

2021 HOUSE JUDICIARY

HB 1234

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary

Room JW327B, State Capitol

HB 1234

1/27/2021

Relating to authorization of sports betting as a game of chance

Chairman Klemin called the hearing to order at 9:35 AM.

Present: Representatives Klemin, Karls, Becker, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter. Absent: Rep. Buffalo

Discussion Topics:

- Tribal Gaming Regulations
- Amendment

Mark Jorritsma, Family Policy Alliance of ND: Testimony #3544 9:35

Rep. Kasper: Introduced the bill. Verbal testimony 9:42

Christopher Dobson: Catholic Alliance Conference: Verbal testimony 9:54

Lisa Johnson on behalf of Mark Hagerott, ND University System: Testimony #3536

Doctor Dean Bresciani: Chancellor of University: Verbal testimony 10:01

Cynthia Monteau, Executive Director of the UTGA: Testimony #3773

Collette Brown, SLT, Turtle Mountain Reservation: Testimony #3778 10:10

Chairman Klemin hearing recessed at 10:16.

DeLores D. Shimek
Committee Clerk



Testimony Opposing House Bill 1234

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
January 27, 2021

Good morning Chairman Klemin and honorable members of the House Judiciary Committee. My name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am testifying in opposition to House Bill 1234 and respectfully request that you render a “DO NOT PASS” on this bill.

As we all know by now, in May 2018, the Supreme Court struck down a 1992 federal law that effectively banned commercial sports betting in most states. As a result, many states, including ours, have been looking at potentially legalizing sports betting ever since. But at what cost?

ROOT FOR THE HOME TEAM

The first issue our organization has with legalized sports betting is devaluation of sports for its own sake. In other words, fundamentally changing the meaning of American sports. As writer David Blankenhorn eloquently summarizes, “Betting on games subtly but profoundly shifts our focus away from the game itself — the sport for the sake of the sport — and instead encourages us to experience the game as a means of measuring and grasping for money. In doing so, it violates everything that, as children, drew us to sports in the first place.”

Another author puts it this way. “If you want to magnify the attention paid to the lowest and most cynical motives of the audience rather than emphasizing the skill, hard work and integrity of the athletes, just legalize betting on people the way we now bet on horses and dogs.”

JUST ONE MORE BET AND THEN I’LL STOP

The second problem we have with this bill is associated with compulsive gambling and gambling disorders. There are an estimated 10 million individuals in our country with some form of gambling addiction or compulsion to gamble which harms them or their family. That represents 2.6 percent of the United States population, and many sources place the incidence significantly higher.

I am not going to go into detail about the harms of gambling addiction – we’ve all heard them many times – but I ask you to please take this into serious account when considering this bill. If sports gambling becomes both legal and encouraged, more people are likely to gamble. It’s a fact.

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And as more people gamble, more are likely to hurt themselves, their families and their communities through excessive gambling. Any law is about tradeoffs, and this is a big one.

SHOW ME THE MONEY

And now we come to the crux of the issue for many; additional revenue to the state of North Dakota from taxation of sports betting, assuming a tax is eventually levied against the betting revenues. The states that have legalized sports betting and for which reliable information exists, have seen very small percentage increases in their state budgets from legalized sports betting tax revenues, as shown in the following table.

Percentage Increase in Annual State Budget Revenues from Sports Betting

<i>State</i>	<i>Percentage Increase</i>
<i>Nevada</i>	0.5%
<i>New Jersey</i>	0.1%
<i>Rhode Island</i>	0.25%
<i>Mississippi</i>	<1%
<i>West Virginia</i>	<1%

Sports betting is not some sort of financial panacea. Yes, the state of North Dakota would gain more revenue, but remember that with last May's ruling, we are not the only ones eyeing sports betting. These numbers are not going to go higher, but if anything, lower.

Also on the topic of money, gambling has always been a regressive tax on those with lower incomes. It is correctly noted that, "Studies show that the less money you have, the more tempting it is to try to win some by gambling. You're already down, so what's the big risk if you tap out? A bet is cheap but also fake 'hope.'"

Source: *Sports betting not a financial home run for states*. The State Journal-Register. Jan 2, 2019.

THE PROBLEM

Let me leave you with this. With roughly 762,000 residents in our state and using the previously noted average statistic of 2.6 percent of people with gambling addiction, that means 19,812 North Dakotans already have problems with gambling, which are only going to be made worse if this bill passes.

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This estimate does not even include those who don't have problems now but would be added to this number because of sports betting. So this is the problem. Is it morally justifiable to earn a fraction of additional annual budget revenue off of those with gambling problems? We at Family Policy Alliance of North Dakota certainly don't think so.

CONCLUSION

Sports betting is bad social policy, it is bad economic policy, and it is bad governmental policy. For these reasons, Family Policy Alliance of North Dakota respectfully asks that you please vote House Bill 1234 out of committee with a "DO NOT PASS" recommendation.

Thank you for the opportunity to testify and I am now happy to stand for any questions.

**HB1234**

House Judiciary Committee

January 27, 2021

Mark Hagerott, Chancellor, NDUS

701.328.2963 | mark.hagerott@ndus.edu

Chair Klemin and Committee Members: My name is Mark Hagerott, and I am the Chancellor of the North Dakota University System. I'd like to provide this written testimony on House Bill 1234, as the NDUS and its institutions have concerns surrounding the effects of sports or "professional" sports betting as this could affect our student-athletes and opposed HB1234. As written, it is still unclear as to whether collegiate sports are included or excluded in the proposed language.

The proposed definition of a professional sport or athletic event described as "an event at which two or more individuals participate in a sport or athletic competition and receive compensation in excess of actual expenses for the individual's participation in the event" could potentially include collegiate athletes on full ride scholarships at North Dakota colleges and universities.

Last week, I convened a meeting of the eleven campus presidents and all eleven were adamantly opposed to this bill and requested that I carry this information to you.

Why, in general, do campus presidents pass on their concerns?

We believe that opening the door to college sports betting in our state could have massive negative implications to our students that put the safety and welfare of our students and even their families at risk. In states that have allowed this, students have been exposed to illicit agreements and financial benefits that not only put them at risk but challenged their integrity and the purity of those sporting events.

On the face of it, sports betting potentially undermines the integrity of the game and renders unpaid athletes vulnerable to money flowing through their respective games and contingent on their performance.



On behalf of the NDUS college presidents and myself, I respectfully recommend a “do not pass” on HB1234. However, should the Committee feel compelled to pass HB1234, I respectfully request that the definition of a professional sport or athletic event to be “an event at which two or more individuals participate in a sport or athletic competition not sponsored by a college or university and receive compensation in excess of actual expenses for the individual’s participation in the event.”

This concludes my testimony for HB1234, and I will stand for questions from the committee.

Thank you.



#3773

**HOUSE BILL 1234
HOUSE JUDICIARY COMMITTEE
JANUARY 27, 2021**

TESTIMONY OF CYNTHIA C. MONTEAU, EXECUTIVE DIRECTOR

Mr. Chairman and members of the Committee, my name is Cynthia Monteau, I am the Executive Director of the United Tribes Gaming Association (UTGA). I come before you today as an Opponent of House Bill 1234, a bill that compounds the already detrimental impact to casino revenue by allowing statewide sports betting.

Tribal casino operations generate over \$300 million to the state economy and over 3,000 full time equivalents. Our operations allow us to offer employment in rural communities in the state to both tribal and non-tribal members. In addition to, hiring local businesses.

The electronic pull tab machines have impacted casino revenue to the tune of about \$150 million. Gaming is in most cases our sole source of revenue, jobs, and economic development. HB1234 is an expansion of gaming outside of tribal casinos – which we are adamantly opposed.

We urge a do NOT pass of HB 1234.

Thank you, Mr. Chairman.

Good morning, Chairman Klemin and the members of the committee

My name is Collette Brown from Warwick, representing the Spirit Lake Tribe. My professional title in the gaming industry is, Gaming Commission Executive Director of the Gaming Regulations and Compliance Department, our casino is located seven miles south of Devils Lake.

Sport betting in general is a “Sport consists of a contest between individuals or teams who agree to compete by the same rules. The uncertainty of the outcome is an essential part of sport’s attraction, separating it from arts and other entertainment.”

“If the result is pre-determined (or at least one of aspect of the contest), the integrity of sport is lost and with it a large part of its meaning and appeal for fans.

Match-fixing is therefore a major threat to sport.... Match-fixing corruption in sport related to gambling is a fundamental, worldwide threat to the future of professional sport. ”

The International Olympic Committee now has its own strategy in place for the prevention of manipulation of competitions, based on three pillars:

- a) regulations and legislation;
- b) awareness raising and capacity building; and
- c) intelligence and investigations.

Source: *I Trust Sports (Sports Governance Company based in the UK which oversees the Olympic Events and other Sports contests).*

In the U.S., from the dawn of the 20th Century, with Shoeless Joe Jackson and the “Black Sox” engaged in a conspiracy to throw the World Series, Sports Betting has been thought to have a corrupt influence on the integrity of the game. In other words, without regulation—the “fix is in” and the fraud is perpetrated against honest bettors, the honest players, and the fans who pay to see a real game.

Today I have concerns with HB 1234:

- There are a myriad of technical and operational areas that must be considered to ensure the integrity of a sports wagering enterprise and protect the public because there are so many configurations, options, and decisions that take place within a sports wagering operation.
- With little or no professional regulatory framework in place, HB 1234 presents an open invitation to organized crime and corrupt sport “fixes.” Clearly, by presenting a high level of public risk, this bill is not ready for enactment.

January 27, 2021

HB 1234-Sportsbetting as a game of chance

- There is no rigorous regulatory regime for licensees to protect the integrity of the sports betting ecosystem by ensuring operators and suppliers are appropriately vetted and sports betting equipment is properly tested and maintained.
- There are no best practices for KYC and AML, which are to ensure customer identities are appropriately verified by requiring robust customer identity verification measures to ensure customers are who they say they are and that they are playing for entertainment. A robust "Know Your Customer" (KYC) provisions prevent illegal activity by providing operators and law enforcement with more information on patrons' source of funds – preventing money laundering and unlawful activity.
- There are no comprehensive responsible gambling safeguards in place, including velocity controls and spending limits, to ensure that patrons do not go above and beyond their means to place wagers.

North Dakota Already Authorized Sports Betting with Tribes through our Tribal-State Compacts and we are in discussions concerning how best to proceed with a system for Sports Betting.

Our Tribal nations are ready to regulate Sports Betting because we have an established strong regulatory system in place with:

- Tribal Gaming Regulatory Agencies that conduct Day-to-Day Oversight;
- Management and Key Employee Criminal Background Checks, Fingerprinting through FBI;
- Vendor Background Checks;
- Facility Licensing, that requires approval from the national Indian gaming commission (NIGC);
- Monthly state inspections
- Gaming Machines Independent Lab Tested;
- Environment, Public Health and Safety Reviews;
- Federal Regulation through the National Indian Gaming Commission;
- Annual Audits under Tribal and Federal Regulatory Oversight;
- IRS Oversight of Prizes and Reporting;
- Treasury Financial Crimes Enforcement Network (FINCEN) Anti-Money Laundering Systems; and
- FBI Investigation of Any Theft/U.S. Attorney Prosecution.

Lastly, the introduction of this vague language is another way to enter into the new unknown unregulated industry, that requires a whole new level of integrity and my Tribe cannot economically sustain anymore expansion of gaming that does not benefit the tribes. With that being said Spirit Lake Tribe is in opposition of this bill.

2021 HOUSE STANDING COMMITTEE MINUTES

Judiciary
Room JW327B, State Capitol

HB 1234
2/17/2021

Relating to authorization of sports betting as a game of chance.

Chairman Klemin reopened the hearing to order at 9:47 AM.

Present: Representatives Klemin, Karls, Becker, Buffalo, Christensen, Cory, K Hanson, Jones, Magrum, Paulson, Paur, Roers Jones, Satrom, and Vetter.

Discussion Topics:

- Reviewing amendments
- Hoghouse
- Constitutional amendment
- Study
- Charitable gaming
- Effective implementation date
- Use of kiosks

Rep. Kasper: Testimony # 6805, #6807 9:47

Rep. Howe: Discussed amendments. Testimony # 6813, #6814 10:16

Chairman Klemin closed the hearing at 10:33

Reopened 10:38

Rep. K. Hanson: Motion to adopt amendment LC 21.0499.01009 with exception of section 3, on page 14.

Rep. Roers Jones: Seconded

Roll Call Vote:

Representatives	Vote
Chairman Klemin	Y
Vice Chairman Karls	N
Rep Becker	A
Rep. Christensen	Y
Rep. Cory	Y
Rep T. Jones	Y
Rep Magrum	Y
Rep Paulson	Y

Rep Paur	Y
Rep Roers Jones	Y
Rep B. Satrom	N
Rep Vetter	Y
Rep Buffalo	N
Rep K. Hanson	Y

10-3-1 Carried

Rep. B. Paulson: Moved to delete credit cards

Rep. K. Hanson: Seconded

Voice vote carried

Rep. Karls: Motion to amend to prohibit college betting

Rep. Satrom: Seconded

Roll call vote:

:Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Rick Becker	N
Representative Ruth Buffalo	Y
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	N
Representative Bob Paulson	N
Representative Gary Paur	Y
Representative Shannon Roers Jones	N
Representative Bernie Satrom	Y
Representative Steve Vetter	N

9-5-0 Carried

Rep. Karls: Motion made to turn it into study

Rep. Satrom: Seconded

Voice Vote: Carried

Rep. Magrum: Do Pass as Amended

Rep. Roers Jones: Seconded

Roll Call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Rick Becker	Y
Representative Ruth Buffalo	N
Representative Cole Christensen	N
Representative Claire Cory	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	N
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	N
Representative Gary Paur	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	N
Representative Steve Vetter	Y

6-8-0 Failed

Rep. Roers Jones: Motion do Without Recommendation as amended

Rep. Becker: Seconded

Roll Call Vote:

Representatives	Vote
Representative Lawrence R. Klemin	N
Representative Karen Karls	N
Representative Rick Becker	Y
Representative Ruth Buffalo	N
Representative Cole Christensen	Y
Representative Claire Cory	Y
Representative Karla Rose Hanson	Y
Representative Terry B. Jones	Y
Representative Jeffery J. Magrum	Y
Representative Bob Paulson	Y
Representative Gary Paur	N
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	N
Representative Steve Vetter	Y

9-5-0 Carrier: Rep. Roers Jones

Additional written testimony: # 6781, #6782, #6790

Stopped 10:55

DeLores D. Shimek
Committee Clerk

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide a penalty; to provide for application; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The sports wagering commission for each applicant or licensee under chapter 53-06.3.

SECTION 2. Chapter 53-06.3 of the North Dakota Century Code is created and enacted as follows:

53-06.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the sports wagering commission established as a division of the attorney general's office.
2. "Gross wagering receipts" means an operator's total sports wagers less allowed free bets and allowed promotional credits.
3. "License" means a license applied for or issued by the commission under this chapter, including:
 - a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports wagering operator to operate sports wagering through sports wagering terminals, including kiosk terminals, placed in various licensed physical locations throughout the state which are linked to a licensed retail sports wagering operator's central computerized system for the operation of retail sports wagering.
 - b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile operator to operate sports wagering through an approved mobile application, web-based, or other digital platform that involves online wagering with the use of the internet. The term mobile means both a web-based online system and a mobile application.
 - c. A participating retail location license under section 53-06.3-08 for the retail outlets where sports wagering terminals are placed which are connected with a licensed retail sports wagering operator.

- d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract for equipment, systems, goods, and services to be used in connection with a sports wagering, but not to directly accept wagers in place of the retail or mobile licensed operators.
- 4. "Net revenue" means the total gross wagering receipts less allowed free wagers, allowed promotional play, payments to players for winnings, and any applicable federal excise tax. Payments to players includes payments of cash, cash equivalents, merchandise, or other thing of value awarded as a prize or payment, less any applicable federal excise tax.
- 5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee under section 53-06.3-07.
- 6. "Professional sports or athletic event" means an event:
 - a. At which two or more participants participate in a sports or athletic event and one or more participants receive compensation and which is not a prohibited sports event; or
 - b. Any other event authorized by the commission by rule.
- 7. "Prohibited sports event" means a high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless the activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
- 8. "Qualified gaming entity" means an eligible entity that offers sports wagering through retail sports wagering platforms, mobile applications, digital platforms, or web-based platforms that is approved by the commission.
- 9. "Retail sports wagering location" means a participating physical location licensed by the commission to have sports wagering devices and terminals on the premises which are provided by and linked to a licensed retail sports wagering operator's central system.
- 10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming distributor within the state at the time of application for a retail sports wagering operator's license and which previously has been a licensed gaming distributor in the state for a minimum of three years before submitting the application.
- 11. "Sports wagering" means the business of accepting wagers on wagering events or portions of wagering events, the individual performance statistics of individuals in wagering events, or a combination of any of the same by any system or method of wagering approved by the commission via a licensee's central computerized wagering system, mobile or online application, or digital platform that uses communications technology to accept wagers.
 - a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

b. The term does not include:

- (1) Fantasy contests in which participants assemble teams of athletes or individuals and the winning outcome reflects the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance of athletes or individuals in an actual event.
 - (2) Horse racing if sports wagering on the race is pari-mutuel, roulette, poker, blackjack, a card game, dice games, or any other game or contest allowed by law and approved for conduct by licensed or permitted charitable gaming organizations.
12. "Sports wagering account" means a financial record established by a licensee for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The term includes an account that can be established electronically through an approved mobile application or digital platform.
13. "Supplier" means a person that provides, manages, administers, or controls software, hardware, or services for a sports wagering operating system that directly impacts the operation of a sports betting system or platform, including geolocation services, know your customer services, payment processors, and data providers.
14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
15. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, collegiate sports or athletic event, or amateur sports or athletic event, including an olympic or international sports or athletic event, a motor vehicle race, an electronic sports event, commonly referred to as "e-sports", and any other event as permitted by the commission.

53-06.3-02. Authorization of sports wagering - License required.

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.
2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

53-06.3-03. Powers and duties of commission.

1. In administering and enforcing this chapter, the commission:
 - a. Shall adopt rules and regulate the conduct of sports wagering.

- b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
 - c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule adopted under this chapter by civil action or petition for injunctive relief.
 - e. May hold hearings and make provision to administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.
 - f. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules adopted under this chapter.
2. The commission shall examine the rules and regulations implemented in states where sports wagering is conducted and shall adopt, as far as practicable, a similar framework to ensure the sports wagering industry is best positioned to succeed. The rules, at a minimum, must include:
- a. Qualifications for obtaining a license;
 - b. Qualifications for obtaining a temporary license;
 - c. The acceptance of wagers on a wagering event or a series of wagering events; method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER." or similar message at any participating retail location or on any mobile application or digital platform used to place wagers;
 - d. Standards for the adoption of comprehensive house rules governing sports wagering and adoption of the internal controls by operators and the approval of house rules and minimum controls by the commission as required under section 53-06.3-09;
 - e. Minimum design and security requirements for participating retail locations and systems, mobile applications, and digital platforms for the acceptance of wagers by mobile operators, including required methods for verifying the age and identity of an individual who places a wager and for verifying the individual making the wager physically is located in the state and is not prohibited from making a wager under section 53-06.3-12;
 - f. The types of interested parties prohibited from accepting wagers under section 53-06.3-12;
 - g. Minimum design, security, testing, and approval requirements for sports wagering equipment, systems, or services sold by suppliers licensed under section 53-06.3-08;

- a. The full name, address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant or the applicant's wagering activities as described in subsection 2;
 - c. Consent to permit the commission to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
 - d. For the applicant and each person disclosed under subdivision b, a record of all previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's wagering system has been tested for use in North Dakota by an independent testing laboratory approved by the commission; and
 - f. Any additional information, including operational standards, required by the commission by rule.
2. The following persons are considered to have control of an applicant or a licensee or the applicant's or licensee's associated sports wagering activities:
- a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns ten percent or more of the corporate applicant or licensee or that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
 - b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's wagering business operation or which the commission otherwise determines has the ability to control the noncorporate applicant or licensee; and
 - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.
3. The commission shall require an applicant and each person disclosed under subdivision b of subsection 1 to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.
4. A person licensed under this chapter shall give the commission written notice within thirty days of any material change to any information provided in the application for a license or renewal, including any change in the identity of persons considered to have control of the applicant or licensee as described in subsection 2.

53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.

The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

1. If the applicant or licensee knowingly has made a false statement of material fact to the commission.
2. If the applicant or licensee intentionally has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 53-06.3-05.
3. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities.
4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.
5. If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business, including payment of winnings.
6. If an applicant has not met the requirements of this chapter or other criteria the commission may establish.

53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees - Temporary license.

1. The commission shall issue a maximum of two retail sports wagering licenses and a maximum of three mobile sports wagering licenses to applicants that meet all requirements of this chapter and rules adopted under this chapter and have not violated any portion of section 53-06.3-06 or rules adopted under this chapter, together with other criteria the commission may deem most beneficial to the state in determining the award of licenses.
2. A qualified gaming entity may apply for a retail or mobile sports wagering license.
3. A retail sports wagering license or mobile sports wagering license issued by the commission pursuant to this section grants a licensee lawful authority to conduct sports wagering through a retail computerized wagering system or any mobile application, web-based, or digital platform approved by the commission within the terms and conditions of the license and any rules adopted under this chapter.
4. A licensed retail sports wagering operator:
 - a. May hold a retail sports wagering license that authorizes the licensed distributor to:

- (1) Operate retail sports wagering through a central computer system using electronic, digital, and other systems that link wagering terminals, including kiosk terminals, located in physical locations across the state to the licensee's central wagering system;
 - (2) Distribute and service the sports wagering devices and terminals;
 - (3) Contract with licensed participating retail sports wagering locations to provide wagering terminals to the public for wagering purposes; and
 - (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in the state for a participating economic sponsorship with the retail sports wagering licensee, by mutual agreement.
- b. May contract with a supplier to provide the equipment, wagering system operations, proposed rules, line and risk management, and other such services as may be required to comply with the rules under this chapter.
 - c. Owns the data generated through the retail sports wagering operations relative to player and customer lists.
 - d. May combine a mobile sports wagering application or web-based system in conjunction with the licensee's operation of retail sports wagering. Such mobile sports wagering, in conjunction with retail sports wagering may not reduce the maximum number of mobile wagering licenses that may be awarded.
 - e. May contract with a third-party supplier for the mobile wagering system and services under this chapter. The supplier of retail and mobile wagering systems and services is subject to this chapter and rules adopted under this chapter.
5. The fee for an initial retail sports wagering license is twenty thousand dollars and a renewal license fee is ten thousand dollars. A retail sports wagering operator may apply for a mobile sports wagering license to be used in conjunction with the operator's retail sports wagering license for an additional fee of thirty thousand dollars and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
 6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless revoked sooner by the commission under section 53-06.3-05.

7. An applicant for a license under this chapter may submit with the application a request for a temporary license to the commission for the immediate commencement of sports wagering operations or other licensed activities provided for under this chapter. The request must include the associated initial license fee payable to the commission. Upon receiving a request for a temporary license, the commission shall review the request. If the commission determines the entity requesting the temporary license is qualified, has demonstrated the entity's ability to operate under the applicable rules, has paid the associated initial license fee, and has submitted the appropriate license application, the commission may authorize the qualified applicant to conduct the licensed activities for one year under a temporary license or until a final determination on the license application is made. An extension may be granted by the commission if approval requires more than one year. Sports wagering activities or services conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-09.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-08. Retail participating sports wagering location license - Supplier license.

1. The commission shall issue a retail participating sports wagering location license or a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. An applicant for a retail participating sports wagering location license shall demonstrate the premises meets the criteria and rules adopted under this chapter. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule under this chapter.
3. A retail sports wagering location license issued pursuant to this section grants a participating licensee lawful authority to have sports wagering terminals on the licensee's premises that are provided by and linked to the licensed retail sports wagering operator's central system on terms and conditions set forth by agreement between the two licenseholders and rules adopted under this chapter. A supplier license issued pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.
4. A limit may not be imposed on the number of participating locations in the state which may contract with a retail sports wagering licensee. A retail participating sports wagering location licensee is subject to this chapter and the rules adopted under this chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted under that chapter.
5. The fee for an initial retail participating sports wagering location license is two thousand dollars with a renewal fee of one thousand dollars. The fee for an initial supplier license is seven thousand dollars with a renewal fee of two thousand five hundred dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license

in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless sooner revoked by the commission under section 53-06.3-06.
7. An applicant for a retail participating sports wagering location license or supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the respective initial license fee. If the commission determines the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license, and has paid the initial license fee and the commission is not aware of any reason the applicant is ineligible for a license under this section, the commission may issue a temporary license. A temporary license issued under this subsection is valid for three years or until a final determination on the license application is made, whichever is sooner. If after investigation the commission determines the applicant is eligible for a license under this chapter, the commission shall issue the initial license, at which time the temporary license terminates.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-09. Sports wagering house rules - Internal controls.

1. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies, and the effect of schedule changes. House rules must be approved by the commission before implementation.
2. The house rules, together with any other information the commission determines to be appropriate, must be available in the sports location and mobile wagering system.
3. An operator shall establish internal controls for the operation of retail and mobile sports wagering. The internal controls must be approved by the commission before implementation.

53-06.3-10. Operator duties.

An operator shall:

1. Employ a monitoring system using software to identify irregularities in volume or odds swings that could signal suspicious activity that requires further investigation. Such activity must be reported immediately to and investigated by the commission. System requirements and specifications must be in accordance with industry standards.

2. Promptly report to the commission any facts or circumstances related to the operation of a licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator which has been approved by the commission to the appropriate state or federal authorities.
3. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state.
4. Keep current in all payments and obligations to the commission.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a retail sports betting system, mobile application, or digital platform approved by the commission which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the commission and consistent with federal law.
7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
8. Maintain daily records showing the gross sports wagering receipts and net revenue from the gross sports wagering receipts of the licensee and timely file with the commission any additional reports required by rule or this chapter.

53-06.3-11. System assessment.

Within ninety days of commencing operations and annually thereafter, an operator shall perform a system integrity and security assessment of the sports wagering system and online sports wagering system conducted by an independent professional authorized by the commission and subject to licensure and approval of the commission. The independent professional's assessment report must be submitted to the commission and must include:

1. Scope of review;
2. Name and company affiliation of the individual who conducted the assessment;
3. Date of assessment;
4. Findings;
5. Recommended corrective action, if applicable; and
6. The operator's response to the findings and recommended corrective action.

53-06.3-12. Sports wagering agreements.

1. On behalf of this state, the commission may:

- a. Enter a sports wagering agreement with another state, territory, nation, jurisdiction, government, or other entity to accept wagers from individuals located outside this state, if entering the sports wagering agreement does not violate state or federal law.
 - b. Take all necessary actions to ensure a sports wagering agreement entered pursuant to this section becomes effective.
2. The commission shall adopt rules to implement this section.

53-06.3-13. Acceptance of wagers - Excluded persons.

1. An operator may accept wagers on wagering events by means of computer systems, internet supported, and electronic devices using a computerized wagering system, mobile application, or digital platform approved by the commission. An individual placing a wager must be twenty-one years of age or older and physically be located in the state.
2. An operator shall allow patrons to fund a sports wagering account using:
 - a. A credit or debit card;
 - b. A bonus or promotion;
 - c. An electronic bank transfer;
 - d. An online or mobile payment system that supports online money transfers; and
 - e. Any other means approved by the commission.
3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a computerized, mobile application, web-based, or digital platform approved by the commission. The branding for each mobile application or digital platform must be determined by the operator.
4. An operator may accept layoff wagers placed by other operators, and may place layoff wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.
5. The commission or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the commission and shared with each operator, and a person on the commission's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.
6. An employee of an operator may not place a wager on any wagering event through a central retail wagering system, mobile application, or digital platform of that employee's employer.

53-06.3-14. Sports wagering tax - Revenues - Limitation of other taxes.

1. For the privilege of holding a license to operate sports wagering under this chapter, a sports wagering tax is imposed on the net revenue of the

operator. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

a. The tax is six and seventy-five hundredths percent of the retail sports wagering licensee's net revenue.

b. The tax is ten percent of the mobile sports wagering licensee's net revenue.

2. The following provisions govern operator returns and payment of tax pursuant to subsection 1:

a. The tax levied and collected pursuant to subsection 1 is due and payable to the commission in quarterly installments on or before the fifteenth calendar day following the calendar end of the quarter in which the net revenue was received.

b. On or before the fifteenth calendar day following the end of the quarter, an operator shall complete and submit the return for the preceding quarter by electronic communication to the commission in the form prescribed by the commission that provides:

(1) The total gross wagering receipts and net revenue from that quarter;

(2) The tax amount for which the operator is liable; and

(3) Any additional information necessary in the computation and collection of the tax on the net revenue required by the commission.

c. The tax due must be remitted to the commission by electronic funds transfer at the time the quarterly returns are filed.

d. If the net revenue from the total gross wagering receipts for a quarter is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of net revenue from total gross sports wagering receipts may not be carried back to an earlier month and money previously received by the commission may not be refunded, except due to a proven error, or if the licensee surrenders the licensee's license and the licensee's last return reported negative net revenue from gross sports wagering receipts.

