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10/21/03
Date

2003 SENATE FINANCE AND TAXATION

SB 2285

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2285

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date January 27, 2003

Tape Number	Side A	Side B	Meter #
1	X		3475-4809

Committee Clerk Signature *Mary Kay Leland*

Minutes:

Senator Urlacher opened the hearing on SB2285. All committee members are present. This bill relates to the parimutuel tax levied upon wages. After hearing testimony on this bill today, we will recess and hear further testimony at a future date.

Senator Tony S. Grindberg - One of the sponsors of the bill. Again requested a recess to hear additional testimony in the future. Additional testimony will come in next week.

Senator Joel C. Heitkamp (mtr #3800) - Is a simple bill, the reality, other states or off shore sights have caught up to what we are doing in North Dakota. There is a small group of individuals that have brought dollars to the state, they will be here in the future.

Leon Glasser, President of the North Dakota Quarter Horse Racing Association (mtr #4115) -

Here in opposition to the bill. We feel this bill would be detrimental to the state's budget as well as to the horse racing industry in North Dakota. Written testimony is attached. Urge a Do Not Pass.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2285

Hearing Date January 27, 2003

Pam Sharp, Director of OMB (mtr #4440) - Neutral on the bill, would like to address the fiscal note. The fiscal note was prepared by the Attorney Generals Office with information given to them. For the past several years the general fund has received in excess of 3 million dollars per year from this activity. For the 03-05 biennium, have included this activity for the budget forecast. At Senator Urlacher's request, will have the Attorney Generals Office prepare an updated fiscal note.

Doug ? (mtr #4635) - Runs quarter horses and thoroughbreds and is here to testify in opposition to the bill. Would be difficult to continue with a reduction in the take. Urges a do not pass.

Senator Urlacher - Will recess the hearing on SB2285 to be rescheduled for a future date.

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10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2285

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 4, 2003

Tape Number	Side A	Side B	Meter #
1	X		5367-end
1		X	1-2911
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Urlacher opened the hearing on SB2285. All committee members are present. This bill relates to the parimutuel tax levied upon wagers.

Senator Joel Heitkamp (mtr #5381) - Introduced the bill and testified in support of the bill.

Senator Tony Grindberg (mtr #5671) - Supports bill SB2285.

Susan ?, RSI (Racing Services Inc.) (mtr #5710) - Testified in support of SB2285. Referenced handouts (exhibit A & B).

Tape 1, Side B

Susan (mtr #1) - Continued detailed testimony on the amount of bets in ND and dollars generated for ND General Fund. Testimony on the changing tax requirements in other states and level of competition.

Senator Seymour (mtr #718) - Question on the early history and setup of this industry.

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10/21/03
Date

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2285

Hearing Date February 4, 2003

Susan (mtr #773) - Gave detailed history of the beginning of racing in ND and how racing is setup today.

Senator Syverson (mtr #969) - Technical question on how the betting and payoff operation works.

Susan (mtr #1009) - Continued with testimony on how the betting process works.

Senator Tollefson (mtr #1245) - Understanding transactions are all cash.

Susan (mtr #1265) - Clarified use of cash and cards.

Pete Davis, horse breeder (mtr #1357) - Long history of horse ownership and breeding. Testified in opposition to SB2285.

Senator Wardner (mtr #1777) - How would the current industry leaving altogether effect you?

Mr. Davis (mtr #1795) - Indicated they would leave the state as well.

Senator Nichols (mtr #1944) - Question on how horsemen access dollars in the fund.

Mr. Davis (mtr #1961) - Provided information on how the fund is regulated and paid out.

Senator Syverson (mtr #2057) - Question on how the payouts on exotic bets payout in comparison to straight bets.

Mr. Davis (mtr #2091) - Explained percentage of payout on bets.

Charlie Souseth(?), owner/breeder (mtr #2160) - Testified in opposition to SB2285.

Senator Wardner (mtr #2340) - How many horse breeders are there in the state.

Mr. Souseth - Doesn't have the answer to that question.

Susan (mtr #2378) - Did clarify statistics on the difference between live racing and simulcast racing. Also testified about the viability of live racing without a subsidy and economic impact both have in their community.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2285

Hearing Date February 4, 2003

Senator Nichols (mtr #2692) - Question about a proposed track in ND and the parties that may have in interest in it.

Susan (mtr #2722) - Not likely a live track would be viable. ND should not bank on that market.

Senator Tollefson (mtr #2776) - Question about the differences in payout for live races vs. simulcast racing.

Susan (mtr #2820) - Simulcast racing has additional fees due to the cost of the bringing in the signal.

Senator Urlacher (mtr #2911) - Closed the hearing on SB2285

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Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2285

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date February 5, 2003

Tape Number	Side A	Side B	Meter #
2		X	2832-4870
Committee Clerk Signature <i>Deanne Wall</i>			

Minutes:

Senator Urlacher opened the discussion on SB2285. All committee members are present. This bill relates to the pari-mutuel tax levied upon wagers.

Senator Urlacher (mtr #2840) - There is a fiscal note attached. There are no additional amendments.

Senator Tollefson (mtr #2975) - Do we want to discuss further information on this bill?

Senator Urlacher(mtr #3004) - Do not like losing 2 million fro the general fund.

Senator Tollefson (mtr #3026) - If understood correctly, funds could easily all go away.

Senator Urlacher - That is a matter of judgment.

Senator Nichols (mtr #3134) - I haven't visited enough with sponsors. Seemed to be a good chance revenue would be lost.

General Discussion by all Senators about the source of the funds, amount that may be lost if the bill is not adopted, the number of wagers, the exotic bets and the personalities involved.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2285

Hearing Date February 5, 2003

Rick Clayburgh (mtr #4050) - Have watched the habit of the individual wagerer. Is easy for those individuals to move around. Has stayed longer than we thought.

Senator Wardner (mtr #4197) - The horsemen would be effected.

Senator Wardner moves a Do Pass. 2nd by Senator Tollefson. Rerefer to Appropriations. Roll call vote 5 yea, 1 nay, 0 absent. Carrier Senator Seymour.

