months of the end of the calendar year the money was earned
9 by the recipient. The commission shall distribute payments awarded to qualified
10 owners and breeders from the breeders' fund without requiring owners and breeders
11 to apply for the payments. ~~The commission may receive twenty-five thousand dollars~~
12 ~~per year or twenty-five percent per year, whichever is greater, from the racing~~
13 ~~promotion fund for the payment of the commission's operating expenses.~~