3. The tax imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

53-06.3-15. Sports wagering operating fund - Deposits and allocations.

There is created in the state treasury the sports wagering operating fund. All moneys received from fees, taxes, interest, fines, and any other moneys collected under this chapter must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must be distributed to the commission for the costs of administering

and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

53-06.3-16. Civil violation.

Except as provided in section 53-06.3-17, a person that violates the provisions of this chapter commits a civil violation for which the commission may impose a fine of not more than ten thousand dollars for each violation. The commission shall deposit fines collected under this section in the sports wagering operating fund.

53-06.3-17. Unauthorized sports wagering - Penalties.

A person may not conduct sports wagering unless the person is licensed under this chapter. A person violating this section is guilty of a class B misdemeanor. A second violation is a class A misdemeanor. A third or subsequent violation is a class C felony.

SECTION 3. APPLICATION. For the first sixteen months after the adoption of rules under section 53-06.3-03:

1. Sports wagering on a mobile device or computer may not be conducted.
2. Sports wagering may be conducted only via authorized terminals and kiosks.

SECTION 4. CONTINGENT EFFECTIVE DATE. This Act becomes effective on August 1, 2023, if the secretary of state certifies to the legislative council that House Concurrent Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the voters."

Renumber accordingly

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide for a legislative management study; to provide a penalty; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The sports wagering commission for each applicant or licensee under chapter 53-06.3.

SECTION 2. Chapter 53-06.3 of the North Dakota Century Code is created and enacted as follows:

53-06.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the sports wagering commission established as a division of the attorney general's office.
2. "Gross wagering receipts" means an operator's total sports wagers less allowed free bets and allowed promotional credits.
3. "License" means a license applied for or issued by the commission under this chapter, including:
 - a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports wagering operator to operate sports wagering through sports wagering terminals, including kiosk terminals, placed in various licensed physical locations throughout the state which are linked to a licensed retail sports wagering operator's central computerized system for the operation of retail sports wagering.
 - b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile operator to operate sports wagering through an approved mobile application, web-based, or other digital platform that involves online wagering with the use of the internet. The term mobile means both a web-based online system and a mobile application.
 - c. A participating retail location license under section 53-06.3-08 for the retail outlets where sports wagering terminals are placed which are connected with a licensed retail sports wagering operator.

- d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract for equipment, systems, goods, and services to be used in connection with a sports wagering, but not to directly accept wagers in place of the retail or mobile licensed operators.
4. "Net revenue" means the total gross wagering receipts less allowed free wagers, allowed promotional play, payments to players for winnings, and any applicable federal excise tax. Payments to players includes payments of cash, cash equivalents, merchandise, or other thing of value awarded as a prize or payment, less any applicable federal excise tax.
5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee under section 53-06.3-07.
6. "Professional sports or athletic event" means an event:
- a. At which two or more participants participate in a sports or athletic event and one or more participants receive compensation and which is not a prohibited sports event; or
- b. Any other event authorized by the commission by rule.
7. "Prohibited sports event" means a college or high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless the activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
8. "Qualified gaming entity" means an eligible entity that offers sports wagering through retail sports wagering platforms, mobile applications, digital platforms, or web-based platforms that is approved by the commission.
9. "Retail sports wagering location" means a participating physical location licensed by the commission to have sports wagering devices and terminals on the premises which are provided by and linked to a licensed retail sports wagering operator's central system.
10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming distributor within the state at the time of application for a retail sports wagering operator's license and which previously has been a licensed gaming distributor in the state for a minimum of three years before submitting the application.
11. "Sports wagering" means the business of accepting wagers on wagering events or portions of wagering events, the individual performance statistics of individuals in wagering events, or a combination of any of the same by any system or method of wagering approved by the commission via a licensee's central computerized wagering system, mobile or online application, or digital platform that uses communications technology to accept wagers.
- a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

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b. The term does not include:

- (1) Fantasy contests in which participants assemble teams of athletes or individuals and the winning outcome reflects the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance of athletes or individuals in an actual event.
- (2) Horse racing if sports wagering on the race is pari-mutuel, roulette, poker, blackjack, a card game, dice games, or any other game or contest allowed by law and approved for conduct by licensed or permitted charitable gaming organizations.
12. "Sports wagering account" means a financial record established by a licensee for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The term includes an account that can be established electronically through an approved mobile application or digital platform.
13. "Supplier" means a person that provides, manages, administers, or controls software, hardware, or services for a sports wagering operating system that directly impacts the operation of a sports betting system or platform, including geolocation services, know your customer services, payment processors, and data providers.
14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
15. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, or amateur sports or athletic event, including an olympic or international sports or athletic event, a motor vehicle race, an electronic sports event, commonly referred to as "e-sports", and any other event as permitted by the commission.

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53-06.3-02. Authorization of sports wagering - License required.

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.
2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

53-06.3-03. Powers and duties of commission.

1. In administering and enforcing this chapter, the commission:
- a. Shall adopt rules and regulate the conduct of sports wagering.

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- b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
 - c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule adopted under this chapter by civil action or petition for injunctive relief.
 - e. May hold hearings and make provision to administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.
 - f. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules adopted under this chapter.
2. The commission shall examine the rules and regulations implemented in states where sports wagering is conducted and shall adopt, as far as practicable, a similar framework to ensure the sports wagering industry is best positioned to succeed. The rules, at a minimum, must include:
- a. Qualifications for obtaining a license;
 - b. Qualifications for obtaining a temporary license;
 - c. The acceptance of wagers on a wagering event or a series of wagering events; method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER." or similar message at any participating retail location or on any mobile application or digital platform used to place wagers;
 - d. Standards for the adoption of comprehensive house rules governing sports wagering and adoption of the internal controls by operators and the approval of house rules and minimum controls by the commission as required under section 53-06.3-09;
 - e. Minimum design and security requirements for participating retail locations and systems, mobile applications, and digital platforms for the acceptance of wagers by mobile operators, including required methods for verifying the age and identity of an individual who places a wager and for verifying the individual making the wager physically is located in the state and is not prohibited from making a wager under section 53-06.3-12;
 - f. The types of interested parties prohibited from accepting wagers under section 53-06.3-12;
 - g. Minimum design, security, testing, and approval requirements for sports wagering equipment, systems, or services sold by suppliers licensed under section 53-06.3-08;

- h. Establishment of a list of individuals who are not authorized to place a wager on a wagering event, including those individuals who voluntarily request their names be included on the list of unauthorized individuals. The rules adopted under this paragraph must define the standards for involuntary placement on the list and for removal from the list; and
- i. Minimum internal control standards for operators, including procedures for safeguarding assets and revenues; the recording of cash and evidence of indebtedness; the maintenance of reliable records, accounts, and reports of transactions, operations, and events; required audits; and the content of and frequency with which reports of sports wagering activities and revenues must be made to the commission.
3. The commission shall adopt rules to implement this chapter within one hundred and twenty days after the effective date of this Act and as necessary thereafter.

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53-06.3-04. Sports wagering commission.

1. There is created the sports wagering commission, which is composed of five members, three of whom are appointed by the attorney general and two of whom are appointed by the governor. Of the members appointed by the governor, one must have a background in accounting and one must have a background in law. The term of office is three years, expiring on June thirtieth with no more than two terms expiring in any one year. Each member must be a citizen of the United States and a resident of this state. A chairman of the commission must be chosen annually by a majority of the membership of the commission at the first meeting of the commission each fiscal year. A member may serve as chairman for more than one year.
2. The commission shall meet at least once a quarter and any additional meetings as the chairman deems necessary. Special meetings may be called by the chairman upon the written request of the director or any three members of the commission.
3. The commission shall implement the rules, policy, and regulation of sports wagering.
4. A member of the commission who is not a permanent full-time state employee is to be compensated at a rate of seventy-five dollars per day and entitled to mileage and expenses as provided by law for state employees. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency.

53-06.3-05. Application for license - Criminal history background check.

1. An application for a license or for renewal of a license required under this chapter must be submitted on a form provided by the commission. An applicant must be licensed currently in North Dakota or in another United States jurisdiction for sports wagering. An application submitted to the commission must include the following:

- a. The full name, address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant or the applicant's wagering activities as described in subsection 2;
 - c. Consent to permit the commission to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
 - d. For the applicant and each person disclosed under subdivision b, a record of all previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's wagering system has been tested for use in North Dakota by an independent testing laboratory approved by the commission; and
 - f. Any additional information, including operational standards, required by the commission by rule.
2. The following persons are considered to have control of an applicant or a licensee or the applicant's or licensee's associated sports wagering activities:
- a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns ten percent or more of the corporate applicant or licensee or that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
 - b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's wagering business operation or which the commission otherwise determines has the ability to control the noncorporate applicant or licensee; and
 - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.
3. The commission shall require an applicant and each person disclosed under subdivision b of subsection 1 to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.
4. A person licensed under this chapter shall give the commission written notice within thirty days of any material change to any information provided in the application for a license or renewal, including any change in the identity of persons considered to have control of the applicant or licensee as described in subsection 2.

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53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.

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The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

1. If the applicant or licensee knowingly has made a false statement of material fact to the commission.
2. If the applicant or licensee intentionally has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 53-06.3-05.
3. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities.
4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.
5. If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business, including payment of winnings.
6. If an applicant has not met the requirements of this chapter or other criteria the commission may establish.

53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees - Temporary license.

1. The commission shall issue a maximum of two retail sports wagering licenses and a maximum of three mobile sports wagering licenses to applicants that meet all requirements of this chapter and rules adopted under this chapter and have not violated any portion of section 53-06.3-06 or rules adopted under this chapter, together with other criteria the commission may deem most beneficial to the state in determining the award of licenses.
2. A qualified gaming entity may apply for a retail or mobile sports wagering license.
3. A retail sports wagering license or mobile sports wagering license issued by the commission pursuant to this section grants a licensee lawful authority to conduct sports wagering through a retail computerized wagering system or any mobile application, web-based, or digital platform approved by the commission within the terms and conditions of the license and any rules adopted under this chapter.
4. A licensed retail sports wagering operator:
 - a. May hold a retail sports wagering license that authorizes the licensed distributor to:

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- (1) Operate retail sports wagering through a central computer system using electronic, digital, and other systems that link wagering terminals, including kiosk terminals, located in physical locations across the state to the licensee's central wagering system;
 - (2) Distribute and service the sports wagering devices and terminals;
 - (3) Contract with licensed participating retail sports wagering locations to provide wagering terminals to the public for wagering purposes; and
 - (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in the state for a participating economic sponsorship with the retail sports wagering licensee, by mutual agreement.
- b. May contract with a supplier to provide the equipment, wagering system operations, proposed rules, line and risk management, and other such services as may be required to comply with the rules under this chapter.
 - c. Owens the data generated through the retail sports wagering operations relative to player and customer lists.
 - d. May combine a mobile sports wagering application or web-based system in conjunction with the licensee's operation of retail sports wagering. Such mobile sports wagering, in conjunction with retail sports wagering may not reduce the maximum number of mobile wagering licenses that may be awarded.
 - e. May contract with a third-party supplier for the mobile wagering system and services under this chapter. The supplier of retail and mobile wagering systems and services is subject to this chapter and rules adopted under this chapter.
5. The fee for an initial retail sports wagering license is twenty thousand dollars and a renewal license fee is ten thousand dollars. A retail sports wagering operator may apply for a mobile sports wagering license to be used in conjunction with the operator's retail sports wagering license for an additional fee of thirty thousand dollars and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless revoked sooner by the commission under section 53-06.3-05.

7. An applicant for a license under this chapter may submit with the application a request for a temporary license to the commission for the immediate commencement of sports wagering operations or other licensed activities provided for under this chapter. The request must include the associated initial license fee payable to the commission. Upon receiving a request for a temporary license, the commission shall review the request. If the commission determines the entity requesting the temporary license is qualified, has demonstrated the entity's ability to operate under the applicable rules, has paid the associated initial license fee, and has submitted the appropriate license application, the commission may authorize the qualified applicant to conduct the licensed activities for one year under a temporary license or until a final determination on the license application is made. An extension may be granted by the commission if approval requires more than one year. Sports wagering activities or services conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-09.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

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53-06.3-08. Retail participating sports wagering location license - Supplier license.

1. The commission shall issue a retail participating sports wagering location license or a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. An applicant for a retail participating sports wagering location license shall demonstrate the premises meets the criteria and rules adopted under this chapter. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule under this chapter.
3. A retail sports wagering location license issued pursuant to this section grants a participating licensee lawful authority to have sports wagering terminals on the licensee's premises that are provided by and linked to the licensed retail sports wagering operator's central system on terms and conditions set forth by agreement between the two licenseholders and rules adopted under this chapter. A supplier license issued pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.
4. A limit may not be imposed on the number of participating locations in the state which may contract with a retail sports wagering licensee. A retail participating sports wagering location licensee is subject to this chapter and the rules adopted under this chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted under that chapter.
5. The fee for an initial retail participating sports wagering location license is two thousand dollars with a renewal fee of one thousand dollars. The fee for an initial supplier license is seven thousand dollars with a renewal fee of two thousand five hundred dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license

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in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless sooner revoked by the commission under section 53-06.3-06.
7. An applicant for a retail participating sports wagering location license or supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the respective initial license fee. If the commission determines the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license, and has paid the initial license fee and the commission is not aware of any reason the applicant is ineligible for a license under this section, the commission may issue a temporary license. A temporary license issued under this subsection is valid for three years or until a final determination on the license application is made, whichever is sooner. If after investigation the commission determines the applicant is eligible for a license under this chapter, the commission shall issue the initial license, at which time the temporary license terminates.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-09. Sports wagering house rules - Internal controls.

1. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies, and the effect of schedule changes. House rules must be approved by the commission before implementation.
2. The house rules, together with any other information the commission determines to be appropriate, must be available in the sports location and mobile wagering system.
3. An operator shall establish internal controls for the operation of retail and mobile sports wagering. The internal controls must be approved by the commission before implementation.

53-06.3-10. Operator duties.

An operator shall:

1. Employ a monitoring system using software to identify irregularities in volume or odds swings that could signal suspicious activity that requires further investigation. Such activity must be reported immediately to and investigated by the commission. System requirements and specifications must be in accordance with industry standards.

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2. Promptly report to the commission any facts or circumstances related to the operation of a licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator which has been approved by the commission to the appropriate state or federal authorities.
3. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state.
4. Keep current in all payments and obligations to the commission.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a retail sports betting system, mobile application, or digital platform approved by the commission which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the commission and consistent with federal law.
7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
8. Maintain daily records showing the gross sports wagering receipts and net revenue from the gross sports wagering receipts of the licensee and timely file with the commission any additional reports required by rule or this chapter.

53-06.3-11. System assessment.

Within ninety days of commencing operations and annually thereafter, an operator shall perform a system integrity and security assessment of the sports wagering system and online sports wagering system conducted by an independent professional authorized by the commission and subject to licensure and approval of the commission. The independent professional's assessment report must be submitted to the commission and must include:

1. Scope of review;
2. Name and company affiliation of the individual who conducted the assessment;
3. Date of assessment;
4. Findings;
5. Recommended corrective action, if applicable; and
6. The operator's response to the findings and recommended corrective action.

53-06.3-12. Sports wagering agreements.

1. On behalf of this state, the commission may:

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- a. Enter a sports wagering agreement with another state, territory, nation, jurisdiction, government, or other entity to accept wagers from individuals located outside this state, if entering the sports wagering agreement does not violate state or federal law.
- b. Take all necessary actions to ensure a sports wagering agreement entered pursuant to this section becomes effective.

2. The commission shall adopt rules to implement this section.

53-06.3-13. Acceptance of wagers - Excluded persons.

- 1. An operator may accept wagers on wagering events by means of computer systems, internet supported, and electronic devices using a computerized wagering system, mobile application, or digital platform approved by the commission. An individual placing a wager must be twenty-one years of age or older and physically be located in the state.
- 2. An operator shall allow patrons to fund a sports wagering account using:
 - a. A debit card;
 - b. A bonus or promotion;
 - c. An electronic bank transfer;
 - d. An online or mobile payment system that supports online money transfers; and
 - e. Any other means approved by the commission.
- 3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a computerized, mobile application, web-based, or digital platform approved by the commission. The branding for each mobile application or digital platform must be determined by the operator.
- 4. An operator may accept layoff wagers placed by other operators, and may place layoff wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.
- 5. The commission or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the commission and shared with each operator, and a person on the commission's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.
- 6. An employee of an operator may not place a wager on any wagering event through a central retail wagering system, mobile application, or digital platform of that employee's employer.

53-06.3-14. Sports wagering tax - Revenues - Limitation of other taxes.

- 1. For the privilege of holding a license to operate sports wagering under this chapter, a sports wagering tax is imposed on the net revenue of the

operator. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

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- a. The tax is six and seventy-five hundredths percent of the retail sports wagering licensee's net revenue.
- b. The tax is ten percent of the mobile sports wagering licensee's net revenue.

2. The following provisions govern operator returns and payment of tax pursuant to subsection 1:

- a. The tax levied and collected pursuant to subsection 1 is due and payable to the commission in quarterly installments on or before the fifteenth calendar day following the calendar end of the quarter in which the net revenue was received.
 - b. On or before the fifteenth calendar day following the end of the quarter, an operator shall complete and submit the return for the preceding quarter by electronic communication to the commission in the form prescribed by the commission that provides:
 - (1) The total gross wagering receipts and net revenue from that quarter;
 - (2) The tax amount for which the operator is liable; and
 - (3) Any additional information necessary in the computation and collection of the tax on the net revenue required by the commission.
 - c. The tax due must be remitted to the commission by electronic funds transfer at the time the quarterly returns are filed.
 - d. If the net revenue from the total gross wagering receipts for a quarter is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of net revenue from total gross sports wagering receipts may not be carried back to an earlier month and money previously received by the commission may not be refunded, except due to a proven error, or if the licensee surrenders the licensee's license and the licensee's last return reported negative net revenue from gross sports wagering receipts.
3. The tax imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

53-06.3-15. Sports wagering operating fund - Deposits and allocations.

There is created in the state treasury the sports wagering operating fund. All moneys received from fees, taxes, interest, fines, and any other moneys collected under this chapter must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must be distributed to the commission for the costs of administering

and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

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53-06.3-16. Civil violation.

Except as provided in section 53-06.3-17, a person that violates the provisions of this chapter commits a civil violation for which the commission may impose a fine of not more than ten thousand dollars for each violation. The commission shall deposit fines collected under this section in the sports wagering operating fund.

53-06.3-17. Unauthorized sports wagering - Penalties.

A person may not conduct sports wagering unless the person is licensed under this chapter. A person violating this section is guilty of a class B misdemeanor. A second violation is a class A misdemeanor. A third or subsequent violation is a class C felony.

SECTION 3. CONTINGENT EFFECTIVE DATE. This Act becomes effective on August 1, 2023, if the secretary of state certifies to the legislative council that House Concurrent Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the voters.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - SPORTS WAGERING. During the 2021-23 interim, the legislative management shall consider studying sports wagering. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1234: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1234 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide for a legislative management study; to provide a penalty; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The sports wagering commission for each applicant or licensee under chapter 53-06.3.

SECTION 2. Chapter 53-06.3 of the North Dakota Century Code is created and enacted as follows:

53-06.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the sports wagering commission established as a division of the attorney general's office.
2. "Gross wagering receipts" means an operator's total sports wagers less allowed free bets and allowed promotional credits.
3. "License" means a license applied for or issued by the commission under this chapter, including:
 - a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports wagering operator to operate sports wagering through sports wagering terminals, including kiosk terminals, placed in various licensed physical locations throughout the state which are linked to a licensed retail sports wagering operator's central computerized system for the operation of retail sports wagering.
 - b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile operator to operate sports wagering through an approved mobile application, web-based, or other digital platform that involves online wagering with the use of the internet. The term mobile means both a web-based online system and a mobile application.
 - c. A participating retail location license under section 53-06.3-08 for the retail outlets where sports wagering terminals are placed which are connected with a licensed retail sports wagering operator.
 - d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract for equipment, systems, goods, and services to be used in connection with a sports wagering, but not to directly accept wagers in place of the retail or mobile licensed operators.
4. "Net revenue" means the total gross wagering receipts less allowed free wagers, allowed promotional play, payments to players for winnings, and any applicable federal excise tax. Payments to players includes

payments of cash, cash equivalents, merchandise, or other thing of value awarded as a prize or payment, less any applicable federal excise tax.

5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee under section 53-06.3-07.
6. "Professional sports or athletic event" means an event:
 - a. At which two or more participants participate in a sports or athletic event and one or more participants receive compensation and which is not a prohibited sports event; or
 - b. Any other event authorized by the commission by rule.
7. "Prohibited sports event" means a college or high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless the activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
8. "Qualified gaming entity" means an eligible entity that offers sports wagering through retail sports wagering platforms, mobile applications, digital platforms, or web-based platforms that is approved by the commission.
9. "Retail sports wagering location" means a participating physical location licensed by the commission to have sports wagering devices and terminals on the premises which are provided by and linked to a licensed retail sports wagering operator's central system.
10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming distributor within the state at the time of application for a retail sports wagering operator's license and which previously has been a licensed gaming distributor in the state for a minimum of three years before submitting the application.
11. "Sports wagering" means the business of accepting wagers on wagering events or portions of wagering events, the individual performance statistics of individuals in wagering events, or a combination of any of the same by any system or method of wagering approved by the commission via a licensee's central computerized wagering system, mobile or online application, or digital platform that uses communications technology to accept wagers.
 - a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.
 - b. The term does not include:
 - (1) Fantasy contests in which participants assemble teams of athletes or individuals and the winning outcome reflects the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance of athletes or individuals in an actual event.
 - (2) Horse racing if sports wagering on the race is pari-mutuel, roulette, poker, blackjack, a card game, dice games, or any other game or contest allowed by law and approved for

conduct by licensed or permitted charitable gaming organizations.

12. "Sports wagering account" means a financial record established by a licensee for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The term includes an account that can be established electronically through an approved mobile application or digital platform.
13. "Supplier" means a person that provides, manages, administers, or controls software, hardware, or services for a sports wagering operating system that directly impacts the operation of a sports betting system or platform, including geolocation services, know your customer services, payment processors, and data providers.
14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
15. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, or amateur sports or athletic event, including an olympic or international sports or athletic event, a motor vehicle race, an electronic sports event, commonly referred to as "e-sports", and any other event as permitted by the commission.

53-06.3-02. Authorization of sports wagering - License required.

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.
2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

53-06.3-03. Powers and duties of commission.

1. In administering and enforcing this chapter, the commission:
 - a. Shall adopt rules and regulate the conduct of sports wagering.
 - b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
 - c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule adopted under this chapter by civil action or petition for injunctive relief.
 - e. May hold hearings and make provision to administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.

53-06.3-04. Sports wagering commission.

1. There is created the sports wagering commission, which is composed of five members, three of whom are appointed by the attorney general and two of whom are appointed by the governor. Of the members appointed by the governor, one must have a background in accounting and one must have a background in law. The term of office is three years, expiring on June thirtieth with no more than two terms expiring in any one year. Each member must be a citizen of the United States and a resident of this state. A chairman of the commission must be chosen annually by a majority of the membership of the commission at the first meeting of the commission each fiscal year. A member may serve as chairman for more than one year.
2. The commission shall meet at least once a quarter and any additional meetings as the chairman deems necessary. Special meetings may be called by the chairman upon the written request of the director or any three members of the commission.
3. The commission shall implement the rules, policy, and regulation of sports wagering.
4. A member of the commission who is not a permanent full-time state employee is to be compensated at a rate of seventy-five dollars per day and entitled to mileage and expenses as provided by law for state employees. A state employee who is a member of the commission must receive that employee's regular salary and is entitled to mileage and expenses, to be paid by the employing agency.

53-06.3-05. Application for license - Criminal history background check.

1. An application for a license or for renewal of a license required under this chapter must be submitted on a form provided by the commission. An applicant must be licensed currently in North Dakota or in another United States jurisdiction for sports wagering. An application submitted to the commission must include the following:
 - a. The full name, address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant or the applicant's wagering activities as described in subsection 2;
 - c. Consent to permit the commission to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
 - d. For the applicant and each person disclosed under subdivision b, a record of all previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's wagering system has been tested for use in North Dakota by an independent testing laboratory approved by the commission; and
 - f. Any additional information, including operational standards, required by the commission by rule.
2. The following persons are considered to have control of an applicant or a licensee or the applicant's or licensee's associated sports wagering activities:

- a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns ten percent or more of the corporate applicant or licensee or that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
 - b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's wagering business operation or which the commission otherwise determines has the ability to control the noncorporate applicant or licensee; and
 - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.
3. The commission shall require an applicant and each person disclosed under subdivision b of subsection 1 to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.
 4. A person licensed under this chapter shall give the commission written notice within thirty days of any material change to any information provided in the application for a license or renewal, including any change in the identity of persons considered to have control of the applicant or licensee as described in subsection 2.

53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.

The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

1. If the applicant or licensee knowingly has made a false statement of material fact to the commission.
2. If the applicant or licensee intentionally has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 53-06.3-05.
3. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities.
4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.
5. If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business, including payment of winnings.
6. If an applicant has not met the requirements of this chapter or other criteria the commission may establish.

53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees - Temporary license.

1. The commission shall issue a maximum of two retail sports wagering licenses and a maximum of three mobile sports wagering licenses to applicants that meet all requirements of this chapter and rules adopted under this chapter and have not violated any portion of section 53-06.3-06 or rules adopted under this chapter, together with other criteria the commission may deem most beneficial to the state in determining the award of licenses.
2. A qualified gaming entity may apply for a retail or mobile sports wagering license.
3. A retail sports wagering license or mobile sports wagering license issued by the commission pursuant to this section grants a licensee lawful authority to conduct sports wagering through a retail computerized wagering system or any mobile application, web-based, or digital platform approved by the commission within the terms and conditions of the license and any rules adopted under this chapter.
4. A licensed retail sports wagering operator:
 - a. May hold a retail sports wagering license that authorizes the licensed distributor to:
 - (1) Operate retail sports wagering through a central computer system using electronic, digital, and other systems that link wagering terminals, including kiosk terminals, located in physical locations across the state to the licensee's central wagering system;
 - (2) Distribute and service the sports wagering devices and terminals;
 - (3) Contract with licensed participating retail sports wagering locations to provide wagering terminals to the public for wagering purposes; and
 - (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in the state for a participating economic sponsorship with the retail sports wagering licensee, by mutual agreement.
 - b. May contract with a supplier to provide the equipment, wagering system operations, proposed rules, line and risk management, and other such services as may be required to comply with the rules under this chapter.
 - c. Owns the data generated through the retail sports wagering operations relative to player and customer lists.
 - d. May combine a mobile sports wagering application or web-based system in conjunction with the licensee's operation of retail sports wagering. Such mobile sports wagering, in conjunction with retail sports wagering may not reduce the maximum number of mobile wagering licenses that may be awarded.
 - e. May contract with a third-party supplier for the mobile wagering system and services under this chapter. The supplier of retail and

mobile wagering systems and services is subject to this chapter and rules adopted under this chapter.

5. The fee for an initial retail sports wagering license is twenty thousand dollars and a renewal license fee is ten thousand dollars. A retail sports wagering operator may apply for a mobile sports wagering license to be used in conjunction with the operator's retail sports wagering license for an additional fee of thirty thousand dollars and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless revoked sooner by the commission under section 53-06.3-05.
7. An applicant for a license under this chapter may submit with the application a request for a temporary license to the commission for the immediate commencement of sports wagering operations or other licensed activities provided for under this chapter. The request must include the associated initial license fee payable to the commission. Upon receiving a request for a temporary license, the commission shall review the request. If the commission determines the entity requesting the temporary license is qualified, has demonstrated the entity's ability to operate under the applicable rules, has paid the associated initial license fee, and has submitted the appropriate license application, the commission may authorize the qualified applicant to conduct the licensed activities for one year under a temporary license or until a final determination on the license application is made. An extension may be granted by the commission if approval requires more than one year. Sports wagering activities or services conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-09.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-08. Retail participating sports wagering location license - Supplier license.

1. The commission shall issue a retail participating sports wagering location license or a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. An applicant for a retail participating sports wagering location license shall demonstrate the premises meets the criteria and rules adopted under this chapter. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule under this chapter.
3. A retail sports wagering location license issued pursuant to this section grants a participating licensee lawful authority to have sports wagering terminals on the licensee's premises that are provided by and linked to the licensed retail sports wagering operator's central system on terms and conditions set forth by agreement between the two licenseholders and rules adopted under this chapter. A supplier license issued pursuant

- to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.
4. A limit may not be imposed on the number of participating locations in the state which may contract with a retail sports wagering licensee. A retail participating sports wagering location licensee is subject to this chapter and the rules adopted under this chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted under that chapter.
 5. The fee for an initial retail participating sports wagering location license is two thousand dollars with a renewal fee of one thousand dollars. The fee for an initial supplier license is seven thousand dollars with a renewal fee of two thousand five hundred dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
 6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless sooner revoked by the commission under section 53-06.3-06.
 7. An applicant for a retail participating sports wagering location license or supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the respective initial license fee. If the commission determines the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license, and has paid the initial license fee and the commission is not aware of any reason the applicant is ineligible for a license under this section, the commission may issue a temporary license. A temporary license issued under this subsection is valid for three years or until a final determination on the license application is made, whichever is sooner. If after investigation the commission determines the applicant is eligible for a license under this chapter, the commission shall issue the initial license, at which time the temporary license terminates.
 8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-09. Sports wagering house rules - Internal controls.

1. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies, and the effect of schedule changes. House rules must be approved by the commission before implementation.
2. The house rules, together with any other information the commission determines to be appropriate, must be available in the sports location and mobile wagering system.
3. An operator shall establish internal controls for the operation of retail and mobile sports wagering. The internal controls must be approved by the commission before implementation.

53-06.3-10. Operator duties.

An operator shall:

1. Employ a monitoring system using software to identify irregularities in volume or odds swings that could signal suspicious activity that requires further investigation. Such activity must be reported immediately to and investigated by the commission. System requirements and specifications must be in accordance with industry standards.
2. Promptly report to the commission any facts or circumstances related to the operation of a licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator which has been approved by the commission to the appropriate state or federal authorities.
3. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state.
4. Keep current in all payments and obligations to the commission.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a retail sports betting system, mobile application, or digital platform approved by the commission which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the commission and consistent with federal law.
7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
8. Maintain daily records showing the gross sports wagering receipts and net revenue from the gross sports wagering receipts of the licensee and timely file with the commission any additional reports required by rule or this chapter.

53-06.3-11. System assessment.

Within ninety days of commencing operations and annually thereafter, an operator shall perform a system integrity and security assessment of the sports wagering system and online sports wagering system conducted by an independent professional authorized by the commission and subject to licensure and approval of the commission. The independent professional's assessment report must be submitted to the commission and must include:

1. Scope of review;
2. Name and company affiliation of the individual who conducted the assessment;
3. Date of assessment;
4. Findings;
5. Recommended corrective action, if applicable; and
6. The operator's response to the findings and recommended corrective action.

53-06.3-12. Sports wagering agreements.

1. On behalf of this state, the commission may:
 - a. Enter a sports wagering agreement with another state, territory, nation, jurisdiction, government, or other entity to accept wagers from individuals located outside this state, if entering the sports wagering agreement does not violate state or federal law.
 - b. Take all necessary actions to ensure a sports wagering agreement entered pursuant to this section becomes effective.
2. The commission shall adopt rules to implement this section.

53-06.3-13. Acceptance of wagers - Excluded persons.

1. An operator may accept wagers on wagering events by means of computer systems, internet supported, and electronic devices using a computerized wagering system, mobile application, or digital platform approved by the commission. An individual placing a wager must be twenty-one years of age or older and physically be located in the state.
2. An operator shall allow patrons to fund a sports wagering account using:
 - a. A debit card;
 - b. A bonus or promotion;
 - c. An electronic bank transfer;
 - d. An online or mobile payment system that supports online money transfers; and
 - e. Any other means approved by the commission.
3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a computerized, mobile application, web-based, or digital platform approved by the commission. The branding for each mobile application or digital platform must be determined by the operator.
4. An operator may accept layoff wagers placed by other operators, and may place layoff wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.
5. The commission or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the commission and shared with each operator, and a person on the commission's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.
6. An employee of an operator may not place a wager on any wagering event through a central retail wagering system, mobile application, or digital platform of that employee's employer.

53-06.3-14. Sports wagering tax - Revenues - Limitation of other taxes.

1. For the privilege of holding a license to operate sports wagering under this chapter, a sports wagering tax is imposed on the net revenue of the

- operator. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.
- a. The tax is six and seventy-five hundredths percent of the retail sports wagering licensee's net revenue.
 - b. The tax is ten percent of the mobile sports wagering licensee's net revenue.
2. The following provisions govern operator returns and payment of tax pursuant to subsection 1:
- a. The tax levied and collected pursuant to subsection 1 is due and payable to the commission in quarterly installments on or before the fifteenth calendar day following the calendar end of the quarter in which the net revenue was received.
 - b. On or before the fifteenth calendar day following the end of the quarter, an operator shall complete and submit the return for the preceding quarter by electronic communication to the commission in the form prescribed by the commission that provides:
 - (1) The total gross wagering receipts and net revenue from that quarter;
 - (2) The tax amount for which the operator is liable; and
 - (3) Any additional information necessary in the computation and collection of the tax on the net revenue required by the commission.
 - c. The tax due must be remitted to the commission by electronic funds transfer at the time the quarterly returns are filed.
 - d. If the net revenue from the total gross wagering receipts for a quarter is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of net revenue from total gross sports wagering receipts may not be carried back to an earlier month and money previously received by the commission may not be refunded, except due to a proven error, or if the licensee surrenders the licensee's license and the licensee's last return reported negative net revenue from gross sports wagering receipts.
3. The tax imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

53-06.3-15. Sports wagering operating fund - Deposits and allocations.

There is created in the state treasury the sports wagering operating fund. All moneys received from fees, taxes, interest, fines, and any other moneys collected under this chapter must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must be distributed to the commission for the costs of administering and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

53-06.3-16. Civil violation.

Except as provided in section 53-06.3-17, a person that violates the provisions of this chapter commits a civil violation for which the commission may impose a fine of not more than ten thousand dollars for each violation. The commission shall deposit fines collected under this section in the sports wagering operating fund.

53-06.3-17. Unauthorized sports wagering - Penalties.

A person may not conduct sports wagering unless the person is licensed under this chapter. A person violating this section is guilty of a class B misdemeanor. A second violation is a class A misdemeanor. A third or subsequent violation is a class C felony.

SECTION 3. CONTINGENT EFFECTIVE DATE. This Act becomes effective on August 1, 2023, if the secretary of state certifies to the legislative council that House Concurrent Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the voters.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - SPORTS WAGERING. During the 2021-23 interim, the legislative management shall consider studying sports wagering. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-eighth legislative assembly."

Renumber accordingly

21.0499.01009
Title.

Prepared by the Legislative Council staff for
Representative Kasper
February 16, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide a penalty; to provide for application; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The sports wagering commission for each applicant or licensee under chapter 53-06.3.

SECTION 2. Chapter 53-06.3 of the North Dakota Century Code is created and enacted as follows:

53-06.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Commission" means the sports wagering commission established as a division of the attorney general's office.
2. "Gross wagering receipts" means an operator's total sports wagers less allowed free bets and allowed promotional credits.
3. "License" means a license applied for or issued by the commission under this chapter, including:
 - a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports wagering operator to operate sports wagering through sports wagering terminals, including kiosk terminals, placed in various licensed physical locations throughout the state which are linked to a licensed retail sports wagering operator's central computerized system for the operation of retail sports wagering.
 - b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile operator to operate sports wagering through an approved mobile application, web-based, or other digital platform that involves online wagering with the use of the internet. The term mobile means both a web-based online system and a mobile application.
 - c. A participating retail location license under section 53-06.3-08 for the retail outlets where sports wagering terminals are placed which are connected with a licensed retail sports wagering operator.

- d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract for equipment, systems, goods, and services to be used in connection with a sports wagering, but not to directly accept wagers in place of the retail or mobile licensed operators.
- 4. "Net revenue" means the total gross wagering receipts less allowed free wagers, allowed promotional play, payments to players for winnings, and any applicable federal excise tax. Payments to players includes payments of cash, cash equivalents, merchandise, or other thing of value awarded as a prize or payment, less any applicable federal excise tax.
- 5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee under section 53-06.3-07.
- 6. "Professional sports or athletic event" means an event:
 - a. At which two or more participants participate in a sports or athletic event and one or more participants receive compensation and which is not a prohibited sports event; or
 - b. Any other event authorized by the commission by rule.
- 7. "Prohibited sports event" means a high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless the activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
- 8. "Qualified gaming entity" means an eligible entity that offers sports wagering through retail sports wagering platforms, mobile applications, digital platforms, or web-based platforms that is approved by the commission.
- 9. "Retail sports wagering location" means a participating physical location licensed by the commission to have sports wagering devices and terminals on the premises which are provided by and linked to a licensed retail sports wagering operator's central system.
- 10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming distributor within the state at the time of application for a retail sports wagering operator's license and which previously has been a licensed gaming distributor in the state for a minimum of three years before submitting the application.
- 11. "Sports wagering" means the business of accepting wagers on wagering events or portions of wagering events, the individual performance statistics of individuals in wagering events, or a combination of any of the same by any system or method of wagering approved by the commission via a licensee's central computerized wagering system, mobile or online application, or digital platform that uses communications technology to accept wagers.
 - a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets.

b. The term does not include:

- (1) Fantasy contests in which participants assemble teams of athletes or individuals and the winning outcome reflects the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance of athletes or individuals in an actual event.
 - (2) Horse racing if sports wagering on the race is pari-mutuel, roulette, poker, blackjack, a card game, dice games, or any other game or contest allowed by law and approved for conduct by licensed or permitted charitable gaming organizations.
12. "Sports wagering account" means a financial record established by a licensee for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The term includes an account that can be established electronically through an approved mobile application or digital platform.
13. "Supplier" means a person that provides, manages, administers, or controls software, hardware, or services for a sports wagering operating system that directly impacts the operation of a sports betting system or platform, including geolocation services, know your customer services, payment processors, and data providers.
14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
15. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, collegiate sports or athletic event, or amateur sports or athletic event, including an olympic or international sports or athletic event, a motor vehicle race, an electronic sports event, commonly referred to as "e-sports", and any other event as permitted by the commission.

53-06.3-02. Authorization of sports wagering - License required.

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.
2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

53-06.3-03. Powers and duties of commission.

1. In administering and enforcing this chapter, the commission:
 - a. Shall adopt rules and regulate the conduct of sports wagering.

- b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
 - c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule adopted under this chapter by civil action or petition for injunctive relief.
 - e. May hold hearings and make provision to administer oaths and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.
 - f. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules adopted under this chapter.
2. The commission shall examine the rules and regulations implemented in states where sports wagering is conducted and shall adopt, as far as practicable, a similar framework to ensure the sports wagering industry is best positioned to succeed. The rules, at a minimum, must include:
- a. Qualifications for obtaining a license;
 - b. Qualifications for obtaining a temporary license;
 - c. The acceptance of wagers on a wagering event or a series of wagering events; method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER." or similar message at any participating retail location or on any mobile application or digital platform used to place wagers;
 - d. Standards for the adoption of comprehensive house rules governing sports wagering and adoption of the internal controls by operators and the approval of house rules and minimum controls by the commission as required under section 53-06.3-09;
 - e. Minimum design and security requirements for participating retail locations and systems, mobile applications, and digital platforms for the acceptance of wagers by mobile operators, including required methods for verifying the age and identity of an individual who places a wager and for verifying the individual making the wager physically is located in the state and is not prohibited from making a wager under section 53-06.3-12;
 - f. The types of interested parties prohibited from accepting wagers under section 53-06.3-12;
 - g. Minimum design, security, testing, and approval requirements for sports wagering equipment, systems, or services sold by suppliers licensed under section 53-06.3-08;

- a. The full name, address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant or the applicant's wagering activities as described in subsection 2;
 - c. Consent to permit the commission to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
 - d. For the applicant and each person disclosed under subdivision b, a record of all previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's wagering system has been tested for use in North Dakota by an independent testing laboratory approved by the commission; and
 - f. Any additional information, including operational standards, required by the commission by rule.
2. The following persons are considered to have control of an applicant or a licensee or the applicant's or licensee's associated sports wagering activities:
- a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns ten percent or more of the corporate applicant or licensee or that has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
 - b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's wagering business operation or which the commission otherwise determines has the ability to control the noncorporate applicant or licensee; and
 - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.
3. The commission shall require an applicant and each person disclosed under subdivision b of subsection 1 to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.
4. A person licensed under this chapter shall give the commission written notice within thirty days of any material change to any information provided in the application for a license or renewal, including any change in the identity of persons considered to have control of the applicant or licensee as described in subsection 2.

53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.

The commission may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

1. If the applicant or licensee knowingly has made a false statement of material fact to the commission.
2. If the applicant or licensee intentionally has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 53-06.3-05.
3. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities.
4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.
5. If the applicant or licensee has not demonstrated to the satisfaction of the commission financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business, including payment of winnings.
6. If an applicant has not met the requirements of this chapter or other criteria the commission may establish.

53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees - Temporary license.

1. The commission shall issue a maximum of two retail sports wagering licenses and a maximum of three mobile sports wagering licenses to applicants that meet all requirements of this chapter and rules adopted under this chapter and have not violated any portion of section 53-06.3-06 or rules adopted under this chapter, together with other criteria the commission may deem most beneficial to the state in determining the award of licenses.
2. A qualified gaming entity may apply for a retail or mobile sports wagering license.
3. A retail sports wagering license or mobile sports wagering license issued by the commission pursuant to this section grants a licensee lawful authority to conduct sports wagering through a retail computerized wagering system or any mobile application, web-based, or digital platform approved by the commission within the terms and conditions of the license and any rules adopted under this chapter.
4. A licensed retail sports wagering operator:
 - a. May hold a retail sports wagering license that authorizes the licensed distributor to:

- (1) Operate retail sports wagering through a central computer system using electronic, digital, and other systems that link wagering terminals, including kiosk terminals, located in physical locations across the state to the licensee's central wagering system;
 - (2) Distribute and service the sports wagering devices and terminals;
 - (3) Contract with licensed participating retail sports wagering locations to provide wagering terminals to the public for wagering purposes; and
 - (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in the state for a participating economic sponsorship with the retail sports wagering licensee, by mutual agreement.
- b. May contract with a supplier to provide the equipment, wagering system operations, proposed rules, line and risk management, and other such services as may be required to comply with the rules under this chapter.
 - c. Owns the data generated through the retail sports wagering operations relative to player and customer lists.
 - d. May combine a mobile sports wagering application or web-based system in conjunction with the licensee's operation of retail sports wagering. Such mobile sports wagering, in conjunction with retail sports wagering may not reduce the maximum number of mobile wagering licenses that may be awarded.
 - e. May contract with a third-party supplier for the mobile wagering system and services under this chapter. The supplier of retail and mobile wagering systems and services is subject to this chapter and rules adopted under this chapter.
5. The fee for an initial retail sports wagering license is twenty thousand dollars and a renewal license fee is ten thousand dollars. A retail sports wagering operator may apply for a mobile sports wagering license to be used in conjunction with the operator's retail sports wagering license for an additional fee of thirty thousand dollars and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
 6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless revoked sooner by the commission under section 53-06.3-05.

7. An applicant for a license under this chapter may submit with the application a request for a temporary license to the commission for the immediate commencement of sports wagering operations or other licensed activities provided for under this chapter. The request must include the associated initial license fee payable to the commission. Upon receiving a request for a temporary license, the commission shall review the request. If the commission determines the entity requesting the temporary license is qualified, has demonstrated the entity's ability to operate under the applicable rules, has paid the associated initial license fee, and has submitted the appropriate license application, the commission may authorize the qualified applicant to conduct the licensed activities for one year under a temporary license or until a final determination on the license application is made. An extension may be granted by the commission if approval requires more than one year. Sports wagering activities or services conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-09.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-08. Retail participating sports wagering location license - Supplier license.

1. The commission shall issue a retail participating sports wagering location license or a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. An applicant for a retail participating sports wagering location license shall demonstrate the premises meets the criteria and rules adopted under this chapter. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule under this chapter.
3. A retail sports wagering location license issued pursuant to this section grants a participating licensee lawful authority to have sports wagering terminals on the licensee's premises that are provided by and linked to the licensed retail sports wagering operator's central system on terms and conditions set forth by agreement between the two licenseholders and rules adopted under this chapter. A supplier license issued pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.
4. A limit may not be imposed on the number of participating locations in the state which may contract with a retail sports wagering licensee. A retail participating sports wagering location licensee is subject to this chapter and the rules adopted under this chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted under that chapter.
5. The fee for an initial retail participating sports wagering location license is two thousand dollars with a renewal fee of one thousand dollars. The fee for an initial supplier license is seven thousand dollars with a renewal fee of two thousand five hundred dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license

in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

6. Except as provided in subsection 6, a license issued or renewed under this section is valid for three years unless sooner revoked by the commission under section 53-06.3-06.
7. An applicant for a retail participating sports wagering location license or supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the respective initial license fee. If the commission determines the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license, and has paid the initial license fee and the commission is not aware of any reason the applicant is ineligible for a license under this section, the commission may issue a temporary license. A temporary license issued under this subsection is valid for three years or until a final determination on the license application is made, whichever is sooner. If after investigation the commission determines the applicant is eligible for a license under this chapter, the commission shall issue the initial license, at which time the temporary license terminates.
8. The commission shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-09. Sports wagering house rules - Internal controls.

1. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies, and the effect of schedule changes. House rules must be approved by the commission before implementation.
2. The house rules, together with any other information the commission determines to be appropriate, must be available in the sports location and mobile wagering system.
3. An operator shall establish internal controls for the operation of retail and mobile sports wagering. The internal controls must be approved by the commission before implementation.

53-06.3-10. Operator duties.

An operator shall:

1. Employ a monitoring system using software to identify irregularities in volume or odds swings that could signal suspicious activity that requires further investigation. Such activity must be reported immediately to and investigated by the commission. System requirements and specifications must be in accordance with industry standards.

2. Promptly report to the commission any facts or circumstances related to the operation of a licensee which constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator which has been approved by the commission to the appropriate state or federal authorities.
3. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state.
4. Keep current in all payments and obligations to the commission.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a retail sports betting system, mobile application, or digital platform approved by the commission which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the commission and consistent with federal law.
7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
8. Maintain daily records showing the gross sports wagering receipts and net revenue from the gross sports wagering receipts of the licensee and timely file with the commission any additional reports required by rule or this chapter.

53-06.3-11. System assessment.

Within ninety days of commencing operations and annually thereafter, an operator shall perform a system integrity and security assessment of the sports wagering system and online sports wagering system conducted by an independent professional authorized by the commission and subject to licensure and approval of the commission. The independent professional's assessment report must be submitted to the commission and must include:

1. Scope of review;
2. Name and company affiliation of the individual who conducted the assessment;
3. Date of assessment;
4. Findings;
5. Recommended corrective action, if applicable; and
6. The operator's response to the findings and recommended corrective action.

53-06.3-12. Sports wagering agreements.

1. On behalf of this state, the commission may:

- a. Enter a sports wagering agreement with another state, territory, nation, jurisdiction, government, or other entity to accept wagers from individuals located outside this state, if entering the sports wagering agreement does not violate state or federal law.
 - b. Take all necessary actions to ensure a sports wagering agreement entered pursuant to this section becomes effective.
2. The commission shall adopt rules to implement this section.

53-06.3-13. Acceptance of wagers - Excluded persons.

1. An operator may accept wagers on wagering events by means of computer systems, internet supported, and electronic devices using a computerized wagering system, mobile application, or digital platform approved by the commission. An individual placing a wager must be twenty-one years of age or older and physically be located in the state.
2. An operator shall allow patrons to fund a sports wagering account using:
 - a. A credit or debit card;
 - b. A bonus or promotion;
 - c. An electronic bank transfer;
 - d. An online or mobile payment system that supports online money transfers; and
 - e. Any other means approved by the commission.
3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a computerized, mobile application, web-based, or digital platform approved by the commission. The branding for each mobile application or digital platform must be determined by the operator.
4. An operator may accept layoff wagers placed by other operators, and may place layoff wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.
5. The commission or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the commission and shared with each operator, and a person on the commission's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.
6. An employee of an operator may not place a wager on any wagering event through a central retail wagering system, mobile application, or digital platform of that employee's employer.

53-06.3-14. Sports wagering tax - Revenues - Limitation of other taxes.

1. For the privilege of holding a license to operate sports wagering under this chapter, a sports wagering tax is imposed on the net revenue of the

operator. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

a. The tax is six and seventy-five hundredths percent of the retail sports wagering licensee's net revenue.

b. The tax is ten percent of the mobile sports wagering licensee's net revenue.

2. The following provisions govern operator returns and payment of tax pursuant to subsection 1:

a. The tax levied and collected pursuant to subsection 1 is due and payable to the commission in quarterly installments on or before the fifteenth calendar day following the calendar end of the quarter in which the net revenue was received.

b. On or before the fifteenth calendar day following the end of the quarter, an operator shall complete and submit the return for the preceding quarter by electronic communication to the commission in the form prescribed by the commission that provides:

(1) The total gross wagering receipts and net revenue from that quarter;

(2) The tax amount for which the operator is liable; and

(3) Any additional information necessary in the computation and collection of the tax on the net revenue required by the commission.

c. The tax due must be remitted to the commission by electronic funds transfer at the time the quarterly returns are filed.

d. If the net revenue from the total gross wagering receipts for a quarter is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the commission shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of net revenue from total gross sports wagering receipts may not be carried back to an earlier month and money previously received by the commission may not be refunded, except due to a proven error, or if the licensee surrenders the licensee's license and the licensee's last return reported negative net revenue from gross sports wagering receipts.

3. The tax imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

53-06.3-15. Sports wagering operating fund - Deposits and allocations.

There is created in the state treasury the sports wagering operating fund. All moneys received from fees, taxes, interest, fines, and any other moneys collected under this chapter must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must be distributed to the commission for the costs of administering

and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

53-06.3-16. Civil violation.

Except as provided in section 53-06.3-17, a person that violates the provisions of this chapter commits a civil violation for which the commission may impose a fine of not more than ten thousand dollars for each violation. The commission shall deposit fines collected under this section in the sports wagering operating fund.

53-06.3-17. Unauthorized sports wagering - Penalties.

A person may not conduct sports wagering unless the person is licensed under this chapter. A person violating this section is guilty of a class B misdemeanor. A second violation is a class A misdemeanor. A third or subsequent violation is a class C felony.

SECTION 3. APPLICATION. For the first sixteen months after the adoption of rules under section 53-06.3-03:

1. Sports wagering on a mobile device or computer may not be conducted.
2. Sports wagering may be conducted only via authorized terminals and kiosks.

SECTION 4. CONTINGENT EFFECTIVE DATE. This Act becomes effective on August 1, 2023, if the secretary of state certifies to the legislative council that House Concurrent Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the voters."

Renumber accordingly

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1234

Introduced by

Representatives Kasper, Becker, Boschee, Dockter, Louser, Mock, Schmidt

1 A BILL for an Act to create and enact section 53-06.1-10.3 of the North Dakota Century Code,
 2 relating to the authorization of sports betting as a game of chance; and to amend and reenact
 3 section 53-06.1-03 of the North Dakota Century Code, relating to authorization of sports betting
 4 as a game of chance. for an Act to create and enact a new subdivision to subsection 2 of section
 5 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history
 6 background checks and the regulation of sports wagering; to provide a penalty; to provide for
 7 application; and to provide a contingent effective date.

8 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

9 ~~SECTION 1. AMENDMENT. Section 53-06.1-03 of the North Dakota Century Code is~~
 10 ~~amended and reenacted as follows:~~

11 ~~53-06.1-03. Permits, site authorization, and licenses.~~

12 ~~1. Except as authorized by the attorney general, an organization that has its license~~
 13 ~~suspended or revoked, or has relinquished or not renewed its license and not~~
 14 ~~disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more~~
 15 ~~closely related organizations may have a license or permit at one time. A college or~~
 16 ~~university fraternity, sorority, or club is not closely related to an educational~~
 17 ~~organization. An organization shall apply for a permit as follows:~~

18 ~~a. An organization recognized as a public spirited organization by the governing~~
 19 ~~body of a city or county may apply for permits. A local permit may allow the~~
 20 ~~organization to conduct only raffles, bingo, or sports pools. A restricted event~~
 21 ~~permit may allow the organization to conduct only raffles, bingo, sports pools,~~
 22 ~~paddlewheels, twenty one, and poker. The organization or closely related~~
 23 ~~organizations as a whole may only award a primary prize that does not exceed~~
 24 ~~eight thousand dollars and total prizes of all games do not exceed forty thousand~~

- 1 dollars per year. These maximum prize amounts do not apply to raffles conducted
2 under chapter 20.1-08. The determination of what is a "public spirited
3 organization" is within the sole discretion of the governing body. An organization
4 shall disclose on the application its intended use of the net income from the
5 gaming activity. A governing body may issue a permit for games to be held at
6 designated times and places.
- 7 ~~b. An organization shall apply to the governing body of the city or county in which~~
8 ~~the proposed site is located. Application must be made on a form prescribed by~~
9 ~~the attorney general. Approval may be granted at the discretion of the governing~~
10 ~~body. A governing body may establish a fee not to exceed twenty five dollars for~~
11 ~~each permit. A permit must be on a fiscal year basis from July first to June~~
12 ~~thirtieth or on a calendar year basis.~~
- 13 ~~c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an organization~~
14 ~~that has a local permit may use the net income from the gaming activity for any~~
15 ~~purpose that does not violate this chapter or gaming rules.~~
- 16 ~~d. An organization that has a restricted event permit is restricted to one event per~~
17 ~~year and:~~
- 18 ~~(1) May not pay remuneration to employees for personal services;~~
19 ~~(2) Shall use chips as wagers;~~
20 ~~(3) Shall redeem a player's chips for merchandise prizes or cash;~~
21 ~~(4) Shall disburse net income to eligible uses referenced by subsection 2 of~~
22 ~~section 53-06.1-11.1; and~~
- 23 ~~(5) Shall file a report prescribed by the attorney general with the governing~~
24 ~~body and attorney general.~~
- 25 ~~2. An eligible organization shall apply for a license to conduct only bingo, electronic quick-~~
26 ~~shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty one, paddlewheels,~~
27 ~~peker, or sports pools, or sports betting by:~~
- 28 ~~a. First securing approval for a site authorization from the governing body of the city~~
29 ~~or county in which the proposed site is located. Approval, which may be granted~~
30 ~~at the discretion of the governing body, must be recorded on a site authorization~~
31 ~~form that is to accompany the license application to the attorney general for final~~

1 approval. A governing body may not require an eligible organization to donate net
2 proceeds to the city, county, or related political subdivision or for community
3 programs or services within the city or county as a condition for receiving a site
4 authorization from the city or county. A governing body may limit the number of
5 tables for the game of twenty-one per site and the number of sites upon which a
6 licensed organization may conduct games within the city or county. A governing
7 body may charge a one hundred dollar fee for a site authorization; and
8 ~~b. Annually applying for a license from the attorney general before July first on a~~
9 ~~form prescribed by the attorney general and remitting a one hundred fifty dollar~~
10 ~~license fee for each city or county that approves a site authorization. However,~~
11 ~~the attorney general may allow an organization that only conducts a raffle or~~
12 ~~calcutta in two or more cities or counties to annually apply for a consolidated~~
13 ~~license and remit a one hundred fifty dollar license fee for each city or county in~~
14 ~~which a site is located. An organization shall document that it qualifies as an~~
15 ~~eligible organization. If an organization amends its primary purpose as stated in~~
16 ~~its articles of incorporation or materially changes its basic character, the~~
17 ~~organization shall reapply for licensure.~~
18 ~~3. A licensed organization or organization that has a permit shall conduct games as~~
19 ~~follows:~~
20 ~~a. Only one licensed organization or organization that has a permit may conduct~~
21 ~~games at an authorized site on a day, except that a raffle may be conducted for a~~
22 ~~special occasion by another licensed organization or organization that has a~~
23 ~~permit when one of these conditions is met:~~
24 ~~(1) When the area for the raffle is physically separated from the area where~~
25 ~~games are conducted by the regular organization.~~
26 ~~(2) Upon request of the regular organization and with the approval of the~~
27 ~~alcoholic beverage establishment, the regular organization's license or~~
28 ~~permit is suspended for that specific time of day by the attorney general.~~
29 ~~b. Except for a temporary site authorized for fourteen or fewer consecutive days for~~
30 ~~not more than two events per quarter, a licensed organization may not have more~~
31 ~~than twenty-five sites unless granted a waiver by the attorney general. If the~~

1 attorney general finds that there is no other licensed organization interested in
2 conducting gaming at a site for which a waiver is being sought, the attorney
3 general may approve the waiver for no more than five sites.