Small amount of general discussion by Senators.

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FISCAL NOTE
Requested by Legislative Council
04/22/2003

Amendment to: SB 2285

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The parimutuel General Fund and special funds tax assessments against gross handle (money bet on horse racing) are divided into two categories. The first category is based on monies wagered on horses to win, place, or show. The payoff for this wager is dependent upon the finishing position of one horse. The second category is for monies wagered on exotic wagers (exacta, trifecta). Exotic wager payoffs are dependent on the placement of two or more horses.

As amended, Engrossed Senate Bill No. 2285 provides for a graduated tax on parimutuel racing. For win, place and show gross handle, the tax rate remains the same (two percent) on the first \$35.5 million. On the gross handle above \$35.5 million, the General Fund tax rate is reduced to one-half of one percent. The tax rate for the special funds remains unchanged in this wagering category - one-half of one percent to the purse fund and one-half of one percent to the breeders' fund.

For exotics gross handle, the General Fund tax rate remains the same (two and one-half percent) on the first \$102.4 million. For the gross handle above \$102.4 million, the General Fund tax rate decreases to one-quarter of one percent. For the special funds, the total tax rate (one and one-half percent) remains unchanged.

This fiscal note reflects the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

This fiscal note uses as a basis for comparison the 2003-05 biennium Executive Recommendation estimated General Fund revenues of \$3.27 million from racing parimutuel taxes.

Last calendar year, the gross handle placed on all horse races totaled \$170,846,000. General Fund revenues for last calendar year were approximately \$3.9 million based on a 2.3% tax (blended rate) on gross handle.

Similarly, under the current statute, the racing promotion, purse, and breeders' funds each received one-half of one

percent (one and one-half percent total) of gross handle. Last year approximately \$2.5 million was paid to the special funds.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

No change

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

No change

Name:	Paul Bowlinger/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4633/328-3622	Date Prepared:	04/22/2003

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10/21/03
Date

FISCAL NOTE
Requested by Legislative Council
04/16/2003

REVISION

Amendment to: SB 2285

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$1,385,478)	\$0	(\$1,385,478)	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The parimutuel General Fund and special funds tax assessments against gross handle (money bet on horse racing) are divided into two categories. The first category is based on monies wagered on horses to win, place, or show. That is a payoff dependent upon the finishing position of one horse. The second tax category is for monies wagered on exotic wagers. Exotic wagers are bets placed on races that involve the payoff depending on the placing of two or more horses.

As amended, SB 2285 provides for a graduated tax on parimutuel racing. On the first \$5 million in gross handle, the tax rate remains unchanged in both the win, place and show and exotics categories.

For win, place and show gross handle, the tax rate remains the same (2%) on the first \$100 million. On gross handles above \$100 million, the General Fund tax rate is reduced to 1 1/2 percent. The tax rate for the special funds remains unchanged in this wagering category - 1/2% to the purse fund and 1/2% to breeders' fund.

For exotics gross handle, the General Fund tax rate remains the same (2.5%) on the first \$5 million. For the gross handle above \$5 million, the General Fund tax rate decreases to 1%. For the special funds, the total tax rate (1.5%) remains unchanged for the first \$100 million in gross handle. On gross handle above \$100 million, the special funds tax rate decreases to a total of 1%, rather than 1 1/2%.

The estimated effect of the General Fund revenues as a result of the Senate amendments, which stagger the tax rate based on the amount bet is \$(1,385,478). The fiscal impact for both the General Fund and special funds is based on the Executive Recommendation estimated gross handle. As a result, the special fund revenues remain unchanged. If the gross handle significantly increases, special fund revenues will also experience a decrease in revenues available for supplementing parimutuel winnings, horse racing promotion, and amounts paid to horse breeders.

This fiscal note has been revised to reflect the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes. This fiscal note has been revised to correct a mistake.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and

fund affected and any amounts included in the executive budget.

The estimated effect of the Senate amendments is a reduction in General Fund revenues of \$(1,385,478). The fiscal impact for both the General Fund and special funds is based on the Executive Recommendation estimated gross handle.

Last calendar year, the gross handle placed on all horse races totaled \$170,846,000. Current statute provides revenues to the General Fund equal to 2.5% tax on gross handle. General Fund revenues for last calendar year were approximately \$4,271,000 based on a 2.5% tax on gross handle.

Similarly, under the current statute, the racing promotion, purse, and breeders' funds each received .5% (1.5% total) of gross handle. Last year approximately \$2,563,000 was paid to the special funds.

This fiscal note has been revised to reflect the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes. This fiscal note has been revised to correct a mistake.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This change will result in less monies being available to to fund General Fund and special funds supported operations.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Since the special funds are established as continuing appropriations, the appropriation to the Office of Attorney General does not require a change.

Name:	Paul Bowlinger/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4633/328-3622	Date Prepared:	04/22/2003

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FISCAL NOTE
Requested by Legislative Council
02/21/2003

Amendment to: SB 2285

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$809,674)	\$0	(\$809,674)	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

The parimutuel General Fund and special funds tax assessments against gross handle (money bet on horse racing) are divided into two categories. The first category is based on monies wagered on horses to win, place, or show. That is a payoff dependent upon the finishing position of one horse. The second tax category is for monies wagered on exotic wagers. Exotic wagers are bets placed on races that involve the payoff depending on the placing of two or more horses.

As amended, SB 2285 provides for a graduated tax on parimutuel racing. On the first \$5 million in gross handle, the tax rate remains unchanged in both the win, place and show and exotics categories.

For win, place and show gross handle, the tax rate remains the same (2%) on the first \$100 million. On gross handles above \$100 million, the General Fund tax rate is reduced to 1 1/2 percent. The tax rate for the special funds remains unchanged in this wagering category - 1/2% to the purse fund and 1/2% to breeders' fund.

For exotics gross handle, the General Fund tax rate remains the same (2.5%) on the first \$5 million. For the gross handle above \$5 million, the General Fund tax rate decreases to 1%. For the special funds, the total tax rate (1.5%) remains unchanged for the first \$100 million in gross handle. On gross handle above \$100 million, the special funds tax rate decreases to a total of 1%, rather than 1 1/2%.