4 ~~c. Games of electronic quick shot bingo, pull tabs, punchboards, twenty-one,
5 paddlewheels, poker, and sports pools, and sports betting may be conducted
6 only during the hours when alcoholic beverages may be dispensed according to
7 applicable regulations of the state, county, or city.~~

8 ~~d. An organization may not permit a person under twenty-one years of age to
9 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports
10 pools, sports betting, paddlewheels, or poker. An organization may not permit an
11 individual under eighteen years of age to directly or indirectly play electronic
12 quick shot bingo. An organization may not permit an individual under eighteen
13 years of age to directly or indirectly play bingo unless the individual is
14 accompanied by an adult, bingo is conducted by an organization that has a
15 permit, or the game's prize structure does not exceed that allowed for a permit.~~

16 ~~4. A permit, or site authorization and license, must be displayed at a site.~~

17 ~~5. The attorney general may issue a conditional license to an eligible organization whose
18 regularly issued license has expired or been suspended, revoked, or relinquished. The
19 attorney general shall designate the time period for which the conditional license is
20 valid and may impose any conditions.~~

21 ~~6. A governing body or local law enforcement official may inspect a site's gaming
22 equipment and examine or cause to be examined any gaming-related books and
23 records of a licensed organization or organization that has a permit.~~

24 ~~**SECTION 2.** Section 53-06.1-10.3 of the North Dakota Century Code is created and
25 enacted as follows:~~

26 ~~53-06.1-10.3. Sports betting.~~

27 ~~1. A licensed organization may conduct sports betting on certain professional sports or
28 athletic events. Sports betting is the activity of predicting professional sport or athletic
29 event results by making a wager on the outcome of a particular professional sport or
30 athletic event.~~

1 ~~2. "Professional sport or athletic event" means an event at which two or more individuals~~
2 ~~participate in a sport or athletic competition and receive compensation in excess of~~
3 ~~actual expenses for the individual's participation in the event.~~

4 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
5 Century Code is created and enacted as follows:

6 The sports wagering commission for each applicant or licensee under
7 chapter 53-06.3.

8 **SECTION 2.** Chapter 53-06.3 of the North Dakota Century Code is created and enacted as
9 follows:

10 **53-06.3-01. Definitions.**

11 As used in this chapter, unless the context otherwise requires:

- 12 1. "Commission" means the sports wagering commission established as a division of the
13 attorney general's office.
- 14 2. "Gross wagering receipts" means an operator's total sports wagers less allowed free
15 bets and allowed promotional credits.
- 16 3. "License" means a license applied for or issued by the commission under this chapter,
17 including:
 - 18 a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports
19 wagering operator to operate sports wagering through sports wagering terminals,
20 including kiosk terminals, placed in various licensed physical locations throughout
21 the state which are linked to a licensed retail sports wagering operator's central
22 computerized system for the operation of retail sports wagering.
 - 23 b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile
24 operator to operate sports wagering through an approved mobile application,
25 web-based, or other digital platform that involves online wagering with the use of
26 the internet. The term mobile means both a web-based online system and a
27 mobile application.
 - 28 c. A participating retail location license under section 53-06.3-08 for the retail outlets
29 where sports wagering terminals are placed which are connected with a licensed
30 retail sports wagering operator.

- 1 d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract
2 for equipment, systems, goods, and services to be used in connection with a
3 sports wagering, but not to directly accept wagers in place of the retail or mobile
4 licensed operators.
- 5 4. "Net revenue" means the total gross wagering receipts less allowed free wagers,
6 allowed promotional play, payments to players for winnings, and any applicable federal
7 excise tax. Payments to players includes payments of cash, cash equivalents,
8 merchandise, or other thing of value awarded as a prize or payment, less any
9 applicable federal excise tax.
- 10 5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee
11 under section 53-06.3-07.
- 12 6. "Professional sports or athletic event" means an event:
- 13 a. At which two or more participants participate in a sports or athletic event and one
14 or more participants receive compensation and which is not a prohibited sports
15 event; or
- 16 b. Any other event authorized by the commission by rule.
- 17 7. "Prohibited sports event" means a high school sports or athletic event, or any other
18 event in which a majority of the participants are under eighteen years of age unless
19 the activity qualifies as a professional sport or athletic event or is organized by an
20 international body such as the international olympic committee.
- 21 8. "Qualified gaming entity" means an eligible entity that offers sports wagering through
22 retail sports wagering platforms, mobile applications, digital platforms, or web-based
23 platforms that is approved by the commission.
- 24 9. "Retail sports wagering location" means a participating physical location licensed by
25 the commission to have sports wagering devices and terminals on the premises which
26 are provided by and linked to a licensed retail sports wagering operator's central
27 system.
- 28 10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming
29 distributor within the state at the time of application for a retail sports wagering
30 operator's license and which previously has been a licensed gaming distributor in the
31 state for a minimum of three years before submitting the application.

- 1 11. "Sports wagering" means the business of accepting wagers on wagering events or
2 portions of wagering events, the individual performance statistics of individuals in
3 wagering events, or a combination of any of the same by any system or method of
4 wagering approved by the commission via a licensee's central computerized wagering
5 system, mobile or online application, or digital platform that uses communications
6 technology to accept wagers.
- 7 a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline,
8 pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and
9 straight bets.
- 10 b. The term does not include:
- 11 (1) Fantasy contests in which participants assemble teams of athletes or
12 individuals and the winning outcome reflects the relative knowledge and skill
13 of the participants and is determined predominantly by the accumulated
14 statistical results of the performance of athletes or individuals in an actual
15 event.
- 16 (2) Horse racing if sports wagering on the race is pari-mutuel, roulette, poker,
17 blackjack, a card game, dice games, or any other game or contest allowed
18 by law and approved for conduct by licensed or permitted charitable gaming
19 organizations.
- 20 12. "Sports wagering account" means a financial record established by a licensee for an
21 individual patron in which the patron may deposit and withdraw funds for sports
22 wagering and other authorized purchases, and to which the licensed operator may
23 credit winnings or other amounts due to that patron or authorized by that patron. The
24 term includes an account that can be established electronically through an approved
25 mobile application or digital platform.
- 26 13. "Supplier" means a person that provides, manages, administers, or controls software,
27 hardware, or services for a sports wagering operating system that directly impacts the
28 operation of a sports betting system or platform, including geolocation services, know
29 your customer services, payment processors, and data providers.
- 30 14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

1 15. "Wagering event" means a sports or athletic event that is not a prohibited sports event,
2 including a professional sports or athletic event, collegiate sports or athletic event, or
3 amateur sports or athletic event, including an olympic or international sports or athletic
4 event, a motor vehicle race, an electronic sports event, commonly referred to as
5 "e-sports", and any other event as permitted by the commission.

6 **53-06.3-02. Authorization of sports wagering - License required.**

7 1. Notwithstanding any provision of law to the contrary, the operation of sports wagering
8 and ancillary activities are lawful when conducted in accordance with the provisions of
9 this chapter and the rules adopted under this chapter.

10 2. A person may not engage in any activities in this state which require a license under
11 this chapter unless the necessary license has been obtained in accordance with this
12 chapter and rules adopted under this chapter.

13 **53-06.3-03. Powers and duties of commission.**

14 1. In administering and enforcing this chapter, the commission:

15 a. Shall adopt rules and regulate the conduct of sports wagering.

16 b. Shall determine the eligibility of a person to hold or continue to hold a license,
17 issue all licenses, and maintain a record of all licenses issued under this chapter.

18 c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this
19 chapter, except as otherwise provided under this chapter.

20 d. May sue to enforce any provision of this chapter or any rule adopted under this
21 chapter by civil action or petition for injunctive relief.

22 e. May hold hearings and make provision to administer oaths and issue subpoenas
23 or subpoenas duces tecum in the manner provided by applicable law.

24 f. May exercise any other powers necessary to effectuate the provisions of this
25 chapter and the rules adopted under this chapter.

26 2. The commission shall examine the rules and regulations implemented in states where
27 sports wagering is conducted and shall adopt, as far as practicable, a similar
28 framework to ensure the sports wagering industry is best positioned to succeed. The
29 rules, at a minimum, must include:

30 a. Qualifications for obtaining a license;

31 b. Qualifications for obtaining a temporary license;

- 1 c. The acceptance of wagers on a wagering event or a series of wagering events;
2 method of accounting to be used by operators; types of records that must be
3 kept; type of system for wagering; protections for patrons placing wagers; and
4 promotion of social responsibility, responsible gaming, and inclusion of the
5 statement, "If you or someone you know has a gambling problem and wants help,
6 call 1-800-GAMBLER," or similar message at any participating retail location or
7 on any mobile application or digital platform used to place wagers;
- 8 d. Standards for the adoption of comprehensive house rules governing sports
9 wagering and adoption of the internal controls by operators and the approval of
10 house rules and minimum controls by the commission as required under section
11 53-06.3-09;
- 12 e. Minimum design and security requirements for participating retail locations and
13 systems, mobile applications, and digital platforms for the acceptance of wagers
14 by mobile operators, including required methods for verifying the age and identity
15 of an individual who places a wager and for verifying the individual making the
16 wager physically is located in the state and is not prohibited from making a wager
17 under section 53-06.3-12;
- 18 f. The types of interested parties prohibited from accepting wagers under section
19 53-06.3-12;
- 20 g. Minimum design, security, testing, and approval requirements for sports wagering
21 equipment, systems, or services sold by suppliers licensed under section
22 53-06.3-08;
- 23 h. Establishment of a list of individuals who are not authorized to place a wager on
24 a wagering event, including those individuals who voluntarily request their names
25 be included on the list of unauthorized individuals. The rules adopted under this
26 paragraph must define the standards for involuntary placement on the list and for
27 removal from the list; and
- 28 i. Minimum internal control standards for operators, including procedures for
29 safeguarding assets and revenues; the recording of cash and evidence of
30 indebtedness; the maintenance of reliable records, accounts, and reports of
31 transactions, operations, and events; required audits; and the content of and

1 frequency with which reports of sports wagering activities and revenues must be
2 made to the commission.

3 3. The commission shall adopt rules to implement this chapter within one hundred and
4 twenty days after the effective date of this Act and as necessary thereafter.

5 **53-06.3-04. Sports wagering commission.**

6 1. There is created the sports wagering commission, which is composed of five
7 members, three of whom are appointed by the attorney general and two of whom are
8 appointed by the governor. Of the members appointed by the governor, one must have
9 a background in accounting and one must have a background in law. The term of
10 office is three years, expiring on June thirtieth with no more than two terms expiring in
11 any one year. Each member must be a citizen of the United States and a resident of
12 this state. A chairman of the commission must be chosen annually by a majority of the
13 membership of the commission at the first meeting of the commission each fiscal year.
14 A member may serve as chairman for more than one year.

15 2. The commission shall meet at least once a quarter and any additional meetings as the
16 chairman deems necessary. Special meetings may be called by the chairman upon
17 the written request of the director or any three members of the commission.

18 3. The commission shall implement the rules, policy, and regulation of sports wagering.

19 4. A member of the commission who is not a permanent full-time state employee is to be
20 compensated at a rate of seventy-five dollars per day and entitled to mileage and
21 expenses as provided by law for state employees. A state employee who is a member
22 of the commission must receive that employee's regular salary and is entitled to
23 mileage and expenses, to be paid by the employing agency.

24 **53-06.3-05. Application for license - Criminal history background check.**

25 1. An application for a license or for renewal of a license required under this chapter
26 must be submitted on a form provided by the commission. An applicant must be
27 licensed currently in North Dakota or in another United States jurisdiction for sports
28 wagering. An application submitted to the commission must include the following:

29 a. The full name, address, and contact information of the applicant;

30 b. Disclosure of each person that has control of the applicant or the applicant's

31 wagering activities as described in subsection 2;

- 1 c. Consent to permit the commission to conduct a criminal history record check, in
2 accordance with subsection 3, of the applicant and each person disclosed under
3 subdivision b;
- 4 d. For the applicant and each person disclosed under subdivision b, a record of all
5 previous issuances and denials of a gambling-related license or application under
6 this title or in any other jurisdiction;
- 7 e. Proof the applicant's wagering system has been tested for use in North Dakota
8 by an independent testing laboratory approved by the commission; and
- 9 f. Any additional information, including operational standards, required by the
10 commission by rule.
- 11 2. The following persons are considered to have control of an applicant or a licensee or
12 the applicant's or licensee's associated sports wagering activities:
- 13 a. Each corporate holding company, parent company, or subsidiary company of a
14 corporate applicant or licensee and each person that owns ten percent or more of
15 the corporate applicant or licensee or that has the ability to control the activities
16 of the corporate applicant or licensee or elect a majority of the board of directors
17 of that corporate applicant or licensee, except for a bank or other licensed
18 lending institution that holds a mortgage or other lien acquired in the ordinary
19 course of business;
- 20 b. Each person associated with a noncorporate applicant or licensee which directly
21 or indirectly holds a beneficial or proprietary interest in the noncorporate
22 applicant's or licensee's wagering business operation or which the commission
23 otherwise determines has the ability to control the noncorporate applicant or
24 licensee; and
- 25 c. Any executive, employee, or agent of an applicant or licensee that has ultimate
26 decisionmaking authority over the conduct of the applicant or licensee's sports
27 wagering operations in this state.
- 28 3. The commission shall require an applicant and each person disclosed under
29 subdivision b of subsection 1 to submit to a statewide and nationwide criminal history
30 record check. The nationwide criminal history record check must be conducted in the
31 manner provided by section 12-60-24.

1 4. A person licensed under this chapter shall give the commission written notice within
2 thirty days of any material change to any information provided in the application for a
3 license or renewal, including any change in the identity of persons considered to have
4 control of the applicant or licensee as described in subsection 2.

5 **53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.**

6 The commission may deny a license to any applicant, reprimand any licensee, or suspend
7 or revoke a license:

8 1. If the applicant or licensee knowingly has made a false statement of material fact to
9 the commission.

10 2. If the applicant or licensee intentionally has not disclosed the existence or identity of
11 other persons that have control of the applicant or licensee as required by
12 section 53-06.3-05.

13 3. If the applicant or licensee has had a license revoked by any government authority
14 responsible for regulation of gaming activities.

15 4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related
16 offense, a theft or fraud offense, or has otherwise demonstrated, either by a police
17 record or other satisfactory evidence, a lack of respect for law and order.

18 5. If the applicant or licensee has not demonstrated to the satisfaction of the commission
19 financial responsibility sufficient to adequately meet the requirements of the licensed
20 business or proposed business, including payment of winnings.

21 6. If an applicant has not met the requirements of this chapter or other criteria the
22 commission may establish.

23 **53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees -**
24 **Temporary license.**

25 1. The commission shall issue a maximum of two retail sports wagering licenses and a
26 maximum of three mobile sports wagering licenses to applicants that meet all
27 requirements of this chapter and rules adopted under this chapter and have not
28 violated any portion of section 53-06.3-06 or rules adopted under this chapter.
29 together with other criteria the commission may deem most beneficial to the state in
30 determining the award of licenses.

31 2. A qualified gaming entity may apply for a retail or mobile sports wagering license.

1 3. A retail sports wagering license or mobile sports wagering license issued by the
2 commission pursuant to this section grants a licensee lawful authority to conduct
3 sports wagering through a retail computerized wagering system or any mobile
4 application, web-based, or digital platform approved by the commission within the
5 terms and conditions of the license and any rules adopted under this chapter.

6 4. A licensed retail sports wagering operator:

7 a. May hold a retail sports wagering license that authorizes the licensed distributor
8 to:

9 (1) Operate retail sports wagering through a central computer system using
10 electronic, digital, and other systems that link wagering terminals, including
11 kiosk terminals, located in physical locations across the state to the
12 licensee's central wagering system;

13 (2) Distribute and service the sports wagering devices and terminals;

14 (3) Contract with licensed participating retail sports wagering locations to
15 provide wagering terminals to the public for wagering purposes; and

16 (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in
17 the state for a participating economic sponsorship with the retail sports
18 wagering licensee, by mutual agreement.

19 b. May contract with a supplier to provide the equipment, wagering system
20 operations, proposed rules, line and risk management, and other such services
21 as may be required to comply with the rules under this chapter.

22 c. Owns the data generated through the retail sports wagering operations relative to
23 player and customer lists.

24 d. May combine a mobile sports wagering application or web-based system in
25 conjunction with the licensee's operation of retail sports wagering. Such mobile
26 sports wagering, in conjunction with retail sports wagering may not reduce the
27 maximum number of mobile wagering licenses that may be awarded.

28 e. May contract with a third-party supplier for the mobile wagering system and
29 services under this chapter. The supplier of retail and mobile wagering systems
30 and services is subject to this chapter and rules adopted under this chapter.

- 1 5. The fee for an initial retail sports wagering license is twenty thousand dollars and a
2 renewal license fee is ten thousand dollars. A retail sports wagering operator may
3 apply for a mobile sports wagering license to be used in conjunction with the
4 operator's retail sports wagering license for an additional fee of thirty thousand dollars
5 and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate
6 mobile sports wagering license is fifty thousand dollars. In addition to the license fee,
7 the commission may charge a processing fee for an initial or renewed license in an
8 amount equal to the projected cost of processing the application and performing any
9 background investigations. If the actual cost exceeds the projected cost, an additional
10 fee may be charged to meet the actual cost. If the projected cost exceeds the actual
11 cost, the difference may be refunded to the applicant or licensee.
- 12 6. Except as provided in subsection 6, a license issued or renewed under this section is
13 valid for three years unless revoked sooner by the commission under
14 section 53-06.3-05.
- 15 7. An applicant for a license under this chapter may submit with the application a request
16 for a temporary license to the commission for the immediate commencement of sports
17 wagering operations or other licensed activities provided for under this chapter. The
18 request must include the associated initial license fee payable to the commission.
19 Upon receiving a request for a temporary license, the commission shall review the
20 request. If the commission determines the entity requesting the temporary license is
21 qualified, has demonstrated the entity's ability to operate under the applicable rules,
22 has paid the associated initial license fee, and has submitted the appropriate license
23 application, the commission may authorize the qualified applicant to conduct the
24 licensed activities for one year under a temporary license or until a final determination
25 on the license application is made. An extension may be granted by the commission if
26 approval requires more than one year. Sports wagering activities or services
27 conducted under authority of a temporary license must comply with the operator's
28 house rules adopted pursuant to section 53-06.3-09.
- 29 8. The commission shall deposit all fees collected under this section in the sports
30 wagering operating fund.

53-06.3-08. Retail participating sports wagering location license - Supplier license.

1. The commission shall issue a retail participating sports wagering location license or a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.

2. An applicant for a retail participating sports wagering location license shall demonstrate the premises meets the criteria and rules adopted under this chapter. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule under this chapter.

3. A retail sports wagering location license issued pursuant to this section grants a participating licensee lawful authority to have sports wagering terminals on the licensee's premises that are provided by and linked to the licensed retail sports wagering operator's central system on terms and conditions set forth by agreement between the two licenseholders and rules adopted under this chapter. A supplier license issued pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.

4. A limit may not be imposed on the number of participating locations in the state which may contract with a retail sports wagering licensee. A retail participating sports wagering location licensee is subject to this chapter and the rules adopted under this chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted under that chapter.

5. The fee for an initial retail participating sports wagering location license is two thousand dollars with a renewal fee of one thousand dollars. The fee for an initial supplier license is seven thousand dollars with a renewal fee of two thousand five hundred dollars. In addition to the license fee, the commission may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

1 6. Except as provided in subsection 6, a license issued or renewed under this section is
2 valid for three years unless sooner revoked by the commission under
3 section 53-06.3-06.

4 7. An applicant for a retail participating sports wagering location license or supplier
5 license may submit with the application a request for a temporary license. A request
6 for a temporary license must include the respective initial license fee. If the
7 commission determines the applicant is qualified under subsection 2, meets the
8 requirements established by rule for a temporary license, and has paid the initial
9 license fee and the commission is not aware of any reason the applicant is ineligible
10 for a license under this section, the commission may issue a temporary license. A
11 temporary license issued under this subsection is valid for three years or until a final
12 determination on the license application is made, whichever is sooner. If after
13 investigation the commission determines the applicant is eligible for a license under
14 this chapter, the commission shall issue the initial license, at which time the temporary
15 license terminates.

16 8. The commission shall deposit all fees collected under this section in the sports
17 wagering operating fund.

18 **53-06.3-09. Sports wagering house rules - Internal controls.**

19 1. An operator shall adopt comprehensive house rules for game play governing sports
20 wagering transactions with the operator's patrons. The rules must specify the amounts
21 to be paid on winning wagers, the circumstances under which the operator will void a
22 bet, treatment of errors, late bets and related contingencies, and the effect of schedule
23 changes. House rules must be approved by the commission before implementation.

24 2. The house rules, together with any other information the commission determines to be
25 appropriate, must be available in the sports location and mobile wagering system.

26 3. An operator shall establish internal controls for the operation of retail and mobile
27 sports wagering. The internal controls must be approved by the commission before
28 implementation.

29 **53-06.3-10. Operator duties.**

30 An operator shall:

- 1 1. Employ a monitoring system using software to identify irregularities in volume or odds
2 swings that could signal suspicious activity that requires further investigation. Such
3 activity must be reported immediately to and investigated by the commission. System
4 requirements and specifications must be in accordance with industry standards.
- 5 2. Promptly report to the commission any facts or circumstances related to the operation
6 of a licensee which constitute a violation of state or federal law and immediately report
7 any suspicious betting over a threshold set by the operator which has been approved
8 by the commission to the appropriate state or federal authorities.
- 9 3. Conduct all sports wagering activities and functions in a manner that does not pose a
10 threat to the public health, safety, or welfare of the citizens of this state.
- 11 4. Keep current in all payments and obligations to the commission.
- 12 5. Prevent any person from tampering with or interfering with the operation of any sports
13 wagering.
- 14 6. Ensure sports wagering occurs using only a retail sports betting system, mobile
15 application, or digital platform approved by the commission which uses
16 communications technology to accept wagers originating in this state or in a state or
17 jurisdiction approved by the commission and consistent with federal law.
- 18 7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
- 19 8. Maintain daily records showing the gross sports wagering receipts and net revenue
20 from the gross sports wagering receipts of the licensee and timely file with the
21 commission any additional reports required by rule or this chapter.

22 **53-06.3-11. System assessment.**

23 Within ninety days of commencing operations and annually thereafter, an operator shall
24 perform a system integrity and security assessment of the sports wagering system and online
25 sports wagering system conducted by an independent professional authorized by the
26 commission and subject to licensure and approval of the commission. The independent
27 professional's assessment report must be submitted to the commission and must include:

- 28 1. Scope of review;
- 29 2. Name and company affiliation of the individual who conducted the assessment;
- 30 3. Date of assessment;
- 31 4. Findings;

1 5. Recommended corrective action, if applicable; and

2 6. The operator's response to the findings and recommended corrective action.

3 **53-06.3-12. Sports wagering agreements.**

4 1. On behalf of this state, the commission may:

5 a. Enter a sports wagering agreement with another state, territory, nation,

6 jurisdiction, government, or other entity to accept wagers from individuals located

7 outside this state, if entering the sports wagering agreement does not violate

8 state or federal law.

9 b. Take all necessary actions to ensure a sports wagering agreement entered

10 pursuant to this section becomes effective.

11 2. The commission shall adopt rules to implement this section.

12 **53-06.3-13. Acceptance of wagers - Excluded persons.**

13 1. An operator may accept wagers on wagering events by means of computer systems,

14 internet supported, and electronic devices using a computerized wagering system,

15 mobile application, or digital platform approved by the commission. An individual

16 placing a wager must be twenty-one years of age or older and physically be located in

17 the state.

18 2. An operator shall allow patrons to fund a sports wagering account using:

19 a. A credit or debit card;

20 b. A bonus or promotion;

21 c. An electronic bank transfer;

22 d. An online or mobile payment system that supports online money transfers; and

23 e. Any other means approved by the commission.

24 3. An operator may accept wagers from a patron physically located in this state through

25 the patron's sports wagering account, using a computerized, mobile application,

26 web-based, or digital platform approved by the commission. The branding for each

27 mobile application or digital platform must be determined by the operator.

28 4. An operator may accept layoff wagers placed by other operators, and may place layoff

29 wagers with other operators, as long as an operator that places a wager with another

30 operator informs the operator accepting the wager that the wager is being placed by

31 an operator and discloses the wagering operator's identity.

1 5. The commission or an operator may ban a person from participating in the play or
2 operation of sports wagering. A log of all excluded persons must be kept by the
3 commission and shared with each operator, and a person on the commission's
4 exclusion list or an operator's exclusion list may not engage in sports wagering under
5 this chapter.

6 6. An employee of an operator may not place a wager on any wagering event through a
7 central retail wagering system, mobile application, or digital platform of that
8 employee's employer.

9 **53-06.3-14, Sports wagering tax - Revenues - Limitation of other taxes.**

10 1. For the privilege of holding a license to operate sports wagering under this chapter, a
11 sports wagering tax is imposed on the net revenue of the operator. The accrual
12 method of accounting must be used for purposes of calculating the amount of the tax
13 owed by the licensee.

14 a. The tax is six and seventy-five hundredths percent of the retail sports wagering
15 licensee's net revenue.

16 b. The tax is ten percent of the mobile sports wagering licensee's net revenue.

17 2. The following provisions govern operator returns and payment of tax pursuant to
18 subsection 1:

19 a. The tax levied and collected pursuant to subsection 1 is due and payable to the
20 commission in quarterly installments on or before the fifteenth calendar day
21 following the calendar end of the quarter in which the net revenue was received.

22 b. On or before the fifteenth calendar day following the end of the quarter, an
23 operator shall complete and submit the return for the preceding quarter by
24 electronic communication to the commission in the form prescribed by the
25 commission that provides:

26 (1) The total gross wagering receipts and net revenue from that quarter;

27 (2) The tax amount for which the operator is liable; and

28 (3) Any additional information necessary in the computation and collection of
29 the tax on the net revenue required by the commission.

30 c. The tax due must be remitted to the commission by electronic funds transfer at
31 the time the quarterly returns are filed.

1 d. If the net revenue from the total gross wagering receipts for a quarter is a
2 negative number because the winnings paid to a licensee's sports wagering
3 patrons exceed the licensee's gross sports wagering receipts, the commission
4 shall allow the licensee to carry over the negative amount to returns filed for
5 subsequent months. The negative amount of net revenue from total gross sports
6 wagering receipts may not be carried back to an earlier month and money
7 previously received by the commission may not be refunded, except due to a
8 proven error, or if the licensee surrenders the licensee's license and the
9 licensee's last return reported negative net revenue from gross sports wagering
10 receipts.

11 3. The tax imposed by this section is in lieu of all other state and local taxes and fees
12 imposed on the operation of or the proceeds from the operation of sports wagering.

13 **53-06.3-15. Sports wagering operating fund - Deposits and allocations.**

14 There is created in the state treasury the sports wagering operating fund. All moneys
15 received from fees, taxes, interest, fines, and any other moneys collected under this chapter
16 must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must
17 be distributed to the commission for the costs of administering and regulating sports wagering in
18 the state, including costs relating to employees, equipment, and supplies.

19 **53-06.3-16. Civil violation.**

20 Except as provided in section 53-06.3-17, a person that violates the provisions of this
21 chapter commits a civil violation for which the commission may impose a fine of not more than
22 ten thousand dollars for each violation. The commission shall deposit fines collected under this
23 section in the sports wagering operating fund.

24 **53-06.3-17. Unauthorized sports wagering - Penalties.**

25 A person may not conduct sports wagering unless the person is licensed under this chapter.
26 A person violating this section is guilty of a class B misdemeanor. A second violation is a class A
27 misdemeanor. A third or subsequent violation is a class C felony.

28 **SECTION 3. APPLICATION.** For the first sixteen months after the adoption of rules under
29 section 53-06.3-03:

- 30 1. Sports wagering on a mobile device or computer may not be conducted.
31 2. Sports wagering may be conducted only via authorized terminals and kiosks.

1 **SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on August 1,
2 2023, if the secretary of state certifies to the legislative council that House Concurrent
3 Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved
4 by the voters.

Sixty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1234

Introduced by

Representatives Kasper, Becker, Boschee, Dockter, Louser, Mock, Schmidt

1 A BILL ~~for an Act to create and enact section 53-06.1-10.3 of the North Dakota Century Code,~~
 2 ~~relating to the authorization of sports betting as a game of chance; and to amend and reenact~~
 3 ~~section 53-06.1-03 of the North Dakota Century Code, relating to authorization of sports betting~~
 4 ~~as a game of chance.~~ for an Act to create and enact a new subdivision to subsection 2 of section
 5 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history
 6 background checks and the regulation of sports wagering; to provide a penalty; and to provide a
 7 contingent effective date.

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

9 **SECTION 1. AMENDMENT.** ~~Section 53-06.1-03 of the North Dakota Century Code is~~
 10 ~~amended and reenacted as follows:~~

11 ~~— 53-06.1-03. Permits, site authorization, and licenses.~~

12 ~~— 1. — Except as authorized by the attorney general, an organization that has its license~~
 13 ~~suspended or revoked, or has relinquished or not renewed its license and not~~
 14 ~~disbursed its net proceeds, is ineligible for a license or permit. Only one of two or more~~
 15 ~~closely related organizations may have a license or permit at one time. A college or~~
 16 ~~university fraternity, sorority, or club is not closely related to an educational~~
 17 ~~organization. An organization shall apply for a permit as follows:~~

18 ~~— a. — An organization recognized as a public-spirited organization by the governing~~
 19 ~~body of a city or county may apply for permits. A local permit may allow the~~
 20 ~~organization to conduct only raffles, bingo, or sports pools. A restricted event~~
 21 ~~permit may allow the organization to conduct only raffles, bingo, sports pools,~~
 22 ~~paddlewheels, twenty-one, and poker. The organization or closely related~~
 23 ~~organizations as a whole may only award a primary prize that does not exceed~~
 24 ~~eight thousand dollars and total prizes of all games do not exceed forty thousand~~

1 dollars per year. These maximum prize amounts do not apply to raffles conducted
2 under chapter 20.1-08. The determination of what is a "public spirited
3 organization" is within the sole discretion of the governing body. An organization
4 shall disclose on the application its intended use of the net income from the
5 gaming activity. A governing body may issue a permit for games to be held at
6 designated times and places.

7 ~~b.~~ An organization shall apply to the governing body of the city or county in which
8 the proposed site is located. Application must be made on a form prescribed by
9 the attorney general. Approval may be granted at the discretion of the governing
10 body. A governing body may establish a fee not to exceed twenty five dollars for
11 each permit. A permit must be on a fiscal year basis from July first to June
12 thirtieth or on a calendar year basis.

13 ~~c.~~ Except for the restriction of subsection 1 of section 53-06.1-11.1, an organization
14 that has a local permit may use the net income from the gaming activity for any
15 purpose that does not violate this chapter or gaming rules.

16 ~~d.~~ An organization that has a restricted event permit is restricted to one event per
17 year and:

18 ~~(1)~~ May not pay remuneration to employees for personal services;

19 ~~(2)~~ Shall use chips as wagers;

20 ~~(3)~~ Shall redeem a player's chips for merchandise prizes or cash;

21 ~~(4)~~ Shall disburse net income to eligible uses referenced by subsection 2 of
22 section 53-06.1-11.1; and

23 ~~(5)~~ Shall file a report prescribed by the attorney general with the governing
24 body and attorney general.

25 ~~2.~~ An eligible organization shall apply for a license to conduct only bingo, electronic quick
26 shot bingo, raffles, calcuttas, pull tabs, punchboards, twenty-one, paddlewheels,
27 poker, or sports pools, or sports betting by:

28 ~~a.~~ First securing approval for a site authorization from the governing body of the city
29 or county in which the proposed site is located. Approval, which may be granted
30 at the discretion of the governing body, must be recorded on a site authorization
31 form that is to accompany the license application to the attorney general for final

1 approval. A governing body may not require an eligible organization to donate net
2 proceeds to the city, county, or related political subdivision or for community
3 programs or services within the city or county as a condition for receiving a site
4 authorization from the city or county. A governing body may limit the number of
5 tables for the game of twenty-one per site and the number of sites upon which a
6 licensed organization may conduct games within the city or county. A governing
7 body may charge a one hundred dollar fee for a site authorization; and

8 ~~b. Annually applying for a license from the attorney general before July first on a~~
9 ~~form prescribed by the attorney general and remitting a one hundred fifty dollar~~
10 ~~license fee for each city or county that approves a site authorization. However,~~
11 ~~the attorney general may allow an organization that only conducts a raffle or~~
12 ~~calcutta in two or more cities or counties to annually apply for a consolidated~~
13 ~~license and remit a one hundred fifty dollar license fee for each city or county in~~
14 ~~which a site is located. An organization shall document that it qualifies as an~~
15 ~~eligible organization. If an organization amends its primary purpose as stated in~~
16 ~~its articles of incorporation or materially changes its basic character, the~~
17 ~~organization shall reapply for licensure.~~

18 ~~3. A licensed organization or organization that has a permit shall conduct games as~~
19 ~~follows:~~

20 ~~a. Only one licensed organization or organization that has a permit may conduct~~
21 ~~games at an authorized site on a day, except that a raffle may be conducted for a~~
22 ~~special occasion by another licensed organization or organization that has a~~
23 ~~permit when one of these conditions is met:~~

24 ~~(1) When the area for the raffle is physically separated from the area where~~
25 ~~games are conducted by the regular organization.~~

26 ~~(2) Upon request of the regular organization and with the approval of the~~
27 ~~alcoholic beverage establishment, the regular organization's license or~~
28 ~~permit is suspended for that specific time of day by the attorney general.~~

29 ~~b. Except for a temporary site authorized for fourteen or fewer consecutive days for~~
30 ~~not more than two events per quarter, a licensed organization may not have more~~
31 ~~than twenty-five sites unless granted a waiver by the attorney general. If the~~

1 attorney general finds that there is no other licensed organization interested in
2 conducting gaming at a site for which a waiver is being sought, the attorney
3 general may approve the waiver for no more than five sites.

4 ~~c. Games of electronic quick shot bingo, pull tabs, punchboards, twenty-one,
5 paddlewheels, poker, and sports pools, and sports betting may be conducted
6 only during the hours when alcoholic beverages may be dispensed according to
7 applicable regulations of the state, county, or city.~~

8 ~~d. An organization may not permit a person under twenty-one years of age to
9 directly or indirectly play pull tabs, punchboards, twenty-one, calcuttas, sports
10 pools, sports betting, paddlewheels, or poker. An organization may not permit an
11 individual under eighteen years of age to directly or indirectly play electronic
12 quick shot bingo. An organization may not permit an individual under eighteen
13 years of age to directly or indirectly play bingo unless the individual is
14 accompanied by an adult, bingo is conducted by an organization that has a
15 permit, or the game's prize structure does not exceed that allowed for a permit.~~

16 ~~4. A permit, or site authorization and license, must be displayed at a site.~~

17 ~~5. The attorney general may issue a conditional license to an eligible organization whose
18 regularly issued license has expired or been suspended, revoked, or relinquished. The
19 attorney general shall designate the time period for which the conditional license is
20 valid and may impose any conditions.~~

21 ~~6. A governing body or local law enforcement official may inspect a site's gaming
22 equipment and examine or cause to be examined any gaming-related books and
23 records of a licensed organization or organization that has a permit.~~

24 ~~**SECTION 2.** Section 53-06.1-10.3 of the North Dakota Century Code is created and
25 enacted as follows:~~

26 ~~**53-06.1-10.3. Sports betting.**~~

27 ~~1. A licensed organization may conduct sports betting on certain professional sports or
28 athletic events. Sports betting is the activity of predicting professional sport or athletic
29 event results by making a wager on the outcome of a particular professional sport or
30 athletic event.~~

1 ~~2. "Professional sport or athletic event" means an event at which two or more individuals~~
2 ~~participate in a sport or athletic competition and receive compensation in excess of~~
3 ~~actual expenses for the individual's participation in the event.~~

4 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
5 Century Code is created and enacted as follows:

6 The attorney general for each applicant or licensee under chapter 53-06.3.

7 **SECTION 2.** Chapter 53-06.3 of the North Dakota Century Code is created and enacted as
8 follows:

9 **53-06.3-01. Definitions.**

10 As used in this chapter, unless the context otherwise requires:

11 1. "Adjusted gross sports wagering receipts" means an operator's gross receipts from
12 sports wagering excluding free bets and promotional credits, less the total of all
13 winnings paid to patrons, which includes the cash equivalent of any merchandise or
14 thing of value awarded as a prize, and less excise tax payments remitted to the federal
15 government.

16 2. "License" means a license applied for or issued by the attorney general under this
17 chapter, including:

18 a. A mobile sports wagering license under section 53-06.3-06 to permit a mobile
19 operator to operate sports wagering through an approved mobile application or
20 other digital platform that involves, at least in part, the use of the internet; and

21 b. A supplier license under section 53-06.3-07 to sell goods and services to be used
22 in connection with sports wagering, but not to directly accept wagers.

23 3. "Operator" means a mobile sports wagering licensee under section 53-06.3-06.

24 4. "Professional sports or athletic event" means an event at which two or more
25 participants participate in a sports or athletic event and one or more participants
26 receive compensation and which is not a prohibited sports event.

27 5. "Prohibited sports event" means a high school sports or athletic event, or any other
28 event in which a majority of the participants are under eighteen years of age unless
29 such activity qualifies as a professional sport or athletic event or is organized by an
30 international body such as the international olympic committee.

1 6. "Qualified gaming entity" means an entity that offers sports wagering through mobile
2 applications or digital platforms in any jurisdiction in the United States pursuant to a
3 state regulatory structure.

4 7. "Sports wagering" means the business of accepting wagers on wagering events or
5 portions of wagering events, the individual performance statistics of individuals in
6 wagering events, or a combination of any of the same by any system or method of
7 wagering approved by the attorney general via a mobile sports wagering licensee's
8 mobile applications and digital platforms that use communications technology to
9 accept wagers. The term includes single-game bets, teaser bets, parlays, over-under,
10 moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition
11 bets, and straight bets. The term does not include fantasy contests in which
12 participants assemble teams of athletes or individuals and the winning outcome
13 reflects the relative knowledge and skill of the participants and is determined
14 predominantly by the accumulated statistical results of the performance of athletes or
15 individuals in an actual event.

16 8. "Sports wagering account" means a financial record established by an operator for an
17 individual patron in which the patron may deposit and withdraw funds for sports
18 wagering and other authorized purchases, and to which the licensed operator may
19 credit winnings or other amounts due to that patron or authorized by that patron. The
20 term includes an account that can be established electronically through an approved
21 mobile application or digital platform.

22 9. "Supplier" means a person that manages, administers, or controls software or
23 hardware directly impacting the operation of a sports betting platform, including
24 geolocation services, know your customer services, payment processors, and data
25 providers.

26 10. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

27 11. "Wagering event" means a sports or athletic event that is not a prohibited sports event,
28 including a professional sports or athletic event, collegiate sports or athletic event, or
29 amateur sports or athletic event, including an olympic or international sports or athletic
30 event, a motor vehicle race, an electronic sports event, commonly referred to as
31 "e-sports", and any other event as permitted by the attorney general.

53-06.3-02. Authorization of sports wagering - License required.

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.
2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

53-06.3-03. Powers and duties of attorney general.

1. In administering and enforcing this chapter, the attorney general:
 - a. Shall regulate the conduct of sports wagering.
 - b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
 - c. Shall levy and collect all fees, civil penalties, and tax on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule of the attorney general by civil action or petition for injunctive relief.
 - e. May hold hearings, administer oaths, and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.
 - f. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules of the attorney general.
2. The attorney general shall examine the rules and regulations implemented in states where sports wagering is conducted and shall adopt, as far as practicable, a similar framework to ensure the sports wagering industry is best positioned to succeed. The rules, at a minimum, must include:
 - a. Qualifications for obtaining a mobile sports wagering license or supplier license;
 - b. Qualifications for obtaining a temporary mobile sports wagering license and temporary supplier license;
 - c. The acceptance of wagers on a wagering event or a series of wagering events;
method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and

1 promotion of social responsibility, responsible gaming, and inclusion of the
2 statement, "If you or someone you know has a gambling problem and wants help,
3 call 1-800-GAMBLER" or similar message on any mobile application or digital
4 platform used to place wagers;

5 d. Standards for the adoption of comprehensive house rules governing sports
6 wagering by operators and the approval of house rules by the attorney general as
7 required under section 53-06.3-08;

8 e. Minimum design and security requirements for mobile applications and digital
9 platforms for the acceptance of wagers by mobile operators, including required
10 methods for verifying the age and identity of an individual who places a wager
11 with a mobile operator and for verifying the individual making the wager
12 physically is located in the state and is not prohibited from making a wager under
13 section 53-06.3-11;

14 f. The types of interested parties prohibited from accepting wagers under section
15 53-06.3-11;

16 g. Minimum design, security, testing, and approval requirements for sports wagering
17 equipment, systems, or services sold by suppliers licensed under section
18 53-06.3-07;

19 h. Establishment of a list of individuals who are not authorized to place a wager on
20 a sports event, including those individuals who voluntarily request their names be
21 included on the list of unauthorized individuals. The rules adopted under this
22 paragraph must define the standards for involuntary placement on the list and for
23 removal from the list; and

24 i. Minimum internal control standards for operators, including procedures for
25 safeguarding assets and revenues; the recording of cash and evidence of
26 indebtedness; the maintenance of reliable records, accounts, and reports of
27 transactions, operations, and events; required audits; and the content of and
28 frequency with which reports of sports wagering activities and revenues must be
29 made to the attorney general.

30 3. The attorney general shall adopt rules to implement this chapter.

53-06.3-04. Application for license - Criminal history background check.

1. An application for a license or for renewal of a license required under this chapter must be submitted on a form provided by the attorney general. An application submitted to the attorney general must include the following:
 - a. The full name, current address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant as described in subsection 2;
 - c. Consent to permit the attorney general to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
 - d. For the applicant and each person disclosed under subdivision b, a record of previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's system has been tested and certified for use in another United States jurisdiction by an independent testing laboratory; and
 - f. Any additional information required by the attorney general by rule.
2. The following persons are considered to have control of an applicant or a licensee:
 - a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that owns fifteen percent or more of the corporate applicant or licensee and has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
 - b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's business operation or that the attorney general otherwise determines has the ability to control the noncorporate applicant or licensee; and
 - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.

1 3. The attorney general shall require an applicant and each person disclosed under
2 subdivision b of subsection 1 to submit to a statewide and nationwide criminal history
3 record check, except that an individual who has submitted to a criminal background
4 check in this or any other state within the previous twelve months may not be required
5 to submit to another criminal background check provided the individual submits the
6 results of the previous criminal background check and affirms there has been no
7 material change in the individual's criminal history since the time of the criminal
8 background check. The nationwide criminal history record check must be conducted in
9 the manner provided by section 12-60-24.

10 4. A person licensed under this chapter shall give the attorney general written notice
11 within thirty days of any material change to any information provided in the licensee's
12 application for a license or renewal, including any change in the identity of persons
13 considered to have control of the licensee as described in subsection 2.

14 **53-06.3-05. Denial of license - Reprimand - Suspension - Revocation.**

15 The attorney general may deny a license to any applicant, reprimand any licensee, or
16 suspend or revoke a license:

17 1. If the applicant or licensee knowingly has made a false statement of material fact to
18 the attorney general.

19 2. If the applicant or licensee intentionally has not disclosed the existence or identity of
20 other persons that have control of the applicant or licensee as required by
21 section 53-06.3-04.

22 3. If the applicant or licensee has had a license revoked by any government authority
23 responsible for regulation of gaming activities.

24 4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related
25 offense, a theft or fraud offense, or has otherwise demonstrated, either by a police
26 record or other satisfactory evidence, a lack of respect for law and order.

27 5. If the applicant or licensee has not demonstrated to the satisfaction of the attorney
28 general financial responsibility sufficient to adequately meet the requirements of the
29 licensed business or proposed business.

30 6. If an applicant has not met the requirements of this chapter.

53-06.3-06. Mobile sports wagering license.

1. The attorney general shall issue a mobile sports wagering license to an applicant that meets all requirements of this chapter and rules adopted under this chapter and that has not violated any portion of section 53-06.3-05 or rules adopted under this chapter. The attorney general may issue a maximum of three mobile sports wagering licenses to qualified applicants that are able to meet the duties of a license holder under this chapter and that the attorney general determines will be able to best maximize taxable revenue for the state.

2. A qualified gaming entity is eligible to apply for a mobile sports wagering license.

3. A mobile sports wagering license issued by the attorney general pursuant to this section grants a licensee lawful authority to conduct sports wagering through any mobile application or digital platform approved by the attorney general within the terms and conditions of the license and any rules adopted under this chapter.

4. The fee for an initial or renewed mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the attorney general may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.

5. Except as provided in subsection 6, a license issued or renewed under this section is valid for five years unless revoked sooner by the attorney general under section 53-06.3-05.

6. An applicant for a mobile sports wagering license may submit with the application a request to the attorney general for the immediate commencement of sports wagering operations. The request must include the initial license fee of fifty thousand dollars payable to the attorney general. Upon receiving a request for a temporary license, the attorney general shall review the request. If the attorney general determines the entity requesting the temporary license is a qualified gaming entity, has paid the initial license fee, and has submitted an application for a sports wagering license, the attorney general shall authorize the qualified gaming entity to conduct sports wagering

1 for three years under a temporary license or until a final determination on the
2 operator's license application is made. Sports wagering conducted under authority of a
3 temporary license must comply with the operator's house rules adopted pursuant to
4 section 53-06.3-08.

5 7. The attorney general shall deposit all fees collected under this section in the sports
6 wagering operating fund.

7 **53-06.3-07. Supplier license.**

8 1. The attorney general shall issue a supplier license upon finding the applicant meets all
9 requirements of this chapter and rules adopted under this chapter.

10 2. An applicant for a supplier license shall demonstrate the equipment, systems, or
11 services the applicant plans to offer to an operator conform to standards established
12 by rule by the attorney general. The attorney general may accept approval by another
13 jurisdiction that is specifically determined by the attorney general to have similar
14 equipment standards as evidence the applicant meets the standards established by
15 the attorney general by rule.

16 3. A supplier license issued by the attorney general pursuant to this section grants a
17 licensee lawful authority to sell or to lease sports wagering equipment, systems, or
18 services to operators in the state within the terms and conditions of the license and
19 any rules adopted under this chapter.

20 4. The fee for an initial or renewed supplier license is five thousand dollars. In addition to
21 the license fee, the attorney general may charge a processing fee for an initial or
22 renewed license in an amount equal to the projected cost of processing the application
23 and performing any background investigations. If the actual cost exceeds the
24 projected cost, an additional fee may be charged to meet the actual cost. If the
25 projected cost exceeds the actual cost, the difference may be refunded to the
26 applicant or licensee.

27 5. Except as provided in subsection 6, a license issued or renewed under this section is
28 valid for five years unless sooner revoked by the attorney general under section
29 53-06.3-05.

30 6. An applicant for a supplier license may submit with the application a request for a
31 temporary license. A request for a temporary license must include the initial license fee

1 of five thousand dollars. If the attorney general determines the applicant is qualified
2 under subsection 2, meets the requirements established by rule for a temporary
3 license, and has paid the initial license fee and the attorney general is not aware of
4 any reason the applicant is ineligible for a license under this section, the attorney
5 general shall issue a temporary supplier license. A temporary license issued under this
6 subsection is valid for three years or until a final determination on the supplier license
7 application is made, whichever is sooner. If after investigation the attorney general
8 determines the applicant is eligible for a supplier license under this chapter, the
9 attorney general shall issue the initial supplier license, at which time the temporary
10 license terminates.

11 7. The attorney general shall deposit all fees collected under this section in the sports
12 wagering operating fund.

13 **53-06.3-08. Sports wagering house rules.**

14 1. An operator shall adopt comprehensive house rules for game play governing sports
15 wagering transactions with the operator's patrons. The rules must specify the amounts
16 to be paid on winning wagers, the circumstances under which the operator will void a
17 bet, treatment of errors, late bets and related contingencies, and the effect of schedule
18 changes. House rules must be approved by the attorney general before
19 implementation.

20 2. The house rules, together with any other information the attorney general determines
21 to be appropriate, must be available in the sports wagering system.

22 **53-06.3-09. Operator duties.**

23 An operator shall:

24 1. Employ a monitoring system using software to identify irregularities in volume or odds
25 swings that could signal suspicious activity that requires further investigation. Such
26 activity immediately must be reported to and investigated by the attorney general.
27 System requirements and specifications must be in accordance with industry
28 standards.

29 2. Promptly report to the attorney general any facts or circumstances related to the
30 operation of a licensee that constitute a violation of state or federal law and
31 immediately report any suspicious betting over a threshold set by the operator which

1 has been approved by the attorney general to the appropriate state or federal
2 authorities.

3 3. Conduct all sports wagering activities and functions in a manner that does not pose a
4 threat to the public health, safety, or welfare of the citizens of this state.

5 4. Keep current in all payments and obligations to the attorney general.

6 5. Prevent any person from tampering with or interfering with the operation of any sports
7 wagering.

8 6. Ensure sports wagering occurs using only a mobile application or digital platform
9 approved by the attorney general which uses communications technology to accept
10 wagers originating in this state or in a state or jurisdiction approved by the attorney
11 general and consistent with federal law.

12 7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.

13 8. Maintain daily records showing the gross sports wagering receipts and adjusted gross
14 sports wagering receipts of the licensee and timely file with the attorney general any
15 additional reports required by rule or this chapter.

16 **53-06.3-10. Sports wagering agreements.**

17 1. On behalf of this state, the attorney general may:

18 a. Enter a sports wagering agreement with another state, territory, nation,
19 jurisdiction, government, or other entity to accept wagers from individuals located
20 outside this state, so long as entering the sports wagering agreement does not
21 violate state or federal law.

22 b. Take all necessary actions to ensure a sports wagering agreement entered
23 pursuant to this section becomes effective.

24 2. The attorney general may adopt rules to implement this section.

25 **53-06.3-11. Acceptance of wagers - Excluded persons.**

26 1. An operator may accept wagers on wagering events by means of electronic devices
27 using a mobile application or digital platform approved by the attorney general. An
28 individual placing a wager must be twenty-one years of age or older and physically be
29 located in the state.

30 2. An operator shall allow patrons to fund a sports wagering account using:

31 a. A credit or debit card;

1 b. A bonus or promotion;

2 c. An electronic bank transfer;

3 d. An online or mobile payment system that supports online money transfers; and

4 e. Any other means approved by the attorney general.

5 3. An operator may accept wagers from a patron physically located in this state through
6 the patron's sports wagering account, using a mobile application or digital platform
7 approved by the attorney general. The branding for each mobile application or digital
8 platform must be determined by the operator.

9 4. An operator may accept layoff wagers placed by other operators, and may place layoff
10 wagers with other operators, as long as an operator that places a wager with another
11 operator informs the operator accepting the wager that the wager is being placed by
12 an operator and discloses the wagering operator's identity.

13 5. The attorney general or an operator may ban a person from participating in the play or
14 operation of sports wagering. A log of all excluded persons must be kept by the
15 attorney general and shared with each operator, and a person on the attorney
16 general's exclusion list or an operator's exclusion list may not engage in sports
17 wagering under this chapter.

18 6. An employee of an operator may not place a wager on any wagering event through a
19 mobile application or digital platform of that employee's employer.

20 **53-06.3-12. Sports wagering tax - Revenues - Limitation of other taxes.**

21 1. For the privilege of holding a license to operate sports wagering under this chapter, a
22 sports wagering tax is imposed on the adjusted gross sports wagering receipts of the
23 licensee. The tax is ten percent of the licensee's adjusted gross sports wagering
24 receipts. The accrual method of accounting must be used for purposes of calculating
25 the amount of the tax owed by the licensee.

26 2. The following provisions govern operator returns and payment of tax pursuant to
27 subsection 1:

28 a. The tax levied and collected pursuant to subsection 1 is due and payable to the
29 attorney general in monthly installments on or before the fifteenth calendar day
30 following the calendar month in which the adjusted gross sports wagering
31 receipts were received.

1 b. On or before the fifteenth calendar day, an operator shall complete and submit
2 the return for the preceding month by electronic communication to the attorney
3 general in the form prescribed by the attorney general that provides:

4 (1) The gross sports wagering receipts and adjusted gross sports wagering
5 receipts during that month;

6 (2) The tax amount for which the operator is liable; and

7 (3) Any additional information necessary in the computation and collection of
8 the tax on adjusted gross sports wagering receipts required by the attorney
9 general.

10 c. The tax due must be remitted to the attorney general by electronic funds transfer
11 at the time the returns are filed.

12 d. If adjusted gross sports wagering receipts for a month is a negative number
13 because the winnings paid to a licensee's sports wagering patrons exceed the
14 licensee's gross sports wagering receipts, the attorney general shall allow the
15 licensee to carry over the negative amount to returns filed for subsequent
16 months. The negative amount of adjusted gross sports wagering receipts may not
17 be carried back to an earlier month and money previously received by the
18 attorney general may not be refunded, except if the licensee surrenders the
19 licensee's license and the licensee's last return reported negative adjusted gross
20 sports wagering receipts.

21 3. The tax imposed by this section is in lieu of all other state and local taxes and fees
22 imposed on the operation of or the proceeds from the operation of sports wagering.

23 **53-06.3-13. Sports wagering operating fund - Deposits and allocations.**

24 There is created in the state treasury the sports wagering operating fund. All moneys
25 received from fees, taxes, interest, fines, and any other moneys collected under this chapter
26 must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must
27 be distributed to the attorney general for the costs of administering and regulating sports
28 wagering in the state, including costs relating to employees, equipment, and supplies.

29 **53-06.3-14. Civil violation.**

30 Except as provided in section 53-06.3-15, a person that violates the provisions of this
31 chapter commits a civil violation for which the attorney general may impose a fine of not more

1 than ten thousand dollars for each violation. The attorney general shall deposit fines collected
2 under this section in the sports wagering operating fund.

3 **53-06.3-15. Unauthorized sports wagering - Penalties.**

4 A person may not conduct sports wagering unless the person is licensed under this chapter.
5 A person violating this section is guilty of a class B misdemeanor. A second violation is a class A
6 misdemeanor. A third or subsequent violation is a class C felony.

7 **SECTION 3. CONTINGENT EFFECTIVE DATE.** This Act becomes effective thirty days
8 after the secretary of state certifies to the legislative council that House Concurrent Resolution
9 No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the
10 voters.

21.0499.01008
Title.

Prepared by the Legislative Council staff for
Representative Howe
February 16, 2021

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1234

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide a penalty; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

The attorney general for each applicant or licensee under chapter 53-06.3.

SECTION 2. Chapter 53-06.3 of the North Dakota Century Code is created and enacted as follows:

53-06.3-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Adjusted gross sports wagering receipts" means an operator's gross receipts from sports wagering excluding free bets and promotional credits, less the total of all winnings paid to patrons, which includes the cash equivalent of any merchandise or thing of value awarded as a prize, and less excise tax payments remitted to the federal government.
2. "License" means a license applied for or issued by the attorney general under this chapter, including:
 - a. A mobile sports wagering license under section 53-06.3-06 to permit a mobile operator to operate sports wagering through an approved mobile application or other digital platform that involves, at least in part, the use of the internet; and
 - b. A supplier license under section 53-06.3-07 to sell goods and services to be used in connection with sports wagering, but not to directly accept wagers.
3. "Operator" means a mobile sports wagering licensee under section 53-06.3-06.
4. "Professional sports or athletic event" means an event at which two or more participants participate in a sports or athletic event and one or more participants receive compensation and which is not a prohibited sports event.

5. "Prohibited sports event" means a high school sports or athletic event, or any other event in which a majority of the participants are under eighteen years of age unless such activity qualifies as a professional sport or athletic event or is organized by an international body such as the international olympic committee.
6. "Qualified gaming entity" means an entity that offers sports wagering through mobile applications or digital platforms in any jurisdiction in the United States pursuant to a state regulatory structure.
7. "Sports wagering" means the business of accepting wagers on wagering events or portions of wagering events, the individual performance statistics of individuals in wagering events, or a combination of any of the same by any system or method of wagering approved by the attorney general via a mobile sports wagering licensee's mobile applications and digital platforms that use communications technology to accept wagers. The term includes single-game bets, teaser bets, parlays, over-under, moneyline, pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets. The term does not include fantasy contests in which participants assemble teams of athletes or individuals and the winning outcome reflects the relative knowledge and skill of the participants and is determined predominantly by the accumulated statistical results of the performance of athletes or individuals in an actual event.
8. "Sports wagering account" means a financial record established by an operator for an individual patron in which the patron may deposit and withdraw funds for sports wagering and other authorized purchases, and to which the licensed operator may credit winnings or other amounts due to that patron or authorized by that patron. The term includes an account that can be established electronically through an approved mobile application or digital platform.
9. "Supplier" means a person that manages, administers, or controls software or hardware directly impacting the operation of a sports betting platform, including geolocation services, know your customer services, payment processors, and data providers.
10. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.
11. "Wagering event" means a sports or athletic event that is not a prohibited sports event, including a professional sports or athletic event, collegiate sports or athletic event, or amateur sports or athletic event, including an olympic or international sports or athletic event, a motor vehicle race, an electronic sports event, commonly referred to as "e-sports", and any other event as permitted by the attorney general.

53-06.3-02. Authorization of sports wagering - License required.

1. Notwithstanding any provision of law to the contrary, the operation of sports wagering and ancillary activities are lawful when conducted in accordance with the provisions of this chapter and the rules adopted under this chapter.

2. A person may not engage in any activities in this state which require a license under this chapter unless the necessary license has been obtained in accordance with this chapter and rules adopted under this chapter.

53-06.3-03. Powers and duties of attorney general.