The estimated effect of the General Fund revenues as a result of the Senate amendments, which stagger the tax rate based on the amount bet is \$(809,674). The fiscal impact for both the General Fund and special funds is based on the Executive Recommendation estimated gross handle. As a result, the special fund revenues remain unchanged. If the gross handle significantly increases, special fund revenues will also experience a decrease in revenues available for supplementing parimutuel winnings, horse racing promotion, and amounts paid to horse breeders.

This fiscal note has been revised to reflect the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

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The estimated effect of the Senate amendments is a reduction in General Fund revenues of \$(809,674). The fiscal impact for both the General Fund and special funds is based on the Executive Recommendation estimated gross handle.

Last calendar year, the gross handle placed on all horse races totaled \$170,846,000. Current statute provides revenues to the General Fund equal to 2.5% tax on gross handle. General Fund revenues for last calendar year were approximately \$4,271,000 based on a 2.5% tax on gross handle.

Similarly, under the current statute, the racing promotion, purse, and breeders' funds each received .5% (1.5% total) of gross handle. Last year approximately \$2,563,000 was paid to the special funds.

This fiscal note has been revised to reflect the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

This change will result in less monies being available to to fund General Fund and special funds supported operations.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Since the special funds are established as continuing appropriations, the appropriation to the Office of Attorney General does not require a change.

Name:	Paul Bowlinger/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4633/328-3622	Date Prepared:	02/26/2003

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FISCAL NOTE
Requested by Legislative Council
01/30/2003

REVISION

Bill/Resolution No.: SB 2285

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$1,962,000)	(\$654,000)	(\$1,962,000)	(\$654,000)
Expenditures	\$0	\$0	\$0	(\$654,000)	\$0	(\$654,000)
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This fiscal note has been revised to reflect the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes. The estimated effect of the reduction in General Fund revenues is \$1,962,000. The estimated other funds revenue reduction is \$654,000.

The General Fund tax assessment and special funds tax assessment against total handle (money bet on horse racing) is divided into two categories. The first category is based on monies wagered on horses to win, place, or show. That is a payoff dependent upon the finishing position of one horse. The second tax category is for monies wagered on exotic wagers. Exotic wagers are bets placed on races that involve the payoff depending on the placing of two or more horses.

Senate Bill No. 2285 does not involve changing the current taxation on win, place, and show wagers. It changes NDCC subsection 2 of 53-06.2-11, relating to exotic wagers.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

This fiscal note has been revised to reflect the 2003-05 biennium Executive Recommendation estimated revenues of \$3.27 million from racing parimutuel taxes. The estimated effect of the reduction in General Fund revenues is \$1,962,000. The estimated other funds revenue reduction is \$654,000.

Last calendar year, the amount of wagers (gross handle) placed on exotics totaled \$133,705,639. The current statute provides revenues to the General Fund equal to 2.5% tax on this gross handle. Therefore, the General Fund revenues for last calendar year were approximately \$3,342,641 based on a 2.5% tax on these exotic wagers.

Senate Bill No. 2285 would reduce the tax amount to 1%. In its simplest terms, the formula multiplies the total amount bet by .01, rather than multiplying it by .025. The other 1.5% would be a General Fund revenue reduction.

Similarly, under the current statute, the racing promotion, purse, and breeders' funds each received .5% of the total

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exotic wagers. Last year that amounted to a total paid to the horse racing other funds of approximately \$2,389,338.

Senate Bill No. 2285 would reduce that amount from 1.5% to a total of 1% between the three funds. Therefore, the amounts payable to the Racing Commission's other funds would be reduced by one-third, which for last calendar year would then equal \$796,446.

This bill reduces General Fund revenues by 60% and the amounts payable to the other funds by one-third.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

This change will result in less monies being available to use for General Fund purposes. It will also result in less money available to pay horse breeders', to supplement winning purse amounts, and less available to promote racing in North Dakota.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The current appropriation and the Executive Recommendation both include an appropriation of \$150,000 from a combination of the purse, breeders' and promotion funds. These monies are required to pay the salaries of the Racing Commission staff members. The impact of this reduction will be felt by the racetracks, the breeders' and in the amount spent on racing promotion.

Name:	Paul Bowlinger/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4633/328-3622	Date Prepared:	01/30/2003

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Deanna D. Smith
Operator's Signature

10/21/03
Date

FISCAL NOTE
Requested by Legislative Council
01/27/2003

REVISION

Bill/Resolution No.: SB 2285

1A. State fiscal effect: Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$162,000)	(\$82,333)	(\$162,000)	(\$82,333)
Expenditures	\$0	\$0	\$0	(\$82,333)	\$0	(\$82,333)
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

This fiscal note has been revised to provide additional information. The 2003-05 biennium Executive Recommendation included \$3 million more in estimated revenues from Racing parimutuel taxes than did the Office of Attorney General's projection. Based on this, the effect of the reduction in General Fund revenues is \$1,962,000, rather than the \$162,000 reflected above, which reflects current law only.

The General Fund tax assessment and special funds tax assessment against total handle (money bet on horse racing) is divided into two categories. The first category is based on monies wagered on horses to win, place, or show. That is a payoff dependent upon the finishing position of one horse. The second tax category is for monies wagered on exotic wagers. Exotic wagers are bets placed on races that involve the payoff depending on the placing of two or more horses.

Senate Bill No. 2285 does not involve changing the current taxation on win, place, and show wagers. It changes NDCC subsection 2 of 53-06.2-11, relating to exotic wagers.

3. State fiscal effect detail: For information shown under state fiscal effect in 1A, please:

A. Revenues: Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

This fiscal note has been revised to provide additional information. The 2003-05 biennium Executive Recommendation included \$3 million more in estimated revenues from Racing parimutuel taxes than did the Office of Attorney General's projection. Based on this, the effect of the reduction in General Fund revenues is \$1,962,000, rather than the \$162,000 reflected above, which reflects current law only.

The General Fund and special funds revenues forecasts for the 2003-05 biennium are very conservative. The bulk of the wagers in North Dakota are received from one bettor. Since there is no assurance that this bettor will remain in North

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Dakota we believe the conservative forecast is warranted. The General Fund revenue forecast for this purpose for the 2003-05 biennium is \$270,000. Based on this forecast, this bill would reduce General Fund revenues by an estimated \$162,000 for the 2003-05 biennium and a like amount for the 2005-07 biennium. This bill would reduce special funds revenues by an estimated \$82,333 for the 2003-05 biennium, and a like amount for the 2005-07 biennium.

Last calendar year, the amount of wagers (gross handle) placed on exotics totaled \$133,705,639. The current statute provides revenues to the General Fund equal to 2.5% tax on this gross handle. Therefore, the General Fund revenues for last calendar year were approximately \$3,342,641 based on a 2.5% tax on these exotic wagers.

Senate Bill No. 2285 would reduce the tax amount to 1%. Therefore, assuming the same total handle placed on exotic wagers, the decline of amounts payable to the General Fund, based on the 1.5% reduction, will be \$2,005,585. In its simplest terms, the formula multiplies the total amount bet by .01, rather than multiplying it by .025. The other 1.5% would be a General Fund revenue reduction.

Similarly, under the current statute, the racing promotion, purse, and breeders' funds each received .5% of the total exotic wagers. Last year that amounted to a total paid to the horse racing special funds of approximately \$2,389,338.

Senate Bill No. 2285 would reduce that amount from 1.5% to a total of 1% between the three funds. Therefore, the amounts payable to the Racing Commission's special funds would be reduced by one-third, which for last calendar year would then equal \$796,446.

The affect of the bill is to reduce General Fund revenues by 60% and to reduce the amounts payable to the special funds by one-third.

B. Expenditures: Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

This change will result in less monies being available to use for General Fund purposes. It will also result in less money available to pay horse breeders', to supplement winning purse amounts, and less available to promote racing in North Dakota.

C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The current appropriation and the Executive Recommendation both include an appropriation of \$150,000 from a combination of the purse, breeders' and promotion funds. These monies are required to pay the salaries of the Racing Commission staff members. The impact of this reduction will be felt by the racetracks, the breeders' and in the amount spent on racing promotion.

Name:	Paul Bowlinger/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4633/328-3622	Date Prepared:	01/27/2003

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FISCAL NOTE
Requested by Legislative Council
01/22/2003

Bill/Resolution No.: SB 2285

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	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
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2. Narrative: Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

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Name:	Paul Bowlinger/Kathy Roll	Agency:	Office of Attorney General
Phone Number:	701-328-4633/328-3622	Date Prepared:	01/24/2003

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Deanne Wall
Operator's Signature

10/21/03
Date

Date: 2.5.03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2285

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass & Refer to Appropriations

Motion Made By Sen. Wardner Seconded By Sen. Tollefson

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	✓		Senator Nichols	✓	
Senator Wardner - Vice Chairman	✓		Senator Seymour	✓	
Senator Syverson		✓			
Senator Tollefson	✓				

Total (Yes) 5 No 1

Absent _____

Floor Assignment Sen. Seymour

If the vote is on an amendment, briefly indicate intent:

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Deanne Waller
Operator's Signature

10/21/03
Date

REPORT OF STANDING COMMITTEE (410)
February 6, 2003 1:04 p.m.

Module No: SR-23-1843
Carrier: Seymour
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2285: Finance and Taxation Committee (Sen. Uriacher, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (5 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2285 was rereferred to the Appropriations Committee.

(2) DESK, (3) COMM

Page No. 1

SR-23-1843

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Deanna D. S. S. S.
Operator's signature

10/21/03
Date

2003 SENATE APPROPRIATIONS

SB 2285

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Deanna D. Smith
Operator's Signature

10/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2285

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 13, 2003

Tape Number	Side A	Side B	Meter #
#2	x		390-end
#2		x	0-706
Committee Clerk Signature <i>Jan Hendrickson</i>			

Minutes:

Senator Joel Heitkamp, District 26. (#390) Cosponsor of SB 2285. This bill relates to pari-mutuel tax levied upon wagers. The issue before this committee is "Do you believe half of something is better than all of nothing?" or "Do you believe it will be all of nothing?" He felt this was a question that the committee would have to decide on. The people who approached Senator Heitkamp were concerned was the competition that they are getting from other states, especially Oregon. For example, North Dakota cut would be 4%, Oregon is 2%, then the players will do their betting in Oregon because it is cheaper. It will be the end of North Dakota's betting. It comes down to competition from off shore, from states like Oregon and Kentucky and others who are getting into this industry. He stated that he realized the strong fiscal impact it had, but it is a question this committee would have to resolve.

Questions: (#649)

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Page 2

Senate Appropriations Committee

Bill/Resolution Number SB 2285

Hearing Date February 13, 2003

Senator Tallackson: Is the one that relates to that large figure that is seen in the budget reports?

The one person that spends millions of dollars. Senator Heitkamp responded that it was. This industry is just a handful of players who are very active in this and they are not players from in state. This is not loyalty to the state, just a matter of business. The question is going to become whether they can buy that business or do their business at a cheaper rate someplace else. He knew that it couldn't come at a worse time before the committee in relation to the fiscal factor.

Senator Tallackson continued: He wanted to know if the figure they see in their budget committee meetings would be cut way down. Senator Heitkamp replied that it could, obviously it would with passage of the bill, if no activity changed. The way the bill is drafted it would cut it in half, the question will become, will you see more activity? This is clearly a cut in the dollars coming in. Senator Krauter: He wanted to know the percentage breakouts, or is there someone here who can answer that? He stated that in reading this, it didn't add up. Senator Heitkamp stated that when you read the bill it really doesn't read that we are doing a 50%, but Susan Bala who will be coming up soon will fully explain all the different percentages.