1. In administering and enforcing this chapter, the attorney general:
 - a. Shall regulate the conduct of sports wagering.
 - b. Shall determine the eligibility of a person to hold or continue to hold a license, issue all licenses, and maintain a record of all licenses issued under this chapter.
 - c. Shall levy and collect all fees, civil penalties, and tax on adjusted gross sports wagering receipts imposed by this chapter, except as otherwise provided under this chapter.
 - d. May sue to enforce any provision of this chapter or any rule of the attorney general by civil action or petition for injunctive relief.
 - e. May hold hearings, administer oaths, and issue subpoenas or subpoenas duces tecum in the manner provided by applicable law.
 - f. May exercise any other powers necessary to effectuate the provisions of this chapter and the rules of the attorney general.
2. The attorney general shall examine the rules and regulations implemented in states where sports wagering is conducted and shall adopt, as far as practicable, a similar framework to ensure the sports wagering industry is best positioned to succeed. The rules, at a minimum, must include:
 - a. Qualifications for obtaining a mobile sports wagering license or supplier license;
 - b. Qualifications for obtaining a temporary mobile sports wagering license and temporary supplier license;
 - c. The acceptance of wagers on a wagering event or a series of wagering events; method of accounting to be used by operators; types of records that must be kept; type of system for wagering; protections for patrons placing wagers; and promotion of social responsibility, responsible gaming, and inclusion of the statement, "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER" or similar message on any mobile application or digital platform used to place wagers;
 - d. Standards for the adoption of comprehensive house rules governing sports wagering by operators and the approval of house rules by the attorney general as required under section 53-06.3-08;
 - e. Minimum design and security requirements for mobile applications and digital platforms for the acceptance of wagers by mobile operators, including required methods for verifying the age and identity of an individual who places a wager with a mobile operator and for verifying the individual making the wager physically is located

in the state and is not prohibited from making a wager under section 53-06.3-11;

- f. The types of interested parties prohibited from accepting wagers under section 53-06.3-11;
- g. Minimum design, security, testing, and approval requirements for sports wagering equipment, systems, or services sold by suppliers licensed under section 53-06.3-07;
- h. Establishment of a list of individuals who are not authorized to place a wager on a sports event, including those individuals who voluntarily request their names be included on the list of unauthorized individuals. The rules adopted under this paragraph must define the standards for involuntary placement on the list and for removal from the list; and
- i. Minimum internal control standards for operators, including procedures for safeguarding assets and revenues; the recording of cash and evidence of indebtedness; the maintenance of reliable records, accounts, and reports of transactions, operations, and events; required audits; and the content of and frequency with which reports of sports wagering activities and revenues must be made to the attorney general.

3. The attorney general shall adopt rules to implement this chapter.

53-06.3-04. Application for license - Criminal history background check.

- 1. An application for a license or for renewal of a license required under this chapter must be submitted on a form provided by the attorney general. An application submitted to the attorney general must include the following:
 - a. The full name, current address, and contact information of the applicant;
 - b. Disclosure of each person that has control of the applicant as described in subsection 2;
 - c. Consent to permit the attorney general to conduct a criminal history record check, in accordance with subsection 3, of the applicant and each person disclosed under subdivision b;
 - d. For the applicant and each person disclosed under subdivision b, a record of previous issuances and denials of a gambling-related license or application under this title or in any other jurisdiction;
 - e. Proof the applicant's system has been tested and certified for use in another United States jurisdiction by an independent testing laboratory; and
 - f. Any additional information required by the attorney general by rule.
- 2. The following persons are considered to have control of an applicant or a licensee:
 - a. Each corporate holding company, parent company, or subsidiary company of a corporate applicant or licensee and each person that

owns fifteen percent or more of the corporate applicant or licensee and has the ability to control the activities of the corporate applicant or licensee or elect a majority of the board of directors of that corporate applicant or licensee, except for a bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;

- b. Each person associated with a noncorporate applicant or licensee which directly or indirectly holds a beneficial or proprietary interest in the noncorporate applicant's or licensee's business operation or that the attorney general otherwise determines has the ability to control the noncorporate applicant or licensee; and
 - c. Any executive, employee, or agent of an applicant or licensee that has ultimate decisionmaking authority over the conduct of the applicant or licensee's sports wagering operations in this state.
3. The attorney general shall require an applicant and each person disclosed under subdivision b of subsection 1 to submit to a statewide and nationwide criminal history record check, except that an individual who has submitted to a criminal background check in this or any other state within the previous twelve months may not be required to submit to another criminal background check provided the individual submits the results of the previous criminal background check and affirms there has been no material change in the individual's criminal history since the time of the criminal background check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24.
 4. A person licensed under this chapter shall give the attorney general written notice within thirty days of any material change to any information provided in the licensee's application for a license or renewal, including any change in the identity of persons considered to have control of the licensee as described in subsection 2.

53-06.3-05. Denial of license - Reprimand - Suspension - Revocation.

The attorney general may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

1. If the applicant or licensee knowingly has made a false statement of material fact to the attorney general.
2. If the applicant or licensee intentionally has not disclosed the existence or identity of other persons that have control of the applicant or licensee as required by section 53-06.3-04.
3. If the applicant or licensee has had a license revoked by any government authority responsible for regulation of gaming activities.
4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order.

5. If the applicant or licensee has not demonstrated to the satisfaction of the attorney general financial responsibility sufficient to adequately meet the requirements of the licensed business or proposed business.
6. If an applicant has not met the requirements of this chapter.

53-06.3-06. Mobile sports wagering license.

1. The attorney general shall issue a mobile sports wagering license to an applicant that meets all requirements of this chapter and rules adopted under this chapter and that has not violated any portion of section 53-06.3-05 or rules adopted under this chapter. The attorney general may issue a maximum of three mobile sports wagering licenses to qualified applicants that are able to meet the duties of a license holder under this chapter and that the attorney general determines will be able to best maximize taxable revenue for the state.
2. A qualified gaming entity is eligible to apply for a mobile sports wagering license.
3. A mobile sports wagering license issued by the attorney general pursuant to this section grants a licensee lawful authority to conduct sports wagering through any mobile application or digital platform approved by the attorney general within the terms and conditions of the license and any rules adopted under this chapter.
4. The fee for an initial or renewed mobile sports wagering license is fifty thousand dollars. In addition to the license fee, the attorney general may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
5. Except as provided in subsection 6, a license issued or renewed under this section is valid for five years unless revoked sooner by the attorney general under section 53-06.3-05.
6. An applicant for a mobile sports wagering license may submit with the application a request to the attorney general for the immediate commencement of sports wagering operations. The request must include the initial license fee of fifty thousand dollars payable to the attorney general. Upon receiving a request for a temporary license, the attorney general shall review the request. If the attorney general determines the entity requesting the temporary license is a qualified gaming entity, has paid the initial license fee, and has submitted an application for a sports wagering license, the attorney general shall authorize the qualified gaming entity to conduct sports wagering for three years under a temporary license or until a final determination on the operator's license application is made. Sports wagering conducted under authority of a temporary license must comply with the operator's house rules adopted pursuant to section 53-06.3-08.

7. The attorney general shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-07. Supplier license.

1. The attorney general shall issue a supplier license upon finding the applicant meets all requirements of this chapter and rules adopted under this chapter.
2. An applicant for a supplier license shall demonstrate the equipment, systems, or services the applicant plans to offer to an operator conform to standards established by rule by the attorney general. The attorney general may accept approval by another jurisdiction that is specifically determined by the attorney general to have similar equipment standards as evidence the applicant meets the standards established by the attorney general by rule.
3. A supplier license issued by the attorney general pursuant to this section grants a licensee lawful authority to sell or to lease sports wagering equipment, systems, or services to operators in the state within the terms and conditions of the license and any rules adopted under this chapter.
4. The fee for an initial or renewed supplier license is five thousand dollars. In addition to the license fee, the attorney general may charge a processing fee for an initial or renewed license in an amount equal to the projected cost of processing the application and performing any background investigations. If the actual cost exceeds the projected cost, an additional fee may be charged to meet the actual cost. If the projected cost exceeds the actual cost, the difference may be refunded to the applicant or licensee.
5. Except as provided in subsection 6, a license issued or renewed under this section is valid for five years unless sooner revoked by the attorney general under section 53-06.3-05.
6. An applicant for a supplier license may submit with the application a request for a temporary license. A request for a temporary license must include the initial license fee of five thousand dollars. If the attorney general determines the applicant is qualified under subsection 2, meets the requirements established by rule for a temporary license, and has paid the initial license fee and the attorney general is not aware of any reason the applicant is ineligible for a license under this section, the attorney general shall issue a temporary supplier license. A temporary license issued under this subsection is valid for three years or until a final determination on the supplier license application is made, whichever is sooner. If after investigation the attorney general determines the applicant is eligible for a supplier license under this chapter, the attorney general shall issue the initial supplier license, at which time the temporary license terminates.
7. The attorney general shall deposit all fees collected under this section in the sports wagering operating fund.

53-06.3-08. Sports wagering house rules.

1. An operator shall adopt comprehensive house rules for game play governing sports wagering transactions with the operator's patrons. The rules must specify the amounts to be paid on winning wagers, the circumstances under which the operator will void a bet, treatment of errors, late bets and related contingencies, and the effect of schedule changes. House rules must be approved by the attorney general before implementation.
2. The house rules, together with any other information the attorney general determines to be appropriate, must be available in the sports wagering system.

53-06.3-09. Operator duties.

An operator shall:

1. Employ a monitoring system using software to identify irregularities in volume or odds swings that could signal suspicious activity that requires further investigation. Such activity immediately must be reported to and investigated by the attorney general. System requirements and specifications must be in accordance with industry standards.
2. Promptly report to the attorney general any facts or circumstances related to the operation of a licensee that constitute a violation of state or federal law and immediately report any suspicious betting over a threshold set by the operator which has been approved by the attorney general to the appropriate state or federal authorities.
3. Conduct all sports wagering activities and functions in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of this state.
4. Keep current in all payments and obligations to the attorney general.
5. Prevent any person from tampering with or interfering with the operation of any sports wagering.
6. Ensure sports wagering occurs using only a mobile application or digital platform approved by the attorney general which uses communications technology to accept wagers originating in this state or in a state or jurisdiction approved by the attorney general and consistent with federal law.
7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
8. Maintain daily records showing the gross sports wagering receipts and adjusted gross sports wagering receipts of the licensee and timely file with the attorney general any additional reports required by rule or this chapter.

53-06.3-10. Sports wagering agreements.

1. On behalf of this state, the attorney general may:

- a. Enter a sports wagering agreement with another state, territory, nation, jurisdiction, government, or other entity to accept wagers from individuals located outside this state, so long as entering the sports wagering agreement does not violate state or federal law.
 - b. Take all necessary actions to ensure a sports wagering agreement entered pursuant to this section becomes effective.
2. The attorney general may adopt rules to implement this section.

53-06.3-11. Acceptance of wagers - Excluded persons.

1. An operator may accept wagers on wagering events by means of electronic devices using a mobile application or digital platform approved by the attorney general. An individual placing a wager must be twenty-one years of age or older and physically be located in the state.
2. An operator shall allow patrons to fund a sports wagering account using:
 - a. A credit or debit card;
 - b. A bonus or promotion;
 - c. An electronic bank transfer;
 - d. An online or mobile payment system that supports online money transfers; and
 - e. Any other means approved by the attorney general.
3. An operator may accept wagers from a patron physically located in this state through the patron's sports wagering account, using a mobile application or digital platform approved by the attorney general. The branding for each mobile application or digital platform must be determined by the operator.
4. An operator may accept layoff wagers placed by other operators, and may place layoff wagers with other operators, as long as an operator that places a wager with another operator informs the operator accepting the wager that the wager is being placed by an operator and discloses the wagering operator's identity.
5. The attorney general or an operator may ban a person from participating in the play or operation of sports wagering. A log of all excluded persons must be kept by the attorney general and shared with each operator, and a person on the attorney general's exclusion list or an operator's exclusion list may not engage in sports wagering under this chapter.
6. An employee of an operator may not place a wager on any wagering event through a mobile application or digital platform of that employee's employer.

53-06.3-12. Sports wagering tax - Revenues - Limitation of other taxes.

1. For the privilege of holding a license to operate sports wagering under this chapter, a sports wagering tax is imposed on the adjusted gross sports wagering receipts of the licensee. The tax is ten percent of the licensee's

adjusted gross sports wagering receipts. The accrual method of accounting must be used for purposes of calculating the amount of the tax owed by the licensee.

2. The following provisions govern operator returns and payment of tax pursuant to subsection 1:
 - a. The tax levied and collected pursuant to subsection 1 is due and payable to the attorney general in monthly installments on or before the fifteenth calendar day following the calendar month in which the adjusted gross sports wagering receipts were received.
 - b. On or before the fifteenth calendar day, an operator shall complete and submit the return for the preceding month by electronic communication to the attorney general in the form prescribed by the attorney general that provides:
 - (1) The gross sports wagering receipts and adjusted gross sports wagering receipts during that month;
 - (2) The tax amount for which the operator is liable; and
 - (3) Any additional information necessary in the computation and collection of the tax on adjusted gross sports wagering receipts required by the attorney general.
 - c. The tax due must be remitted to the attorney general by electronic funds transfer at the time the returns are filed.
 - d. If adjusted gross sports wagering receipts for a month is a negative number because the winnings paid to a licensee's sports wagering patrons exceed the licensee's gross sports wagering receipts, the attorney general shall allow the licensee to carry over the negative amount to returns filed for subsequent months. The negative amount of adjusted gross sports wagering receipts may not be carried back to an earlier month and money previously received by the attorney general may not be refunded, except if the licensee surrenders the licensee's license and the licensee's last return reported negative adjusted gross sports wagering receipts.
3. The tax imposed by this section is in lieu of all other state and local taxes and fees imposed on the operation of or the proceeds from the operation of sports wagering.

53-06.3-13. Sports wagering operating fund - Deposits and allocations.

There is created in the state treasury the sports wagering operating fund. All moneys received from fees, taxes, interest, fines, and any other moneys collected under this chapter must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must be distributed to the attorney general for the costs of administering and regulating sports wagering in the state, including costs relating to employees, equipment, and supplies.

53-06.3-14. Civil violation.

Except as provided in section 53-06.3-15, a person that violates the provisions of this chapter commits a civil violation for which the attorney general may impose a fine of not more than ten thousand dollars for each violation. The attorney general shall deposit fines collected under this section in the sports wagering operating fund.

53-06.3-15. Unauthorized sports wagering - Penalties.

A person may not conduct sports wagering unless the person is licensed under this chapter. A person violating this section is guilty of a class B misdemeanor. A second violation is a class A misdemeanor. A third or subsequent violation is a class C felony.

SECTION 3. CONTINGENT EFFECTIVE DATE. This Act becomes effective thirty days after the secretary of state certifies to the legislative council that House Concurrent Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved by the voters."

Renumber accordingly



February 17, 2021

Dear House Judiciary Committee,

Chairman Klemin and members of the House Judiciary Committee, Family Policy Alliance of North Dakota would like to again express its opposition to House Bill 1234 and respectfully request that you render a "DO NOT PASS" on this bill.

HB1234 has been amended since our original testimony on January 27, however, I was unable to obtain an amended version of the bill. That said, we are resubmitting our original testimony on behalf of our organization and the constituents we represent across North Dakota. Please understand, that while some of what we testified on may now be less relevant, we still firmly believe that sports betting is bad social policy, bad economic policy, and bad governmental policy and that this bill would move our state in the wrong direction. For these reasons, Family Policy Alliance of North Dakota respectfully asks that you please vote House Bill 1234, as amended, out of committee with a "DO NOT PASS" recommendation.

Thank you for the opportunity to submit this testimony and please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mark Jorritsma".

Mark Jorritsma
Executive Director
Lobbyist #147





Testimony Opposing House Bill 1234

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
January 27, 2021

Good morning Chairman Klemin and honorable members of the House Judiciary Committee. My name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am testifying in opposition to House Bill 1234 and respectfully request that you render a “DO NOT PASS” on this bill.

As we all know by now, in May 2018, the Supreme Court struck down a 1992 federal law that effectively banned commercial sports betting in most states. As a result, many states, including ours, have been looking at potentially legalizing sports betting ever since. But at what cost?

ROOT FOR THE HOME TEAM

The first issue our organization has with legalized sports betting is devaluation of sports for its own sake. In other words, fundamentally changing the meaning of American sports. As writer David Blankenhorn eloquently summarizes, “Betting on games subtly but profoundly shifts our focus away from the game itself — the sport for the sake of the sport — and instead encourages us to experience the game as a means of measuring and grasping for money. In doing so, it violates everything that, as children, drew us to sports in the first place.”

Another author puts it this way. “If you want to magnify the attention paid to the lowest and most cynical motives of the audience rather than emphasizing the skill, hard work and integrity of the athletes, just legalize betting on people the way we now bet on horses and dogs.”

JUST ONE MORE BET AND THEN I’LL STOP

The second problem we have with this bill is associated with compulsive gambling and gambling disorders. There are an estimated 10 million individuals in our country with some form of gambling addiction or compulsion to gamble which harms them or their family. That represents 2.6 percent of the United States population, and many sources place the incidence significantly higher.

I am not going to go into detail about the harms of gambling addiction – we’ve all heard them many times – but I ask you to please take this into serious account when considering this bill. If sports gambling becomes both legal and encouraged, more people are likely to gamble. It’s a fact.

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Bismark, ND 58530

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UNLEASHING CITIZENSHIP

FamilyPolicyAlliance.com/NorthDakota

And as more people gamble, more are likely to hurt themselves, their families and their communities through excessive gambling. Any law is about tradeoffs, and this is a big one.

SHOW ME THE MONEY

And now we come to the crux of the issue for many; additional revenue to the state of North Dakota from taxation of sports betting, assuming a tax is eventually levied against the betting revenues. The states that have legalized sports betting and for which reliable information exists, have seen very small percentage increases in their state budgets from legalized sports betting tax revenues, as shown in the following table.

Percentage Increase in Annual State Budget Revenues from Sports Betting

<i>State</i>	<i>Percentage Increase</i>
<i>Nevada</i>	0.5%
<i>New Jersey</i>	0.1%
<i>Rhode Island</i>	0.25%
<i>Mississippi</i>	<1%
<i>West Virginia</i>	<1%

Sports betting is not some sort of financial panacea. Yes, the state of North Dakota would gain more revenue, but remember that with last May's ruling, we are not the only ones eyeing sports betting. These numbers are not going to go higher, but if anything, lower.

Also on the topic of money, gambling has always been a regressive tax on those with lower incomes. It is correctly noted that, "Studies show that the less money you have, the more tempting it is to try to win some by gambling. You're already down, so what's the big risk if you tap out? A bet is cheap but also fake 'hope.'"

Source: *Sports betting not a financial home run for states.* The State Journal-Register. Jan 2, 2019.

THE PROBLEM

Let me leave you with this. With roughly 762,000 residents in our state and using the previously noted average statistic of 2.6 percent of people with gambling addiction, that means 19,812 North Dakotans already have problems with gambling, which are only going to be made worse if this bill passes.

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This estimate does not even include those who don't have problems now but would be added to this number because of sports betting. So this is the problem. Is it morally justifiable to earn a fraction of additional annual budget revenue off of those with gambling problems? We at Family Policy Alliance of North Dakota certainly don't think so.

CONCLUSION

Sports betting is bad social policy, it is bad economic policy, and it is bad governmental policy. For these reasons, Family Policy Alliance of North Dakota respectfully asks that you please vote House Bill 1234 out of committee with a "DO NOT PASS" recommendation.

Thank you for the opportunity to testify and I am now happy to stand for any questions.



Chairman Klemin, Vice-Chair Karls and Members of the Committee,

Thank you for the opportunity to testify today. My name is Rebecca London, and I am here today to provide testimony for DraftKings in support of HB 1234. DraftKings is a digital sports entertainment and gaming company created to fuel the competitive spirit of sports fans with products that range across daily fantasy, regulated gaming and digital media. Headquartered in Boston, and launched in 2012 DraftKings is the only U.S.-based vertically integrated sports betting operator. DraftKings' Sportsbook is live with mobile and/or retail sports betting operations in 14 states.

DraftKings supports a sports wagering framework in North Dakota that protects consumers, generates maximum revenue for the state, and stamps out the pervasive illegal market. That means a robust mobile sports betting market without an artificial limit on mobile competition and no unnecessary hurdles for consumers to bet in the regulated market.

It is important to recognize that sports wagering is already taking place in North Dakota, with an estimated 138,000 people betting over \$355 million in illegal wagers each year. Nearly all the sports wagers in North Dakota are placed online through offshore websites in the robust illegal market. Across the country, states are trying to bring this activity into a legal, regulated market.

Mobile sports betting allows customers to place bets conveniently from their mobile phones and other devices. States that don't allow mobile sports betting have seen much lower revenues, growth, and penetration of the existing illegal market.

As you begin to consider implementing gaming in the State of North Dakota, there are a few factors to consider in order to build the strongest, most effective regulatory regime, while encouraging North Dakotans to abandon the illegal market.

First, legal operators are not just competing with other legitimate entities in the United States, they also must remain competitive to pricing from illegal, offshore sportsbooks that do not face the same taxation and regulatory costs. Barriers to market entry, such as high taxes and fees, cut into an operator's profit and reduce their ability to offer competitive pricing, a significant factor for consumers when making the decision on where to spend their money.

Second, not only must the state consider a mobile market, particularly in a rural state like North Dakota, it is crucial to allow for the ability to register and fund an account via



a mobile device. Creating artificial barriers for consumers, such as requiring them to drive hours to register a mobile sports betting account in person, is anachronistic in a time when people file their taxes via mobile applications on their phones.

Finally, it is crucial to allow for multiple operators to serve the market. A marketplace with multiple choices for consumers will lead to a much better consumer experience that forces operators to innovate and to continue to offer new products to North Dakota and to compete with one another. Multiple operators will also increase the overall economic impact that sports wagering has in the state.

Contrary to the thriving offshore market, DraftKings takes seriously the issues of underage wagering and problem gambling. At DraftKings, we use “know your customer” technology to ensure underage individuals are not able to create an account, deposit, or wager through our website or application. When verifying a customer’s identification, a check is conducted using demographic information, including but not limited to first name, last name, physical address, and geolocation of the customer. The verification process is facilitated using multiple vendors and, only upon successful verification, is the customer able to create an account. DraftKings works with leading companies to monitor users’ location through, including, but not limited to, cell phone location data.

Additionally, for the small segment of the population that struggles with gambling, we provide safeguards that allow customers to set their own deposit and play limits and to self-exclude from participation should they choose. A user also always has their entire transaction history available to them in their account information. The account history provides detailed information regarding all bets placed, all winnings and losses, and summary of their play over the last month, three months, year, and lifetime.

If North Dakota wants to best protect consumers, eliminate the thriving illegal offshore sports betting industry, and provide the state additional revenue streams it can best be achieved through the creation of a competitive, fully mobile sports wagering market.

Thank you for the opportunity to testify today. I am happy to answer any questions.

2021 SENATE FINANCE AND TAXATION

HB 1234

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1234
3/15/2021

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide for a legislative management study; to provide a penalty; and to provide a contingent effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [9:19]

Discussion Topics:

- Sports betting rules
- Fees, fines and taxation
- Licensing and regulation
- Retail locations/kiosks
- College sports betting
- Tribal gaming

Representative Kasper [9:16] introduces in favor and submits an amendment [LC 21.0499.02002] #9212.

Representative Louser [9:47] provides oral testimony in favor.

Ernest Matthews [9:30] Vice President/General Counsel, Internet Sports International, LTD in favor #9067.

Dave Weiler [9:50] Lobbyist for Western Distributing Co orally in opposition.

Rebecca London [10:07] Government Affairs Manager, DraftKings in favor #9078.

Cynthia Munteau [10:12] Executive Director of the United Tribes Gaming Association in opposition #9205

Mark Jorritsma [10:15] Executive Director, Family Policy Alliance of North Dakota in opposition #9107.

Colette Brown [10:23] Gaming Executive Director, Spirit Lake Nation orally in opposition.

Christopher Dodson [10:21] North Dakota Catholic Conference orally in opposition.

Additional written testimony:

Mike Motschenbacher, Executive Director/Lobbyist, North Dakota Gaming Alliance in neutral #9069.

Joe Wanner, Public Fire Protection, Gladstone Consolidated Fire District in opposition #9004.

Chair Bell adjourns the meeting. [10:26]

Joel Crane, Committee Clerk

Sixty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1234

Introduced by

Representatives Kasper, Becker, Boschee, Dockter, Louser, Mock, Schmidt

1 A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and
2 chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background
3 checks and the regulation of sports wagering; to provide for a legislative management study; to
4 provide a penalty; to provide for application; and to provide a contingent effective date.

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

6 **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota
7 Century Code is created and enacted as follows:

8 The sports wagering commission for each applicant or licensee under
9 chapter 53-06.3.

10 **SECTION 2.** Chapter 53-06.3 of the North Dakota Century Code is created and enacted as
11 follows:

12 **53-06.3-01. Definitions.**

13 As used in this chapter, unless the context otherwise requires:

- 14 1. "Commission" means the sports wagering commission established as a division of the
15 attorney general's office.
- 16 2. "Gross wagering receipts" means an operator's total sports wagers less allowed free
17 bets and allowed promotional credits.
- 18 3. "License" means a license applied for or issued by the commission under this chapter,
19 including:
- 20 a. A retail sports wagering license under section 53-06.3-07 to permit a retail sports
21 wagering operator to operate sports wagering through sports wagering terminals,
22 including kiosk terminals, placed in various licensed physical locations throughout
23 the state which are linked to a licensed retail sports wagering operator's central
24 computerized system for the operation of retail sports wagering.

Sixty-seventh
Legislative Assembly

- 1 b. A mobile sports wagering license under section 53-06.3-07 to permit a mobile
2 operator to operate sports wagering through an approved mobile application,
3 web-based, or other digital platform that involves online wagering with the use of
4 the internet. The term mobile means both a web-based online system and a
5 mobile application.
- 6 c. A participating retail location license under section 53-06.3-08 for the retail outlets
7 where sports wagering terminals are placed which are connected with a licensed
8 retail sports wagering operator.
- 9 d. A supplier license under section 53-06.3-08 to sell, lease, or otherwise contract
10 for equipment, systems, goods, and services to be used in connection with
11 sports wagering, but not to directly accept wagers in place of the retail or mobile
12 licensed operators.
- 13 4. "Net revenue" means the total gross wagering receipts less allowed free wagers,
14 allowed promotional play, payments to players for winnings, and any applicable federal
15 excise tax. Payments to players includes payments of cash, cash equivalents,
16 merchandise, or other thing of value awarded as a prize or payment, less any
17 applicable federal excise tax.
- 18 5. "Operator" means a retail sports wagering licensee or mobile sports wagering licensee
19 under section 53-06.3-07.
- 20 6. "Professional sports or athletic event" means an event:
- 21 a. At which two or more participants participate in a sports or athletic event and one
22 or more participants receive compensation and which is not a prohibited sports
23 event; or
- 24 b. Any other event authorized by the commission by rule.
- 25 7. "Prohibited sports event" means an in-state college or high school sports or athletic
26 event, or any other event in which a majority of the participants are under eighteen
27 years of age unless the activity qualifies as a professional sport or athletic event or is
28 organized by an international body such as the international olympic committee.
- 29 8. "Qualified gaming entity" means an eligible entity that offers sports wagering through
30 retail sports wagering platforms, mobile applications, digital platforms, or web-based
31 platforms that is approved by the commission.

- 1 9. "Retail sports wagering location" means a participating physical location licensed by
2 the commission to have sports wagering devices and terminals on the premises which
3 are provided by and linked to a licensed retail sports wagering operator's central
4 system.
- 5 10. "Retail sports wagering operator" means an eligible entity that is a licensed gaming
6 distributor within the state at the time of application for a retail sports wagering
7 operator's license and which previously has been a licensed gaming distributor in the
8 state for a minimum of three years before submitting the application.
- 9 11. "Sports wagering" means the business of accepting wagers on wagering events or
10 portions of wagering events, the individual performance statistics of individuals in
11 wagering events, or a combination of any of the same by any system or method of
12 wagering approved by the commission via a licensee's central computerized wagering
13 system, mobile or online application, or digital platform that uses communications
14 technology to accept wagers.
- 15 a. The term includes single-game bets, teaser bets, parlays, over-under, moneyline,
16 pools, exchange wagering, in-game wagering, in-play bets, proposition bets, and
17 straight bets.
- 18 b. The term does not include:
- 19 (1) Fantasy contests in which participants assemble teams of athletes or
20 individuals and the winning outcome reflects the relative knowledge and skill
21 of the participants and is determined predominantly by the accumulated
22 statistical results of the performance of athletes or individuals in an actual
23 event.
- 24 (2) Horse racing if sports wagering on the race is pari-mutuel under
25 chapter 53-06.2, roulette, poker, blackjack, a card game, dice games, or any
26 other game or contest allowed by law and approved for conduct by licensed
27 or permitted charitable gaming organizations under chapter 53-06.1.
- 28 12. "Sports wagering account" means a financial record established by a licensee for an
29 individual patron in which the patron may deposit and withdraw funds for sports
30 wagering and other authorized purchases, and to which the licensed operator may
31 credit winnings or other amounts due to that patron or authorized by that patron. The

1 term includes an account that can be established electronically through an approved
2 mobile application or digital platform.

3 13. "Supplier" means a person that provides, manages, administers, or controls software,
4 hardware, or services for a sports wagering operating system that directly impacts the
5 operation of a sports betting system or platform, including geolocation services, know
6 your customer services, payment processors, and data providers.

7 14. "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

8 15. "Wagering event" means a sports or athletic event that is not a prohibited sports event,
9 including a professional sports or athletic event, or amateur sports or athletic event,
10 including an olympic or international sports or athletic event, a motor vehicle race, an
11 electronic sports event, commonly referred to as "e-sports", and any other event as
12 permitted by the commission.

13 **53-06.3-02. Authorization of sports wagering - License required.**

14 1. Notwithstanding any provision of law to the contrary, the operation of sports wagering
15 and ancillary activities are lawful when conducted in accordance with the provisions of
16 this chapter and the rules adopted under this chapter.

17 2. A person may not engage in any activities in this state which require a license under
18 this chapter unless the necessary license has been obtained in accordance with this
19 chapter and rules adopted under this chapter.

20 **53-06.3-03. Powers and duties of commission.**

21 1. In administering and enforcing this chapter, the commission:

22 a. Shall adopt rules and regulate the conduct of sports wagering.

23 b. Shall determine the eligibility of a person to hold or continue to hold a license,
24 issue all licenses, and maintain a record of all licenses issued under this chapter.

25 c. Shall collect all fees, civil penalties, and tax on the net revenue imposed by this
26 chapter, except as otherwise provided under this chapter.

27 d. May sue to enforce any provision of this chapter or any rule adopted under this
28 chapter by civil action or petition for injunctive relief.

29 e. May hold hearings and make provision to administer oaths and issue subpoenas
30 or subpoenas duces tecum in the manner provided by applicable law.

- 1 f. May exercise any other powers necessary to effectuate the provisions of this
2 chapter and the rules adopted under this chapter.
- 3 2. The commission shall examine the rules and regulations implemented in states where
4 sports wagering is conducted and shall adopt, as far as practicable, a similar
5 framework to ensure the sports wagering industry is best positioned to succeed. The
6 rules, at a minimum, must include:
- 7 a. Qualifications for obtaining a license;
8 b. Qualifications for obtaining a temporary license;
9 c. The acceptance of wagers on a wagering event or a series of wagering events;
10 method of accounting to be used by operators; types of records that must be
11 kept; type of system for wagering; protections for patrons placing wagers; and
12 promotion of social responsibility, responsible gaming, and inclusion of the
13 statement, "If you or someone you know has a gambling problem and wants help,
14 call 1-800-GAMBLER," or similar message at any participating retail location or
15 on any mobile application or digital platform used to place wagers;
- 16 d. Standards for the adoption of comprehensive house rules governing sports
17 wagering and adoption of the internal controls by operators and the approval of
18 house rules and minimum controls by the commission as required under section
19 53-06.3-09;
- 20 e. Minimum design and security requirements for participating retail locations and
21 systems, mobile applications, and digital platforms for the acceptance of wagers
22 by mobile operators, including required methods for verifying the age and identity
23 of an individual who places a wager and for verifying the individual making the
24 wager physically is located in the state and is not prohibited from making a wager
25 under section 53-06.3-12;
- 26 f. The types of interested parties prohibited from accepting wagers under section
27 53-06.3-12;
- 28 g. Minimum design, security, testing, and approval requirements for sports wagering
29 equipment, systems, or services sold by suppliers licensed under section
30 53-06.3-08;

- 1 h. Establishment of a list of individuals who are not authorized to place a wager on
2 a wagering event, including those individuals who voluntarily request their names
3 be included on the list of unauthorized individuals. The rules adopted under this
4 paragraph must define the standards for involuntary placement on the list and for
5 removal from the list; and
- 6 i. Minimum internal control standards for operators, including procedures for
7 safeguarding assets and revenues; the recording of cash and evidence of
8 indebtedness; the maintenance of reliable records, accounts, and reports of
9 transactions, operations, and events; required audits; and the content of and
10 frequency with which reports of sports wagering activities and revenues must be
11 made to the commission.
- 12 3. The commission shall adopt rules to implement this chapter within one hundred and
13 twenty days after the effective date of this Act and as necessary thereafter.
- 14 **53-06.3-04. Sports wagering commission.**
- 15 1. There is created the sports wagering commission, which is composed of five
16 members, three of whom are appointed by the ~~attorney general~~majority leader of the
17 house of representatives and the majority leader of the senate and two of whom are
18 appointed by the governor. Of the members appointed by the governor, one must have
19 a background in accounting and one must have a background in law. The term of
20 office is three years, expiring on June thirtieth with no more than two terms expiring in
21 any one year. Each member must be a citizen of the United States and a resident of
22 this state. A chairman of the commission must be chosen annually by a majority of the
23 membership of the commission at the first meeting of the commission each fiscal year.
24 A member may serve as chairman for more than one year.
- 25 2. The commission shall meet at least once a quarter and any additional meetings as the
26 chairman deems necessary. Special meetings may be called by the chairman upon
27 the written request of the director or any three members of the commission.
- 28 3. The commission shall implement the rules, policy, and regulation of sports wagering.
- 29 4. A member of the commission who is not a permanent full-time state employee is to be
30 compensated at a rate of seventy-five dollars per day and entitled to mileage and
31 expenses as provided by law for state employees. A state employee who is a member

1 of the commission must receive that employee's regular salary and is entitled to
2 mileage and expenses, to be paid by the employing agency.

3 **53-06.3-05. Application for license - Criminal history background check.**

4 1. An application for a license or for renewal of a license required under this chapter
5 must be submitted on a form provided by the commission. An applicant must be
6 licensed currently in North Dakota or in another United States jurisdiction for sports
7 wagering. An application submitted to the commission must include the following:

8 a. The full name, address, and contact information of the applicant;

9 b. Disclosure of each person that has control of the applicant or the applicant's
10 wagering activities as described in subsection 2;

11 c. Consent to permit the commission to conduct a criminal history record check, in
12 accordance with subsection 3, of the applicant and each person disclosed under
13 subdivision b;

14 d. For the applicant and each person disclosed under subdivision b, a record of all
15 previous issuances and denials of a gambling-related license or application under
16 this title or in any other jurisdiction;

17 e. Proof the applicant's wagering system has been tested for use in North Dakota
18 by an independent testing laboratory approved by the commission; and

19 f. Any additional information, including operational standards, required by the
20 commission by rule.

21 2. The following persons are considered to have control of an applicant or a licensee or
22 the applicant's or licensee's associated sports wagering activities:

23 a. Each corporate holding company, parent company, or subsidiary company of a
24 corporate applicant or licensee and each person that owns ten percent or more of
25 the corporate applicant or licensee or that has the ability to control the activities
26 of the corporate applicant or licensee or elect a majority of the board of directors
27 of that corporate applicant or licensee, except for a bank or other licensed
28 lending institution that holds a mortgage or other lien acquired in the ordinary
29 course of business;

30 b. Each person associated with a noncorporate applicant or licensee which directly
31 or indirectly holds a beneficial or proprietary interest in the noncorporate

1 applicant's or licensee's wagering business operation or which the commission
2 otherwise determines has the ability to control the noncorporate applicant or
3 licensee; and

4 c. Any executive, employee, or agent of an applicant or licensee that has ultimate
5 decisionmaking authority over the conduct of the applicant or licensee's sports
6 wagering operations in this state.

7 3. The commission shall require an applicant and each person disclosed under
8 subdivision b of subsection 1 to submit to a statewide and nationwide criminal history
9 record check. The nationwide criminal history record check must be conducted in the
10 manner provided by section 12-60-24.

11 4. A person licensed under this chapter shall give the commission written notice within
12 thirty days of any material change to any information provided in the application for a
13 license or renewal, including any change in the identity of persons considered to have
14 control of the applicant or licensee as described in subsection 2.

15 **53-06.3-06. Denial of license - Reprimand - Suspension - Revocation.**

16 The commission may deny a license to any applicant, reprimand any licensee, or suspend
17 or revoke a license:

18 1. If the applicant or licensee knowingly has made a false statement of material fact to
19 the commission.

20 2. If the applicant or licensee intentionally has not disclosed the existence or identity of
21 other persons that have control of the applicant or licensee as required by
22 section 53-06.3-05.

23 3. If the applicant or licensee has had a license revoked by any government authority
24 responsible for regulation of gaming activities.

25 4. If the applicant has been convicted of a crime of moral turpitude, a gambling-related
26 offense, a theft or fraud offense, or has otherwise demonstrated, either by a police
27 record or other satisfactory evidence, a lack of respect for law and order.

28 5. If the applicant or licensee has not demonstrated to the satisfaction of the commission
29 financial responsibility sufficient to adequately meet the requirements of the licensed
30 business or proposed business, including payment of winnings.

1 6. If an applicant has not met the requirements of this chapter or other criteria the
2 commission may establish.

3 **53-06.3-07. Retail sports wagering license - Mobile sports wagering license - Fees -**
4 **Temporary license.**

5 1. The commission shall issue a maximum of ~~two~~three retail sports wagering licenses
6 and a maximum of three mobile sports wagering licenses to applicants that meet all
7 requirements of this chapter and rules adopted under this chapter and have not
8 violated any portion of section 53-06.3-06 or rules adopted under this chapter.
9 together with other criteria the commission may deem most beneficial to the state in
10 determining the award of licenses.

11 2. A qualified gaming entity may apply for a retail or mobile sports wagering license.

12 3. A retail sports wagering license or mobile sports wagering license issued by the
13 commission pursuant to this section grants a licensee lawful authority to conduct
14 sports wagering through a retail computerized wagering system or any mobile
15 application, web-based, or digital platform approved by the commission within the
16 terms and conditions of the license and any rules adopted under this chapter.

17 4. A licensed retail sports wagering operator:

18 a. May hold a retail sports wagering license that authorizes the licensed distributor
19 to:

20 (1) Operate retail sports wagering through a central computer system using
21 electronic, digital, and other systems that link wagering terminals, including
22 kiosk terminals, located in physical locations across the state to the
23 licensee's central wagering system;

24 (2) Distribute and service the sports wagering devices and terminals;

25 (3) Contract with licensed participating retail sports wagering locations to
26 provide wagering terminals to the public for wagering purposes; and

27 (4) Contract with charitable, fraternal, veterans, and nonprofit organizations in
28 the state for a participating economic sponsorship with the retail sports
29 wagering licensee, by mutual agreement.

- 1 **b.** May contract with a supplier to provide the equipment, wagering system
2 operations, proposed rules, line and risk management, and other such services
3 as may be required to comply with the rules under this chapter.
- 4 **c.** Owns the data generated through the retail sports wagering operations relative to
5 player and customer lists.
- 6 **d.** May combine a mobile sports wagering application or web-based system in
7 conjunction with the licensee's operation of retail sports wagering. Such mobile
8 sports wagering, in conjunction with retail sports wagering may not reduce the
9 maximum number of mobile wagering licenses that may be awarded.
- 10 **e.** May contract with a third-party supplier for the mobile wagering system and
11 services under this chapter. The supplier of retail and mobile wagering systems
12 and services is subject to this chapter and rules adopted under this chapter.
- 13 **5.** The fee for an initial retail sports wagering license is twenty thousand dollars and a
14 renewal license fee is ten thousand dollars. A retail sports wagering operator may
15 apply for a mobile sports wagering license to be used in conjunction with the
16 operator's retail sports wagering license for an additional fee of thirty thousand dollars
17 and a renewal fee of ten thousand dollars. The initial and renewal fee for a separate
18 mobile sports wagering license is fifty thousand dollars. In addition to the license fee,
19 the commission may charge a processing fee for an initial or renewed license in an
20 amount equal to the projected cost of processing the application and performing any
21 background investigations. If the actual cost exceeds the projected cost, an additional
22 fee may be charged to meet the actual cost. If the projected cost exceeds the actual
23 cost, the difference may be refunded to the applicant or licensee.
- 24 **6.** Except as provided in subsection 7, a license issued or renewed under this section is
25 valid for three years unless revoked sooner by the commission under
26 section 53-06.3-05.
- 27 **7.** An applicant for a license under this chapter may submit with the application a request
28 for a temporary license to the commission for the immediate commencement of sports
29 wagering operations or other licensed activities provided for under this chapter. The
30 request must include the associated initial license fee payable to the commission.
31 Upon receiving a request for a temporary license, the commission shall review the

- 1 request. If the commission determines the entity requesting the temporary license is
2 qualified, has demonstrated the entity's ability to operate under the applicable rules,
3 has paid the associated initial license fee, and has submitted the appropriate license
4 application, the commission may authorize the qualified applicant to conduct the
5 licensed activities for one year under a temporary license or until a final determination
6 on the license application is made. An extension may be granted by the commission if
7 approval requires more than one year. Sports wagering activities or services
8 conducted under authority of a temporary license must comply with the operator's
9 house rules adopted pursuant to section 53-06.3-09.
- 10 8. The commission shall deposit all fees collected under this section in the sports
11 wagering operating fund.
- 12 **53-06.3-08. Retail participating sports wagering location license - Supplier license.**
- 13 1. The commission shall issue a retail participating sports wagering location license or a
14 supplier license upon finding the applicant meets all requirements of this chapter and
15 rules adopted under this chapter.
- 16 2. An applicant for a retail participating sports wagering location license shall
17 demonstrate the premises meets the criteria and rules adopted under this chapter. An
18 applicant for a supplier license shall demonstrate the equipment, systems, or services
19 the applicant plans to offer to an operator conform to standards established by rule
20 under this chapter.
- 21 3. A retail sports wagering location license issued pursuant to this section grants a
22 participating licensee lawful authority to have sports wagering terminals on the
23 licensee's premises that are provided by and linked to the licensed retail sports
24 wagering operator's central system on terms and conditions set forth by agreement
25 between the two licenseholders and rules adopted under this chapter. A supplier
26 license issued pursuant to this section grants a licensee lawful authority to sell or to
27 lease sports wagering equipment, systems, or services to operators in the state within
28 the terms and conditions of the license and any rules adopted under this chapter.
- 29 4. A limit may not be imposed on the number of participating locations in the state which
30 may contract with a retail sports wagering licensee. A retail participating sports
31 wagering location licensee is subject to this chapter and the rules adopted under this

- 1 chapter and may not be restricted by or subject to chapter 53-06.1 or rules adopted
2 under that chapter.
- 3 5. The fee for an initial retail participating sports wagering location license is two
4 thousand dollars with a renewal fee of one thousand dollars. The fee for an initial
5 supplier license is seven thousand dollars with a renewal fee of two thousand five
6 hundred dollars. In addition to the license fee, the commission may charge a
7 processing fee for an initial or renewed license in an amount equal to the projected
8 cost of processing the application and performing any background investigations. If the
9 actual cost exceeds the projected cost, an additional fee may be charged to meet the
10 actual cost. If the projected cost exceeds the actual cost, the difference may be
11 refunded to the applicant or licensee.
- 12 6. Except as provided in subsection 6, a license issued or renewed under this section is
13 valid for three years unless sooner revoked by the commission under
14 section 53-06.3-06.
- 15 7. An applicant for a retail participating sports wagering location license or supplier
16 license may submit with the application a request for a temporary license. A request
17 for a temporary license must include the respective initial license fee. If the
18 commission determines the applicant is qualified under subsection 2, meets the
19 requirements established by rule for a temporary license, and has paid the initial
20 license fee and the commission is not aware of any reason the applicant is ineligible
21 for a license under this section, the commission may issue a temporary license. A
22 temporary license issued under this subsection is valid for three years or until a final
23 determination on the license application is made, whichever is sooner. If after
24 investigation the commission determines the applicant is eligible for a license under
25 this chapter, the commission shall issue the initial license, at which time the temporary
26 license terminates.
- 27 8. The commission shall deposit all fees collected under this section in the sports
28 wagering operating fund.
- 29 **53-06.3-09. Sports wagering house rules - Internal controls.**
- 30 1. An operator shall adopt comprehensive house rules for game play governing sports
31 wagering transactions with the operator's patrons. The rules must specify the amounts

- 1 to be paid on winning wagers, the circumstances under which the operator will void a
2 bet, treatment of errors, late bets and related contingencies, and the effect of schedule
3 changes. House rules must be approved by the commission before implementation.
4 2. The house rules, together with any other information the commission determines to be
5 appropriate, must be available in the sports location and mobile wagering system.
6 3. An operator shall establish internal controls for the operation of retail and mobile
7 sports wagering. The internal controls must be approved by the commission before
8 implementation.

9 **53-06.3-10. Operator duties.**

10 An operator shall:

- 11 1. Employ a monitoring system using software to identify irregularities in volume or odds
12 swings that could signal suspicious activity that requires further investigation. Such
13 activity must be reported immediately to and investigated by the commission. System
14 requirements and specifications must be in accordance with industry standards.
15 2. Promptly report to the commission any facts or circumstances related to the operation
16 of a licensee which constitute a violation of state or federal law and immediately report
17 any suspicious betting over a threshold set by the operator which has been approved
18 by the commission to the appropriate state or federal authorities.
19 3. Conduct all sports wagering activities and functions in a manner that does not pose a
20 threat to the public health, safety, or welfare of the citizens of this state.
21 4. Keep current in all payments and obligations to the commission.
22 5. Prevent any person from tampering with or interfering with the operation of any sports
23 wagering.
24 6. Ensure sports wagering occurs using only a retail sports betting system, mobile
25 application, or digital platform approved by the commission which uses
26 communications technology to accept wagers originating in this state or in a state or
27 jurisdiction approved by the commission and consistent with federal law.
28 7. Maintain sufficient cash and other supplies to conduct sports wagering at all times.
29 8. Maintain daily records showing the gross sports wagering receipts and net revenue
30 from the gross sports wagering receipts of the licensee and timely file with the
31 commission any additional reports required by rule or this chapter.

1 **53-06.3-11. System assessment.**

2 Within ninety days of commencing operations and annually thereafter, an operator shall
3 perform a system integrity and security assessment of the sports wagering system and online
4 sports wagering system conducted by an independent professional authorized by the
5 commission and subject to licensure and approval of the commission. The independent
6 professional's assessment report must be submitted to the commission and must include:

- 7 1. Scope of review;
- 8 2. Name and company affiliation of the individual who conducted the assessment;
- 9 3. Date of assessment;
- 10 4. Findings;
- 11 5. Recommended corrective action, if applicable; and
- 12 6. The operator's response to the findings and recommended corrective action.

13 **53-06.3-12. Sports wagering agreements.**

- 14 1. On behalf of this state, the commission may:
 - 15 a. Enter a sports wagering agreement with another state, territory, nation,
16 jurisdiction, government, or other entity to accept wagers from individuals located
17 outside this state, if entering the sports wagering agreement does not violate
18 state or federal law.
 - 19 b. Take all necessary actions to ensure a sports wagering agreement entered
20 pursuant to this section becomes effective.
- 21 2. The commission shall adopt rules to implement this section.

22 **53-06.3-13. Acceptance of wagers - Excluded persons.**

- 23 1. An operator may accept wagers on wagering events by means of computer systems,
24 internet supported, and electronic devices using a computerized wagering system,
25 mobile application, or digital platform approved by the commission. An individual
26 placing a wager must be twenty-one years of age or older and physically be located in
27 the state.
- 28 2. An operator shall allow patrons to fund a sports wagering account using:
 - 29 a. A debit card;
 - 30 b. A bonus or promotion;
 - 31 c. An electronic bank transfer;

- 1 d. An online or mobile payment system that supports online money transfers; and
2 e. Any other means approved by the commission.
- 3 3. An operator may accept wagers from a patron physically located in this state through
4 the patron's sports wagering account, using a computerized, mobile application,
5 web-based, or digital platform approved by the commission. The branding for each
6 mobile application or digital platform must be determined by the operator.
- 7 4. An operator may accept layoff wagers placed by other operators, and may place layoff
8 wagers with other operators, as long as an operator that places a wager with another
9 operator informs the operator accepting the wager that the wager is being placed by
10 an operator and discloses the wagering operator's identity.
- 11 5. The commission or an operator may ban a person from participating in the play or
12 operation of sports wagering. A log of all excluded persons must be kept by the
13 commission and shared with each operator, and a person on the commission's
14 exclusion list or an operator's exclusion list may not engage in sports wagering under
15 this chapter.
- 16 6. An employee of an operator may not place a wager on any wagering event through a
17 central retail wagering system, mobile application, or digital platform of that
18 employee's employer.

19 **53-06.3-14. Sports wagering tax - Revenues - Limitation of other taxes.**

- 20 1. For the privilege of holding a license to operate sports wagering under this chapter, a
21 sports wagering tax is imposed on the net revenue of the operator. The accrual
22 method of accounting must be used for purposes of calculating the amount of the tax
23 owed by the licensee.
- 24 a. The tax is six and seventy-five hundredths percent of the retail sports wagering
25 licensee's net revenue.
- 26 b. The tax is ten percent of the mobile sports wagering licensee's net revenue.
- 27 2. The following provisions govern operator returns and payment of tax pursuant to
28 subsection 1:
- 29 a. The tax levied and collected pursuant to subsection 1 is due and payable to the
30 commission in quarterly installments on or before the fifteenth calendar day
31 following the calendar end of the quarter in which the net revenue was received.

- 1 **b.** On or before the fifteenth calendar day following the end of the quarter, an
2 operator shall complete and submit the return for the preceding quarter by
3 electronic communication to the commission in the form prescribed by the
4 commission that provides:
- 5 (1) The total gross wagering receipts and net revenue from that quarter;
6 (2) The tax amount for which the operator is liable; and
7 (3) Any additional information necessary in the computation and collection of
8 the tax on the net revenue required by the commission.
- 9 **c.** The tax due must be remitted to the commission by electronic funds transfer at
10 the time the quarterly returns are filed.
- 11 **d.** If the net revenue from the total gross wagering receipts for a quarter is a
12 negative number because the winnings paid to a licensee's sports wagering
13 patrons exceed the licensee's gross sports wagering receipts, the commission
14 shall allow the licensee to carry over the negative amount to returns filed for
15 subsequent months. The negative amount of net revenue from total gross sports
16 wagering receipts may not be carried back to an earlier month and money
17 previously received by the commission may not be refunded, except due to a
18 proven error, or if the licensee surrenders the licensee's license and the
19 licensee's last return reported negative net revenue from gross sports wagering
20 receipts.
- 21 **3.** The tax imposed by this section is in lieu of all other state and local taxes and fees
22 imposed on the operation of or the proceeds from the operation of sports wagering.

23 **53-06.3-15. Sports wagering operating fund - Deposits and allocations.**

24 There is created in the state treasury the sports wagering operating fund. All moneys
25 received from fees, taxes, interest, fines, and any other moneys collected under this chapter
26 must be deposited in this fund. Pursuant to legislative appropriation, moneys in the fund must
27 be distributed to the commission for the costs of administering and regulating sports wagering in
28 the state, including costs relating to employees, equipment, and supplies.

29 **53-06.3-16. Civil violation.**

30 Except as provided in section 53-06.3-17, a person that violates the provisions of this
31 chapter commits a civil violation for which the commission may impose a fine of not more than

1 ten thousand dollars for each violation. The commission shall deposit fines collected under this
2 section in the sports wagering operating fund.

3 **53-06.3-17. Unauthorized sports wagering - Penalties.**

4 A person may not conduct sports wagering unless the person is licensed under this chapter.

5 A person violating this section is guilty of a class B misdemeanor. A second violation is a class A
6 misdemeanor. A third or subsequent violation is a class C felony.

7 **SECTION 3. APPLICATION.** For the first twenty-four months after the adoption of rules
8 under section 53-06.3-03:

- 9 1. Sports wagering on a mobile device or computer may not be conducted.
- 10 2. Sports wagering may be conducted only via authorized terminals and kiosks.

11 **SECTION 4. CONTINGENT EFFECTIVE DATE.** This Act becomes effective on August 1,
12 2023, if the secretary of state certifies to the legislative council that House Concurrent
13 Resolution No. 3032, as adopted by the sixty-seventh legislative assembly, has been approved
14 by the voters.

15 **SECTION 5. LEGISLATIVE MANAGEMENT STUDY - SPORTS WAGERING.** During the
16 2021-23 interim, the legislative management shall consider studying sports wagering. The
17 legislative management shall report its findings and recommendations, together with any
18 legislation necessary to implement the recommendations, to the sixty-eighth legislative
19 assembly.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

Page 1, line 4, after the semicolon insert "to provide for application;"

Page 2, line 25, replace "a" with "an in-state"

Page 3, line 24, after "pari-mutuel" insert "under chapter 53-06.2"

Page 3, line 27, after "organizations" insert "under chapter 53-06.1"

Page 6, line 16, replace "attorney general" with "majority leader of the house of representatives
and the majority leader of the senate"

Page 9, line 5, replace "two" with "three"

Page 17, after line 6, insert:

"SECTION 3. APPLICATION. For the first twenty-four months after the adoption
of rules under section 53-06.3-03:

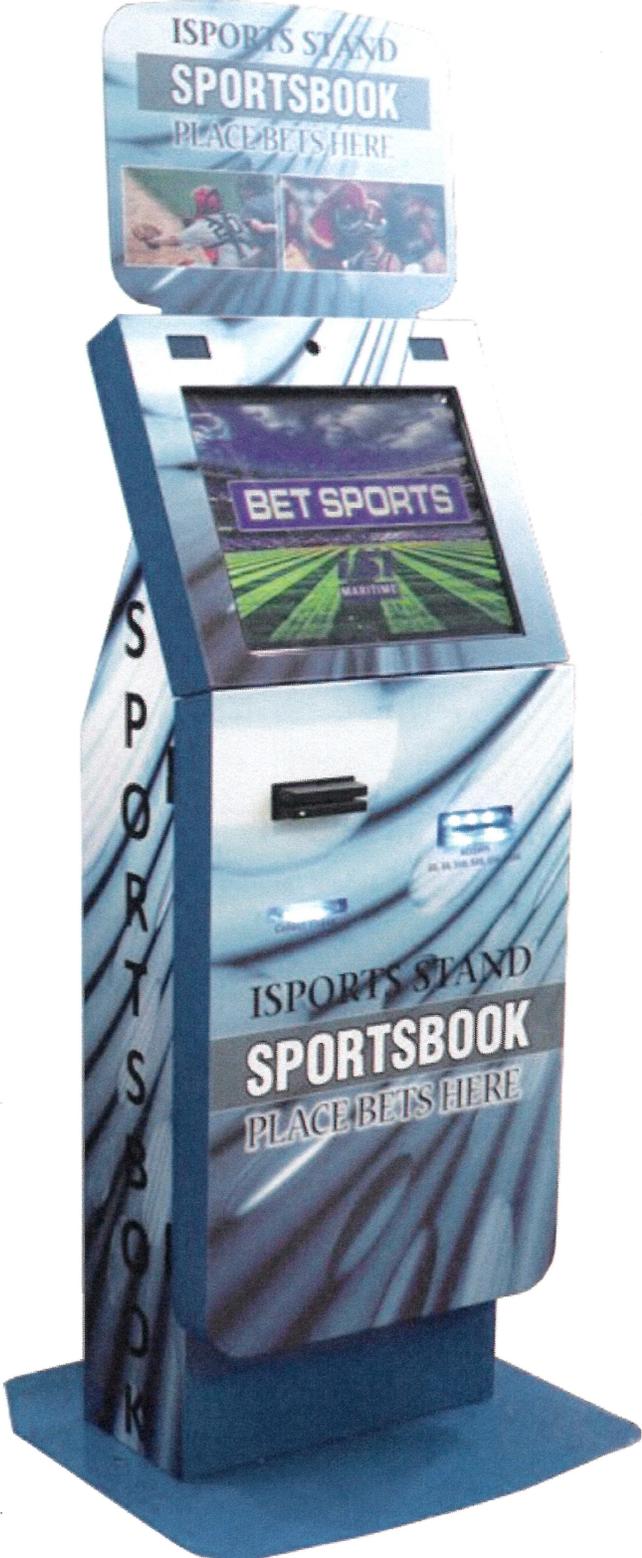
1. Sports wagering on a mobile device or computer may not be conducted.
2. Sports wagering may be conducted only via authorized terminals and kiosks."