Susan Bala (#849) President of North Dakota company called Racing Services. They have been in the state for 14 years. No written testimony. She wanted to testify in favor of SB 2285. She wanted to get into the bottom line of this because it is an economic issue. She felt that with some understanding of the number, it will be easier to understand this bill. This bill addresses keeping North Dakota competitive nationally and internationally in the market place with pari-mutuel wagering. Because of technology, pari-mutuel wagering is no longer just conducted in the state, but people outside of the state can pick which jurisdiction they bet in. The handle that is being talked about is the gross transactions that are wagered in this state that is being taxed, historically

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12/21/03
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Senate Appropriations Committee
Bill/Resolution Number SB 2285
Hearing Date February 13, 2003

about \$5 million dollars is coming from players who live across the state of North Dakota, that would generate, by this tax rate that we have had historically which is about 4%, an annual revenue into the state of about \$200,000. Of that about \$120,000 went to the general fund, and \$75,000 went to the Horseman's Fund which was not really not enough to do anything with. About 5 years ago, through technology and through national competition, this organization got out and build a customer base that could be brought back to North Dakota. These numbers are now generated "on handle" which is coming from players which are coming from outside the state betting on horse racing which is being conducted outside the state and they have been able to bring this home to North Dakota, technically, so that it can be taxed here. We then from a revenue of about \$200,000 annually to about \$7 million dollars annually, so they had incredible growth, very proactive as a company and they know this business very well, in fact North Dakota was one of the first 3 states in the country to pass a law enabling simulcasting interstate. They got ahead of most companies nationally to do this. Other states are now getting competitive and these players will play anywhere where the jurisdictions is the most favorable. She handed out a summary to the committee (Exhibit #1--attached to minutes) that showed the competitive tax environment. Oregon led the way, they reduced their tax to a 1/4 of a percent. She continued to explain the handle and other percentages and what they mean and the rates of the states, and other payments to the horsemen, state and players. North Dakota was about average with the other states, but now the rates have become competitive as states are starting to fight for this "handle" to tax it locally. There has been a mass exodus from states to Oregon. That "handle" went to Oregon and 5 states lost hundreds of millions of dollars worth of betting. They also lost 200 employees. Ms. Bala stated that she has moved 10 employees to North Dakota to support

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Senate Appropriations Committee

Bill/Resolution Number SB 2285

Hearing Date February 13, 2003

this business, technically. It is also possible to use the phone or the computer and go to the Caribbean and place a bet, where the tax rate is zero. The horsemen are paid zero. That is what the industry is up against. Ms. Bala stated that they are fighting to keep the business home, but it can't be done if they are not competitive. She stated that the reality is if nothing is done, then it is fairly certain in terms of a risk factor by doing nothing that the loss will be a substantial portion of this "handle" to other states or to offshore jurisdiction. If they were to go back to \$5 million dollar rate of handle annually, the industry would be completely undermined and it will be an insignificant to the budget to the state of North Dakota. If something is done to stay competitive then there will be a chance of keeping "handle" home even if the portion to the state is less. She then gave the percentages so that the committee would know how the bill is structured.

---2.38 % (of each betting dollar) goes to the general fund

---1.86% goes to the Horseman and the industry (that is going to roll up to depending on who is betting into what pool anywhere from 4% to 4.2%)

This bill will have this effect: The state would be reduced from 2.38% to 1.28%, a reduction of 1.1%. The Horseman would reduce to 1.6% or about 1/4% of reduction. In terms of dollars, since 1990 the industry has generated \$25 million dollars to the state, which is broken down: \$14 million to the general fund and the balance to the industry funds, \$5 Million to build racing in the state, \$3 million to the purse fund and \$3 million to the breeders fund, which is to encourage the breeders to breed horses and run them in the state. In 2002, \$4 million dollars went to general fund, about \$700,000 to the promotion fund (racetrack), and about \$900,000 to each -- the breeders and the purse funds, which is a total of about \$7 million last year. This bill means that the number will come down, if they keep the same amount of "handle", to about \$5 million. She

Diana D. Smith
Operator's Signature

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Bill/Resolution Number SB 2285
Hearing Date February 13, 2003

stated that if you compare the opportunity, potentially, to keep \$5 million in the state, against the risk of going back to \$200,000 annually, she felt the state should be compelled to stay competitive. She also suggested some amendments (Exhibit #4 attached to the minutes).

Questions: (#1813)

Senator Mathern: He wanted to know what keeps the bettors here, when they have the options of zero taxation in the Caribbean. Ms. Bala replied that at present the Caribbean has no regulation and some of participation's in the horse racing business prefer not to play in a jurisdiction that they feel has some risk attached to it by not being regulated. Some of them want to be part of the an industry that has some growth, so they look to the most competitive jurisdiction and North Dakota has one of those, and then the technology here has the best service and then because of these margins that are created, they then have an opportunity to have a better return on their dollar than in other places. Senator Bowman: He wondered about the loss of the general fund revenue -- where does that end up, somebody is going to receive it if we loss it. Ms. Bala stated what the percentages ,etc are and where they go, etc. (This is found on the back of Exhibit #4). She also stated that the money will simply go to another state, period. Senator Krauter: He wanted to know if Ms. Bala was the licensee. She stated that she is the President of the company that is the service provider, which is called the licensee. Senator Krauter continued: He wanted help in understanding the percentages in the bill. Ms. Bala explained. (#2240). Senator Krauter wanted to know what the percentages that Racing Service Inc received. Ms. Bala stated that they may end up in a negative. The state has a guaranteed percentage, 4%, the track has a guaranteed percentage, 4-6 1/2 %, the tote (?) (the computer system that drives the auto trail for the system) company is going to get about 1%, charities in North Dakota will receive about 4% and the

Deanna Waller
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balance is overhead. The players and the companies overhead comes out of the rest. Senator Krauter wanted to know what the incentives were. Ms. Bala stated that it was a marketing plan that the more volume they play with, the higher win rate they will get. It is paid by whatever margin is available to pay it with. Ms. Bala explained more regarding this. Senator Krauter also wondered about charities and offering incentive. Ms. Bala stated it was legal. Senator Tallackson wanted to know where the race tracks were located in North Dakota. Ms. Bala stated that there were none in North Dakota. They are located from California to New York. She stated that they buy the signal from these racetracks and show them in the state and conduct wagering on it. Senator Christmann wondered if the racing is always run through the charities. Ms. Bala stated that North Dakota was unique in that....no others do that. Most other states the licensed operator or the racetrack conducts the wagering, in North Dakota the charities conduct the wagering and the Racing Services Inc. provides the service and system. Multiply charities across the state conduct this. Senator Thane (#3276): He wanted to know if all of the casino's in the state do simulcast? Ms. Bala replied that one did, Turtle Mountain. Senator Mathern:(#3365) wanted to know what we are offering that makes people want to make their wagers here, instead of someplace else. Ms. Bala replied that it was driven by economics. Senator Mathern continued and wanted to know why they are still here? Ms. Bala replied that they have been loyal to them, they had a good business with them, they have been told that the state is trying to become more competitive, the players are playing against each other also. Senator Krauter: He wanted to know if Ms. Bala could provide to the committee the breakdown of the percentages that equals 100%, so they could understand how they are divided out, how it is now and how it would be if the bill was to pass. Ms. Bala wanted to know if they wanted it down now or at a later date. Senator

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Senate Appropriations Committee
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Krauter replied that when she could get it done would be all right. She indicated that she would be happy to do it.

Leon Glasser (#3770) President of NDHRA (North Dakota Quarter Horse Racing Association).

Written testimony Exhibit #3 attached to the minutes. He stated that NDQHRA is opposed to SB 2285. He questioned Ms. Bala regarding the percentage that the horsemen were receiving. He also stated that Senator Krauter had asked a lot of the questions that the NDQHRA had wanted to ask. He stated they were not asked for any input, and did not really know about the bill until just recently.

Questions: (#4047)

Senator Grindberg: He wanted to know how long Mr. Glasser had been involved in this business.

Mr. Glasser replied that he had been in it since 1974. Senator Grindberg wanted to know if Mr.

Glasser would like to make some comments on the amendments that Ms. Bala had suggested.

Senator Grindberg also stated that he disagreed with Mr. Glasser on not knowing about the bill, as it had been around for about a month. Mr. Glasser stated that all of the horseman from across the state had to be gathered into a meeting, which is not an easy task and the bill did not come up that any of us know about it until just before it got it. Her amendments would have to be

something that we would have to sit down with our directors and look at them. Senator Mathern:

stated that there was the risk of losing the big bettors, how did Mr. Glasser assess that? Mr.

Glasser stated that yes it was a risk, there are no guarantees in life. We feel that the big bettor feels he is getting a pretty good deal, or he would have been gone a long time ago. Senator

Thane: Wanted to know what there membership was? Mr. Glasser stated it was about 70 some members. There is also the Thoroughbred Association which is about 100 so between the two

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Senate Appropriations Committee
Bill/Resolution Number SB 2285
Hearing Date February 13, 2003

there are about 180-200 members across the state. Senator Christmann: He thought that profits in the horse business would be by either selling the horse or having the horse run in races and winning. Mr. Glasser said that is true, because the racing in North Dakota is only 13 days so that is not a lot of time for winning. Most states have a breeders fund that helps. Senator Tallackson: He wanted to know if Mr. Glasser testified last week at the other hearing on this. Mr. Glasser stated that he was unable to attend that meeting. Senator Tallackson continued: He stated hat he had a hard time understanding the betting and horses in North Dakota since there are no race tracks in North Dakota. He wondered how the bill would affect Mr. Glasser. Mr. Glasser stated that a horseman gets a percentage as well as others, and the horse must come in 1st, 2nd or 3rd in order to get any of the winnings. The breeders fund has helped us, and in time out of state owners will start buying our horses, but there is a long ways to go. Senator Christmann wanted to know how the \$860,000 was divided up between the different horse breeders. Mr. Glasser stated that there is the 3 funds, he wanted to know which fund. Senator Christmann continued that it stated that the breeders fund took in \$860,000.. Mr. Glasser (#4879) states that it sounds like a huge fund, but the way the racing commission is done they are not doling that \$860,000 to all of the horsemen in one year. They are prorated each year. Mr. Bulinger, Executive Director from the Racing Commission could probably tell how it is broken out. Mr. Glasser stated that the breeders did not get \$860,000 in one year. Senator Christmann wanted to know if they got the money depending on how many horses they had, or how successful, etc. Mr. Glasser stated that the awards are given out based on how your horse that you raise will perform.

Douglas Plummer, (#5083) lives west of Mandan, runs both quarter horses and thoroughbreds.

No written testimony. He was concerned that this bill was headed in the wrong direction. He is

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Douglas Plummer
Operator's Signature

10/21/03
Date

Page 9
Senate Appropriations Committee
Bill/Resolution Number SB 2285
Hearing Date February 13, 2003

not in favor of SB 2285. He also stated that he had brought a newspaper article that the committee could read. No copy of it was available for the record. He also read another article that he had gotten off the Internet concerning the Racing commission and the Chippewea Racing Downs.

Senator Krauter asked if someone from the Attorney General's office in the gaming division could answer a few questions. He had not found anything in the century code that would answer his questions. Kathy Roll (?) from the attorney general's office stated that the committee should probably talk with the Paul Bolginer (sp?). (#5840) Paul Bolginer, director of racing, for the record the commission I presented has taken no position on this bill. I am not to testify for or in opposition of this bill. He will answer questions: Senator Krauter: He wanted Paul to go through the percentages, what is allowable, etc. Paul explained that they are extremely complicated. He went on to try and explain it. (#5946- to end of tape #2- Side A. Rest continued on Tape #2 Side B.

Senator Krauter wandered where the incentive plan came from, the charity or from the racing services. Paul replied it came from the overhead. The racing commission does not regulate any incentives or kickback. There are only 4 or 5 states that regulate incentives.

Questions and answers continued regarding the regulation and the charities and whether the state should consider taking less money or no money at all if the bill is not passed. Concerns were voiced regarding the charities involvement, and the other states that are lowering their rates, etc.