Re-number accordingly

Kiosk Self-Betting Terminals For Local Bars and Hospitality Locations



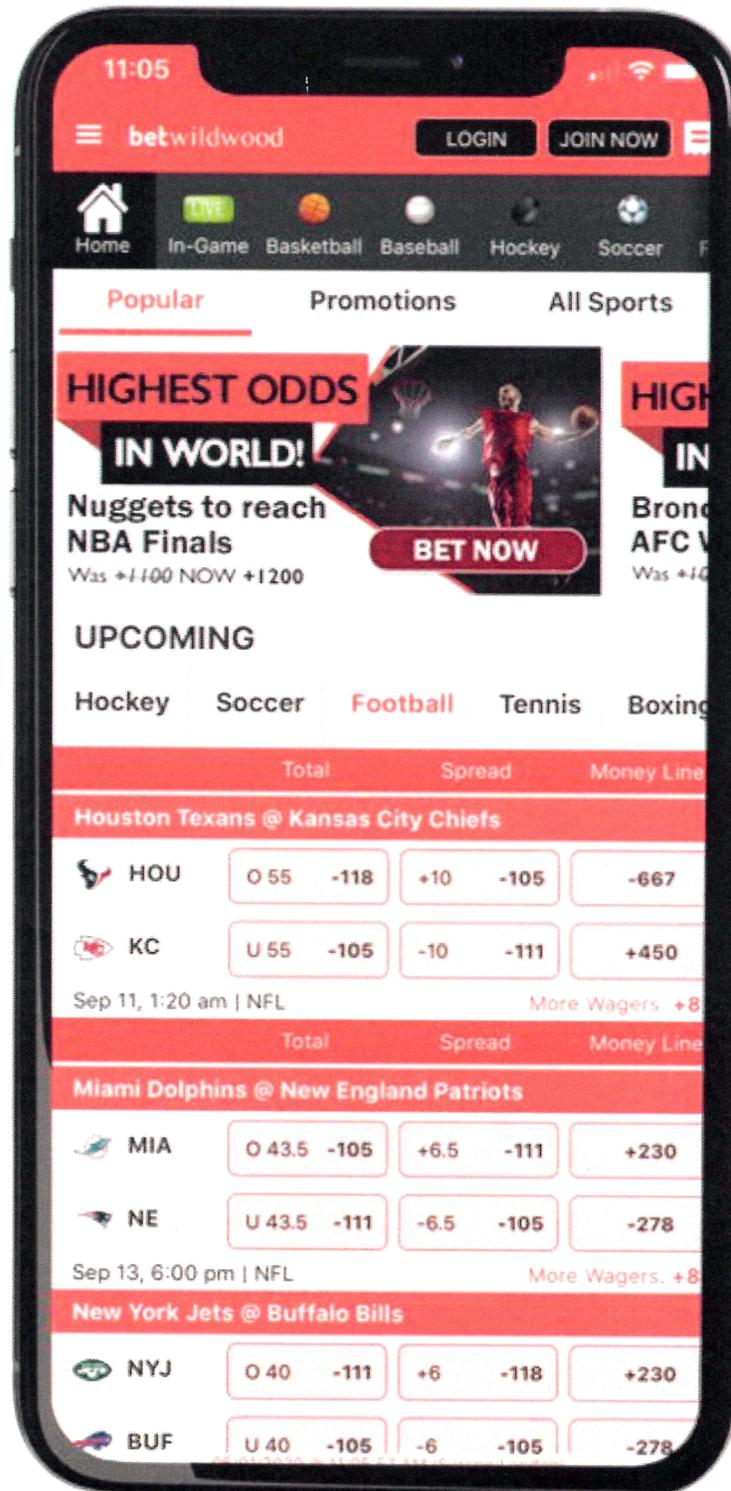
Sample Kiosk Self-Betting Terminal



Sample Kiosk Terminals at a Retail Location



Sample Self-Betting Screen



These ten states use retail sports wagering at physical locations using kiosk style terminals:

- 1) Nevada
- 2) New Jersey
- 3) Michigan
- 4) Colorado
- 5) Indiana
- 6) Pennsylvania
- 7) Rhode Island
- 8) Mississippi
- 9) New Mexico
- 10) Oregon

These eight states have legislation in progress for retail sports wagering with the same onsite terminals:

- 1) New York
- 2) Virginia
- 3) Washington
- 4) Arkansas
- 5) Delaware
- 6) Illinois
- 7) Iowa
- 8) New Hampshire

U.S. Sports Betting Revenue - All States

Jurisdiction	Handle	Revenue	Hold	Taxes/Jurisdiction Revenue
Arkansas	\$44,157,822	\$5,642,181	12.8%	\$757,010
Colorado	\$1,185,754,618	\$75,841,206	6.4%	\$2,964,672
Delaware	\$338,083,000	\$52,298,447	15.5%	\$35,190,438
Illinois	\$1,390,643,067	\$101,621,640	7.3%	\$16,367,514
Indiana	\$2,205,269,251	\$180,036,041	8.2%	\$17,103,425
Iowa	\$936,990,202	\$72,256,247	7.7%	\$4,928,377
Michigan	\$130,763,498	\$18,276,858	14.0%	\$1,535,256
Mississippi	\$890,088,894	\$103,368,568	11.6%	\$12,404,228
Montana	\$ -	\$ -	--	\$ -
Nevada	\$12,680,957,827	\$786,308,000	6.20%	\$53,075,790
New Hampshire	\$292,954,814	\$23,682,372	8.1%	\$11,020,218
New Jersey	\$11,847,174,269	\$791,869,724	6.7%	\$102,083,299

New Mexico	\$ -	\$ -	--	\$ -
New York	\$ -	\$18,552,162	--	\$1,855,216
Oregon	\$263,518,470	\$22,996,708	8.7%	\$ -
Pennsylvania	\$5,008,619,265	\$384,151,235	7.7%	\$97,260,637
Rhode Island	\$481,498,284	\$42,905,081	8.9%	\$21,881,591
Tennessee	\$312,344,523	\$27,144,908	8.7%	\$5,443,918
Washington DC	\$80,527,760	\$13,548,201	16.8%	\$1,008,014
West Virginia	\$738,008,746	\$58,188,453	7.9%	\$5,818,845
Total	\$38,827,354,310	\$2,778,688,032	7.2%	\$390,698,448

Excise Tax Rates on Sports Betting

(a) New Jersey taxes revenue an additional investment alternative tax of 1.25%, which is not reflected in these figures.

(b) Sports betting was never illegal in Oregon. No new bill has passed to legalize it.

(c) Pennsylvania levies an additional 2% Local Share Assessment, which is not reflected in these figures.

Revenue refers to adjusted revenue, which is net revenue adjusted for winnings.

Source: State statutes, Tax Foundation calculations.

State	Tax Rate
Arkansas	13% of first \$150 million in receipts, then 20%
Colorado	10% of revenue
Delaware	50% of revenue
District of Columbia	10% of revenue
Illinois	15% of revenue
Indiana	9.5% of revenue
Iowa	6.75% of revenue
Michigan	8.4% of revenue
Mississippi	12% of revenue

Montana	Lottery collects revenue minus expenses
Nevada	6.75% of revenue
New Hampshire	51% online; 50% retail
New Jersey (a)	8.5% of land-based revenue; 13% of online revenue
New Mexico	Tribal Lands
New York	8.5% on land-based revenue; 12% on online revenue
North Carolina	Tribal Lands
Oregon (b)	2.3%
Pennsylvania (c)	34% of revenue
Rhode Island	51% of revenue
Tennessee	20% of revenue
West Virginia	10% of revenue

Proposed Excise Tax Rates on Sports Betting

(a) Several bills have been introduced in Massachusetts.

(b) Senate bill proposes 6.25%, House bill proposes 10%.

(c) Senate bill proposes 15%, House bill proposes 20%.

Source: State statutes, Tax Foundation calculations.

State	Tax Rate
Florida	15% of revenue
Kansas	10% of online revenue; 7.5% of land-based revenue
Kentucky	14.25% of online revenue; 9.75% of land-based revenue
Massachusetts (a)	TBD
Missouri	9%
Ohio (b)	6.25% or 10%
Virginia (c)	15% or 20%

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Summary of Qualifications

1979-2021

Legal and business experience in the United States, South American, Pacific and European sectors; Gaming counsel and work in advisory role for emerging gaming markets; Advice to and participation in international gaming companies; Substantial transactional work for start-up companies and established businesses evolving into new markets; Coordination of major litigation involving matters of local, federal and international legal concerns; Negotiation and organization of joint ventures and other associations; Promotional work, including public speaking, on behalf of sports betting on behalf of ISI, Ltd., specific clients and general business and legal interests; Substantial work with sports betting companies, governmental and political interests domestically and internationally; Presidents Award from International Masters of Gaming Law

Education

Vanderbilt University 1970-1974
Nashville, Tennessee
Bachelor of Arts, 1974; President of Senior Class; Honor Council; Member, Omicron Delta Kappa National Leadership Fraternity; Raven Society.

Vanderbilt University School of Law 1975-1978
Nashville, Tennessee
J.D. 1978; Honor Council; Recipient, Outstanding Oralist Award in Moot Court Competition

Professional Experience

Thoreson, Yost, Berry & Matthews 1980-1987
Seattle, Washington
Partner, AV rated practice specializing in transactional business work and estate planning; Substantial work undertaken for start-up and established businesses; Lobbying undertaken on behalf of major client.

- Weinstein, Hacker & Matthews, P.S.** 1987-1991
Seattle, Washington and Spokane, Washington
Member and President, AV rated practice specializing in international business, corporate transactional work and reorganization; Coordination of major litigation involving matters of anti-trust law and international issues.
- Hacker Matthews, P.S.** 1991-1994
Seattle, Washington and Lisbon, Portugal
Member and President, an AV rated practice specializing in international business, corporate transactional work and reorganization; Coordination of major litigation involving matters of international letters of credits, high technology and business; work with governmental and business interest in Pacific Rim and Europe.
- McKay, Chadwell & Matthews, PLLC** 1995-1997
Seattle, Washington
Member; AV rated legal practice and international business consulting; Negotiation and organization of joint ventures and strategic alliances involving government and the private sector; Business formation and international seminars
- Matthews International** 1997-2003
Seattle, Washington – Palm Springs, California
Member and Manager; Domestic and international business consulting; Negotiation and organization of joint ventures and strategic Alliances; Work on major governmental legal action; Business formation; Advice to new gaming company
- Internet Sports International, Ltd.** 1999-Present
Palm Springs, California, Las Vegas, Nevada, Nashville, Tennessee
Co-Founder, VP-International Relations; General Counsel; Business formation and operation; International negotiations; Business strategy
- ISI-Maritime/Islands, Ltd.** 2005-Present
Palm Springs, California – Las Vegas, Nevada; Ft. Lauderdale, Florida, Peru, Nashville, Tennessee
Co-Founder, President; Business formation and operation; International negotiations with emphasis in the Caribbean, cruise lines, Latin America; Business strategy
- Swiss Gaming Corporation** 2007-2014
Ascona, Switzerland
Of Counsel; Provided gaming regulatory advice on its work in international jurisdictions

Arius International, Ltd.
Douglas, Isle of Man

2012-2015

Consultant; Providing business development advice in international jurisdictions

Varela & Fonseca Abogados
Lima, Peru

2010-Present

Consultant; Providing advisory support on gaming to law firm when dealing with English speaking companies entering the Peruvian market

Publications

Business International, LTD.

Served as editorial contributor on the 1993 Edition of Foreign Investment in Portugal on behalf of this publication of The Economist.

Additional Professional Activities

Symposium on the Privatization of Central and Eastern Europe

Sponsored a broadcast via satellite of a live symposium from the Hoover Institute at Sanford University on the privatization of the central and eastern European economies, chaired by former Secretary of State George Schultz and Nobel Prize winning economist Milton Friedman and George Stigler; included conferences with central and eastern European governmental and business leaders; Negotiated license with PBS to feed the program into Seattle, Washington live, interactive participation with business leaders assembled at television studio.

Bolsa da Valores do Porto

A key-note speaker at a financial symposium which was part of the Porto Stock Exchange's 100th Anniversary in Porto, Portugal; Attendees included the national press and many of the countries CEO's of the various publicly traded companies.

U.S Embassy in Portugal

Invited to speak as private business consultant at numerous programs in Portugal before U.S. and Portuguese business interest at sessions organized by the United States Embassy in Portugal; Assisted in the organization of a business center operated by the Commercial Section of the Embassy.

Formation of Russian Medical Supply Company

Worked with U.S. company in the formation of Russian Medical supply company and numerous issues related thereto, including the promotion of new technology and investment promotion.

Board of Trustees for the Pacific Northwest Ballet

Served as trustee member of the Pacific Northwest Ballet; Promotional and fundraising work undertaken on behalf of the ballet; Participated in major capital drives and special events on behalf of the arts in the Pacific Northwest.

Rotary Club

Participated in numerous projects sponsored by the Rotary Club; Assisted in the formation of high technology center in certain low income areas for the purpose of introducing computer resources after normal school hours to students who would otherwise be able to improve their knowledge of the use of such technology

Joey Cora Children's Foundation

Board member; Served as legal advisor , professional baseball player, Joey Cora to this nonprofit corporation which provides financial assistance to benefit children's causes

Political Campaigns

Participated in numerous political campaigns for local, state, and national offices, often serving as state chairman for the candidates involved at the state and national level; Also, served to promote certain bond issues involving the financing of projects involved with quality of life issues in the community

Citizen's Goals 2000 Committee

Chaired citizen group responsible for the planning of the future of Nashville, Tennessee; Established numerous committees responsible for myriad of issues for the preparation of working papers to be utilized by the responsible elected officials in appropriating funding to incorporate the directives generated

References

(Available Upon Request)

*From the Desk of
Ernest C. Matthews IV*

MEMORANDUM

TO: North Dakota Senate Committee on Finance and Tax
FROM: Ernest C. Matthews IV
DATE: March 14, 2021
SUBJECT: Summary of Discussion Relating to Suggested Amendments to HB 1234

Introduction: I am (i) an attorney, experienced in gaming law working on a variety of issues in different states around the US and internationally; (ii) a member of the International Masters of Gaming Law – see www.imgl.org – made of gaming sectors the top attorneys, industry leaders and regulators (the “IMGL”) (iii) a frequent speaker on a variety of domestic and international gaming issues and (iv) involved in different US jurisdictions on various sports betting operator oriented issues through both my IMGL position and that as General Counsel/Vice President of Internet Sports International, Ltd. I am appearing to testify in favor of the amendments to HB 1234. I will address the following amendments:

1. The amendment offered on Page 2 line 25. This amendment a language clarification that it is "in-state" college sports, as well as any sports event that involves participants under the age of 18. (as opposed to prohibiting betting on college sports as a whole).
2. The amendment offered is on Page 3 lines 25 and line 27 These clarifications add the ND Century Code citations that makes clear the pari-mutuel horseracing and charitable gaming are already legal and separately governed in North Dakota. It is clear on its face that the proposed bill and its amendments do not impact pari-mutuel racing or other gaming that are already provided for under ND law.
3. The next amendment is on page 6 lines 16 and 17, concerning the appointment of the proposed five member Sports Wagering Commission.

The way the current bill is written is unusual. The vast majority of gaming commissioners are selected by the Governor of each state with isolated instances where the legislature will also participate. To my knowledge, North Dakota would be the only state in the country that would have its Attorney General appointing a controlling interest in the state commission. This could cause there to be a conflict in the AG’s office representing the Commission should a legal matter arise if the commission could be deemed nothing more than an extension of the AG’s office. Typically, the AG provides legal support to state agencies and commissions. If the association is too close, there may be instances wherein the AG’s office would have to recuse itself from representing the commission leading to the necessity (and added cost) of an appointment of outside counsel to provide adequate representation.

4. The fourth amendment is on page 9 line 5. This amendment changes the number of Retail Sports Wagering licenses from 2 to 3, making it consistent with the number of mobile licenses of 3, and

inclusive of the number of licenses a state the size of North Dakota should be able to support. Likewise, having the extra license could improve the terms offered to the retail locations as the three license holders jockey to include as many bars and taverns as possible into their respective pools.

5. The fifth amendment is on page 17 lines 7 through 10. This is a crucial amendment for the in-state bars and hospitality sites, fraternal locations, and other gaming businesses across the state and the rural towns which need the post COVID stimulation and which otherwise could not be included in this activity.

This amendment provides for a start date for these "retail sports betting locations" of August 1, 2023 (subject to the passage of HB 3032 and the vote of the ND citizens) -- these locations, which could number in the hundreds, will be North Dakota operated businesses; bars, restaurants, hotels, fraternal locations and other sites across the state -- these locations would be able to establish their businesses and support the higher costs of equipment, get new customers into their establishments, increase food and beverage sales -- and tips, while securing additional play on the existing charitable activities in those locations from the new foot traffic.

The retail sportsbooks need time to become established. I feel that the direct impact on the smaller businesses and their employees in the post Covid recovery period throughout the state will more directly benefit from this activity with dollars going into their respective pockets than would the mobile/online tax revenue which will be diffused by the time its benefits reach those same people. One additional side benefit of giving the retail locations a head start is that this activity will give them all time to generate substantial data bases in the collection of the names of those participating in sports betting. These data bases will sometime mean as much if not more to the local businesses in marketing other ancillary services they provide.

Respectfully,

Ernest C. Matthews IV



#9078

Chairman Bell, Members of the Committee,

Thank you for the opportunity to testify today. My name is Rebecca London, and I am here today to provide testimony for DraftKings in support of HB 1234. DraftKings is a digital sports entertainment and gaming company created to fuel the competitive spirit of sports fans with products that range across daily fantasy, regulated gaming and digital media. Headquartered in Boston and launched in 2012, DraftKings is the only U.S.-based vertically integrated sports betting operator. DraftKings' Sportsbook is live with mobile and/or retail sports betting operations in 14 states.

DraftKings supports a sports wagering framework in North Dakota that protects consumers, generates maximum revenue for the state, and stamps out the pervasive illegal market. That means a robust mobile sports betting market with adequate mobile competition and no unnecessary hurdles for consumers to bet in the regulated market.

It is important to recognize that sports wagering is already taking place in North Dakota, with an estimated 138,000 people betting over \$355 million in illegal wagers each year. Nearly all the sports wagers in North Dakota are placed online through offshore websites in the robust illegal market. Across the country, states are trying to bring this activity into a legal, regulated market.

Mobile sports betting allows customers to place bets conveniently from their mobile phones and other devices. States have implemented sports betting without mobile have seen much lower revenues, growth, and penetration of the existing illegal market.

As you begin to consider implementing gaming in the State of North Dakota, there are a few factors to consider in order to build the strongest, most effective regulatory regime, while encouraging North Dakotans to abandon the illegal market.

First, legal operators are not just competing with other legitimate entities in the United States, they also must remain competitive to pricing from illegal, offshore sportsbooks that do not face the same taxation and regulatory costs. Barriers to market entry, such as high taxes and fees, cut into an operator's profit and reduce their ability to offer competitive pricing, a significant factor for consumers when making the decision on where to spend their money.

Second, not only must the state consider a mobile market, particularly in a rural state like North Dakota, it is crucial to allow for the ability to register and fund an account via a mobile device. Creating artificial barriers for consumers, such as requiring them to



drive hours to register a mobile sports betting account in person, is anachronistic in a time when people file their taxes via mobile applications on their phones.

Finally, it is crucial to allow for multiple operators to serve the market. A marketplace with multiple choices for consumers will lead to a much better consumer experience that forces operators to innovate and to continue to offer new products to North Dakota and to compete with one another. Multiple operators will also increase the overall economic impact that sports wagering has in the state.

While you consider these important policy considerations, I would like to provide two recommendations for amendments to HB 1234. We recommend this committee amends the complete ban on wagers on all college sports. DraftKings and other regulated operators take game and athlete integrity very seriously, including college athletics. The reality is, wagers on college sports are happening in the illegal market and removing college sports as an allowable wager market in your state will prevent consumers from entering the legal market, because they are unlikely to use multiple platforms to place wagers. A complete ban on all college sports wagers would be the most expansive legislative restriction on these types of wagers in the country.

We also recommend allowing consumers to fund their accounts with credit cards. Operators need to be able to offer consumers the same options and convenience available in the illegal market in order to transition them to the legal market where they will benefit from consumer protections and responsible gaming resources not available in the illegal market.

If North Dakota wants to best protect consumers, eliminate the thriving illegal offshore sports betting industry, and provide the state additional revenue streams it can best be achieved through the creation of a competitive, fully mobile sports wagering market.

Thank you for the opportunity to testify today. I am happy to answer any questions.



#9205

**HOUSE BILL 1234
SENATE FINANCE AND TAXATION COMMITTEE
MARCH 15, 2021**

TESTIMONY OF CYNTHIA C. MONTEAU, EXECUTIVE DIRECTOR

Madam Chair and members of the Committee, my name is Cynthia Monteau, I am the Executive Director of the United Tribes Gaming Association (UTGA). I come before you today as an Opponent of House Bill 1234, a bill that compounds the already detrimental impact to casino revenue by allowing online and mobile sports betting if supported by the voters after a legislative referral.

There is only so much disposable income in the state and electronic pull tabs have already generated \$1.6 billion in gross proceeds from August 2018 thru December 2021. Our casinos have been impacted by approximately \$150 million because of electronic pull tabs. In addition, this bill creates a new commission and will require a new division within the Attorney General's office when this office currently does not have the ability to regulate electronic pull tabs.

Gaming is in most cases our sole source of revenue, jobs, and economic development. HB1234 is an expansion of gaming outside of tribal casinos – which we are adamantly opposed.

We urge a do NOT pass of HB 1234.

Thank you, Madam Chair.

Testimony Opposing House Bill 1234

Mark Jorritsma, Executive Director
Family Policy Alliance of North Dakota
March 15, 2021

Good morning Madam Chair Bell and honorable members of the Senate Finance and Taxation Committee. My name is Mark Jorritsma and I am the Executive Director of Family Policy Alliance of North Dakota. I am testifying in opposition to House Bill 1234 and respectfully request that you render a “DO NOT PASS” on this bill.

As we all know by now, in May 2018, the Supreme Court struck down a 1992 federal law that effectively banned commercial sports betting in most states. As a result, many states, including ours, have been looking at potentially legalizing sports betting ever since. But at what cost?

ROOT FOR THE HOME TEAM

The first issue our organization has with legalized sports betting is devaluation of sports for its own sake. In other words, fundamentally changing the meaning of American sports. As writer David Blankenhorn eloquently summarizes, “Betting on games subtly but profoundly shifts our focus away from the game itself — the sport for the sake of the sport — and instead encourages us to experience the game as a means of measuring and grasping for money. In doing so, it violates everything that, as children, drew us to sports in the first place.”

Another author puts it this way. “If you want to magnify the attention paid to the lowest and most cynical motives of the audience rather than emphasizing the skill, hard work and integrity of the athletes, just legalize betting on people the way we now bet on horses and dogs.”

JUST ONE MORE BET AND THEN I’LL STOP

The second problem we have with this bill is associated with compulsive gambling and gambling disorders. There are an estimated 10 million individuals in our country with some form of gambling addiction or compulsion to gamble which harms them or their family. That represents 2.6 percent of the United States population, and many sources place the incidence significantly higher.

I am not going to go into detail about the harms of gambling addiction – we’ve all heard them many times – but I ask you to please take this into serious account when considering this bill. If sports gambling becomes both legal and encouraged, more people are likely to gamble. It’s a fact.

And as more people gamble, more are likely to hurt themselves, their families and their communities through excessive gambling. Any law is about tradeoffs, and this is a big one.

SHOW ME THE MONEY

And now we come to the crux of the issue for many; additional revenue to the state of North Dakota from taxation of sports betting. The states that have legalized sports betting and for which reliable information exists, have seen very small percentage increases in their state budgets from legalized sports betting tax revenues, as shown in the following table.

Percentage Increase in Annual State Budget Revenues from Sports Betting

<i>State</i>	<i>Percentage Increase</i>
<i>Nevada</i>	0.5%
<i>New Jersey</i>	0.1%
<i>Rhode Island</i>	0.25%
<i>Mississippi</i>	<1%
<i>West Virginia</i>	<1%

Sports betting is not some sort of financial panacea. Yes, the state of North Dakota would gain more revenue, but remember that with the May 2018 ruling, we are not the only ones eyeing sports betting. These numbers are not going to go higher, but if anything, lower.

Also on the topic of money, gambling has always been a regressive tax on those with lower incomes. It is correctly noted that, "Studies show that the less money you have, the more tempting it is to try to win some by gambling. You're already down, so what's the big risk if you tap out? A bet is cheap but also fake 'hope.'"

Source: *Sports betting not a financial home run for states*. The State Journal-Register. Jan 2, 2019.

THE PROBLEM

Let me leave you with this. With roughly 762,000 residents in our state and using the previously noted average statistic of 2.6 percent of people with gambling addiction, that means 19,812 North Dakotans already have problems with gambling, which are only going to be made worse if this bill passes.

This estimate does not even include those who don't have problems now but would be added to this number because of sports betting. So this is the problem. Is it morally justifiable to earn a fraction of additional annual budget revenue off of those with gambling problems? We at Family Policy Alliance of North Dakota certainly don't think so.

CONCLUSION

Sports betting is bad social policy, it is bad economic policy, and it is bad governmental policy. SB1234 has a lot of supposed contingencies: background checks, HCR 3032, approval by voters, and so on. However, the thing to recognize is that you – the body that represents all North Dakotans – are responsible for lighting or not lighting the fire of sports betting. It will either stop here, or begin here. It is your responsibility to make that important decision which will affect our state for generations to come.

For all the aforementioned reasons, Family Policy Alliance of North Dakota respectfully asks that you please vote House Bill 1234 out of committee with a "DO NOT PASS" recommendation.

Thank you for the opportunity to testify and I am now happy to stand for any questions.

#9069



HB 1234. Senate Finance and Tax 3/15/21

Madam Chair Bell and members of the Senate Finance and Taxation committee

My name is Mike Motschenbacher. I am the Executive Director of the ND Gaming alliance. Our alliance represents all facets of the charitable gaming industry. Our members include charities, hospitality venues, fraternal organizations, veterans' organizations, manufacturers, and distributors.

Today I am submitting neutral testimony on HB 1234.

The way the bill is currently written, our organization is in opposition to it. We believe that without a two-year head start which was proposed in the original bill, this bill simply does not benefit North Dakota businesses and charities. If a bettor has a choice of sitting at home on their couch placing a bet on their smart phone rather than going to a bar/restaurant/fraternal organization to place their bets and thus having food and drink to support their local establishments, we find this bill no good for North Dakota. The two-year head start would give North Dakota an advantage over the out of state companies that would benefit from online betting in its current form for a period of two years which would make it worth the investment to bring these kiosks into their facilities. Without that advantage, we simply do not believe our members will invest in the technology. We also disagree with amendment that removed college sports. The argument that games could be fixed by players being "paid off" by bettors is simply not likely. In fact, it is more likely that out of state bettors from other states would be more apt to pay off players in attempt to "fix" a bet. This argument just does not hold any water.

However, it is our understanding that the amendments we supported earlier in the session which were stripped out of this bill by the House Judiciary committee are going to be presented in your committee today. If all the original amendments that were in the original bill are put back in, then this is a bill we could support. However, in its current form, we are opposed to this legislation.

Thank you for taking the time to read this testimony, and you can certainly reach out to me with any questions.

Mike Motschenbacher
Executive Director
ND Gaming Alliance
701-471-9014
Ndgalliance@gmail.com



Gladstone Consolidated Fire District

#9004

Box 128
Gladstone, North Dakota 58630

March 15, 2021

To: Senate Finance and Taxation Committee

Re: HB 1234 – Charitable Gaming Fund

Dear Chairman Bell, and the Senate Committee Members:

The Gladstone Consolidated Fire District urges a DO NOT PASS on HB 1234

As a recipient of charitable gaming proceeds, the Gladstone Consolidated Fire District disagrees with the amended bill HB 1234. This bill was dramatically amended through the House Finance and Taxation Committee hearings.

The charities must have an adequate lead time to establish a business with the on-line betting, a one-year timeline is not a lot of time for businesses to invest especially with the cost of kiosks in the bars.

There are other points in this bill that do not benefit the local charities and therefore:

The Gladstone Consolidated Fire District urges a DO NOT PASS on HB 1234.

Sincerely,

Joe Wanner – Fire Chief

Gladstone Consolidated Fire District

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1234
3/31/2021
AM

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide for a legislative management study; to provide a penalty; and to provide a contingent effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [10:10]

Discussion Topics:

- Electric pull tab devices

Senator Bell [10:11] submits an amendment [LC 21.0499.02006] #11199

No other committee action

Chair Bell adjourns the meeting. [10:16]

Joel Crane, Committee Clerk

21.0499.02006
Title.

Prepared by the Legislative Council staff for
Senator Bell

March 30, 2021

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1234

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 53-06.1 of the North Dakota Century Code, relating to limiting the number of electronic pull tab devices per site; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 53-06.1 of the North Dakota Century Code is created and enacted as follows:

Limitation on number of electronic pull tab devices per site.

On or after the effective date of this Act, a licensed organization authorized to operate electronic pull tab devices applying for a new site authorization may not install more than five electronic pull tab devices at the site.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on July 1, 2021.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2021 SENATE STANDING COMMITTEE MINUTES

Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1234
3/31/2021
PM

A BILL for an Act to create and enact a new subdivision to subsection 2 of section 12-60-24 and chapter 53-06.3 of the North Dakota Century Code, relating to criminal history background checks and the regulation of sports wagering; to provide for a legislative management study; to provide a penalty; and to provide a contingent effective date.

Chair Bell calls the meeting to order. Chair Bell, Vice Chair Kannianen, Senators Meyer, J. Roers, Patten, Piepkorn, Weber are present. [3:00]

Discussion Topics:

- Electric pull tab devices

Senator J. Roers [3:00] moved DO NOT PASS
Senator Weber seconds

Senators	Vote
Senator Jessica Bell	Y
Senator Jordan Kannianen	Y
Senator Scott Meyer	Y
Senator Dale Patten	Y
Senator Merrill Piepkorn	Y
Senator Jim Roers	Y
Senator Mark Weber	Y

Motion passes 7-0-0

Senator Meyer carries

Chair Bell adjourns the meeting. [3:02]

Joel Crane, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1234, as engrossed: Finance and Taxation Committee (Sen. Bell, Chairman)
recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1234 was placed on the Fourteenth order on the calendar.