Senator Grindberg stated that he had worked with Ms. Bala on the amendments. With no other testimony on the bill, the hearing was closed on SB 2285. (#706)

Deanna Ball
Operator's Signature

12/21/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2285 Votes

Senate Appropriations Committee

☐ Conference Committee

Hearing Date February 19, 2003

Tape Number	Side A	Side B	Meter #
#2	x		2,444 - 4207
Committee Clerk Signature <i>Jan Hendrickson</i>			

Minutes:

Senator Joel C. Heitkamp, District 26 presented amendments for SB 2285. Amendments No. is 30594.0101. He went through the amendments, which are attached.

Motion by Senator Grindberg, seconded by Senator Tallackson to accept amendments for SB 2285. Voice vote taken. Motion carried.

Motion by Senator Grindberg, seconded by Senator Tallackson for a DO PASS as AMENDED.

Discussion: Several Senators expressed concerns about percentages for the state.

Senator Heitkamp clarified the percentages.

Roll call vote was taken, which is attached. Total: 9 yes, 5 no and 0 absent and not voting.

Motion carried. Senator Grindberg will carry the bill and the amendments.

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Deanna Waller
Operator's signature

12/21/03
Date

2-19-03
1013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2285

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 53-06.2-10.1 and 53-06.2-11 of the North Dakota Century Code, relating to the simulcast wagering and the parimutuel tax levied upon wagers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast parimutuel wagering may be conducted in accordance with this chapter and interim standards that need not comply with chapter 28-32, or rules adopted by the commission under this chapter. Any organization qualified under section 53-06.2-06 to conduct racing may make written application to the commission for the conduct of simulcast parimutuel wagering or simulcast betting exchange wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. As used in this section, "simulcast betting exchange wagering" means a form of wagering in which an individual participates in a pool of horse bettors in which the individual has the opportunity to bet on a wager for or against a horse at a price the individual accepts or offers, one on one, against another individual. Notwithstanding any other provision of this chapter, the commission may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Any time that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the commission, may adopt the take-out of the host jurisdiction or facility. If a licensee conducts interstate or international simulcast betting exchange wagering, the licensee, as prescribed by the commission, shall retain from all winning wagers the percentage of net winnings in accordance with this chapter. The commission may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow parimutuel pools in other states to be combined with parimutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Parimutuel taxes or commissions, or the commissions or taxes imposed on the percent of net winnings as applied to simulcast betting exchange wagering, may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits parimutuel and simulcast betting exchange wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of parimutuel wagering in which an individual deposits money in an account and uses the account balance to pay for parimutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider authorized by the commission to operate the simulcast parimutuel wagering system under the certificate system. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the commission. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

2 of 3

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

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

1. For each day of a live race meet or a simulcast day in this state on win, place, and show parimutuel pools, the licensee shall deduct up to twenty percent of the total win, place, and show pool. ~~The licensee may retain seventeen percent for expenses.~~ One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. The remaining On the first five million dollars of total wagering handle in each calendar year, two percent must be paid to the state treasurer to be deposited in the general fund. On the next ninety-five million dollars of total wagering handle in each calendar year, two percent must be paid to the state treasurer to be deposited in the general fund. On the total wager handle in excess of one hundred million dollars in each calendar year, one and one-half percent must be paid to the state treasurer to be deposited in the general fund.
2. For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty-five percent of each wagering pool. ~~Of this amount, the licensee may retain twenty-one percent for expenses.~~ One-half Of each wagering dollar, the amounts to be deposited in the general fund and other funds are as follows:
 - a. On the first five million dollars of wagering handle in each calendar year, one-half of one percent must be paid to the commission to be deposited in the purse fund; One-half; one-half of one percent must be paid to the commission to be deposited in the promotion fund; One-half; one-half of one percent must be paid to the commission to be deposited in the breeders' fund; The remaining; and two and one-half percent must be paid to the state treasurer to be deposited in the general fund.
 - b. On the next ninety-five million dollars of wagering handle in each calendar year, one-half of one percent must be paid to the commission to be deposited in the purse fund; one-half of one percent must be paid to the commission to be deposited in the promotion fund; one-half of one percent must be paid to the commission to be deposited in the breeders' fund; and one percent must be paid to the state treasurer to be deposited in the general fund.
 - c. On wagering handle in excess of one hundred million dollars in each calendar year, one-third of one percent must be paid to the commission to be deposited in the purse fund; one-third of one percent must be paid to the commission to be deposited in the promotion fund; one-third of one percent must be paid to the commission to be deposited in the breeders' fund; and one percent must be paid to the state treasurer to be deposited in the general fund.
3. Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving

3053

and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Notwithstanding this section, the commission may, upon approval of the attorney general, receive no more than twenty-five percent of this fund for the purpose of payment of operating expenses of the commission.

4. The licensee conducting a live race meet or simulcast program shall retain all other money in the parimutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 2 of section 53-06.1-11.
6. The racing commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in three special funds in the state treasury. These funds must be known as the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission.
7. For each day of a live race meet or a simulcast day in this state in which simulcast betting exchange wagering on races is held at licensed racetracks inside the state or at racetracks outside the state, or both, the licensee shall deduct up to five percent of the total net winnings on all winning wagers. Three percent of the gross deducted revenue from total net winnings must be paid to the commission to be deposited in the purse fund; three percent must be paid to the commission to be deposited in the breeders' fund; one percent must be paid to the commission to be deposited in the promotion fund; and three percent must be paid to the state treasurer to be deposited in the general fund."

Renumber accordingly

Motion
to S. Grindberg
by Tallackson
w/ amendments
Vote vote-OK

Date: 2/19/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2285

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass as amended

Motion Made By Grindberg Seconded By Tallackson

Senators	Yes	No	Senators	Yes	No
Senator Holmberg, Chairman		✓			
Senator Bowman, Vice Chair		✓			
Senator Grindberg, Vice Chair	✓				
Senator Andrist		✓			
Senator Christmann	✓				
Senator Kilzer		✓			
Senator Krauter	✓	✓			
Senator Kringstad	✓				
Senator Lindaas	✓				
Senator Mathern	✓				
Senator Robinson	✓				
Senator Schobinger	✓				
Senator Tallackson	✓				
Senator Thane	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Grindberg - Amendments

If the vote is on an amendment, briefly indicate intent:

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Deanna Wallack
Operator's Signature

12/21/03
Date

REPORT OF STANDING COMMITTEE (410)
February 19, 2003 3:20 p.m.

Module No: SR-32-3322
Carrier: Grindberg
Insert LC: 30594.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2285: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). SB 2285 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 amend and reenact sections 53-06.2-10.1 and 53-06.2-11 of the North Dakota Century Code, relating to the simulcast wagering and the parimutuel tax levied upon wagers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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must be paid to the state treasurer to be deposited in the general fund.

3. Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Notwithstanding this section, the commission may, upon approval of the attorney general, receive no more than twenty-five percent of this fund for the purpose of payment of operating expenses of the commission.
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Renumber accordingly

2003 HOUSE FINANCE AND TAXATION

SB 2285

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Deanna D. Smith
Operator's Signature

10/21/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2285

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 10, 2003

Tape Number	Side A	Side B	Meter #
1	X		0.7
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

REP. WES BELTER, CHAIRMAN Called the hearing to order.

MIKE CICHEY, RACING SERVICES Testified in support of the bill. See written comments. The thought behind the overall tax reduction is to make us more competitive with the rest of the industry. When we started twelve or thirteen years ago, the tax rate fit the situation fairly well, and the vast majority of money wagering on horse racing, was done on track. Today, 90% of the money wagered on horse racing in the United States, will be done through simulcast. Our competitive situation is such that, a couple of years ago, the state of Oregon dropped their taxes to .25%, gradually, the telephone account wagering hub of the United States moved to Oregon, essentially because of the lower tax rate. The jobs generated at the Oregon hub, amounted to about one hundred fifty and were climbing. We have about fifteen full-time and about another half dozen part-time employees at our office in Fargo. In 1996, we were approached by a group of professional horse players, that actually win, and asked if they could

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Operator's Signature

10/21/03
Date

Page 2

House Finance and Taxation Committee

Bill/Resolution Number SB 2285

Hearing Date March 10, 2003

come and bet in North Dakota. It turned out to be a very good thing, both for us and the state.

Now we have a number of them who operate out of our office in Fargo. The charities rent space in our building. As the handle increases, a percentage of the money is returned to the players, as is legal in forty eight states and is done at tracks everywhere else in the country. Our intent is, that the majority of this tax deduction will allow us to keep the players we have and increase the number of players.

SEN. JOEL HEITKAMP, DIST. 26 Sponsor of the bill, testified in support of the bill. Gave the reason why the bill was before the committee. There is the possibility that we will lose this industry in this state if we do not pass this bill. That is how we looked at it in the Senate side. This industry comes to us in North Dakota with kind of a handful, and sometimes less, of very active participants. We have to be competitive with that field, or we risk losing it all. The question before you is, is half of something better than all of nothing. Oregon was the leading state to set the level which we have to compete with. The people playing in this state, are not people from this state, so they have no allegiance to the state, the potential for losing those people was significant enough to put this bill before you. The bill got worked over, the engrossed version now, has things kick in after that five million mark, and is less intrusive to the horse raisers. The bill has a significant impact on the state's budget. I do feel, if we don't do something like this, we will lose these high end players.

REP. BELTER You don't have an emergency clause on this.

SEN. HEITKAMP No, it was tough enough to get people to realize, without pushing, the break. Our sense was, if we send that signal, that we are going down that path in the near future,

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Deanne Waller
Operator's Signature

10/21/03
Date

Page 3

House Finance and Taxation Committee

Bill/Resolution Number SB 2285

Hearing Date March 10, 2003

those individuals who have been very loyal to business in this state, might continue along with business in this state.

REP. WINRICH The fiscal note indicates that this will have an impact of \$809,000 and the last line in the fiscal note says that the estimated 2003-2005 revenues are 3.27 million. Is that after the \$809,000 reduction because of this tax?

SEN. HEITKAMP Deferred the question to Kathy Roll, Attorney General's Office.

KATHY ROLL, ATTORNEY GENERAL'S OFFICE The fiscal note indicates that originally, they put in the 3.27 million for a break in tax revenue, it is just to give you a basis of where it started out and now, what the impact is in the revenue forecast.

MIKE CICHEY Answered more questions.

REP. IVERSON These other companies mentioned, did they move to Oregon specifically because of the tax rate?

MIKE CICHEY Yes

REP. IVERSON If we lower our tax, these companies will come here instead?

MIKE CICHEY No, only one at a time, because, I believe by statute, the racing commission selects one service rights.

REP. IVERSON And Oregon doesn't have that?

MIKE CICHEY No

REP. IVERSON So, Racing Service Inc. is the only one that can do this

MIKE CICHEY Right, we are licensed annually. I believe in 1995 one other group of five, and then initially, in 1989, there were two or three other applicants.

REP. FROELICH What are we looking at as far as how much wagering is done?

Page 4
House Finance and Taxation Committee
Bill/Resolution Number SB 2285
Hearing Date March 10, 2003

MIKE CICHEY Right now, we are running approximately about five to six million, I think we will end up overall, at about one hundred thirty million. It is early in the year, it is hard to say.

We have more than one group of players that is out of the office in Fargo, and sometimes it moves then they stop. They have to win, and they have to win consistently, they bet an enormous amount of money. It is a very sophisticated operation. The next ninety five million, in handle, in this bill, will virtually be taxed at the old rate. I think the state loses one half of one percent.

Where the incentive is, is on the high end. If we go beyond the handle we have now, then the state's cut drops considerably.

REP. IVERSON Did these high end players indicate they would stay here if this went through?

MIKE CICHEY They are concerned, but a couple, since they came here, have been very successful, so they are reluctant to do anything radical, as long as they keep winning. There are some who have disappeared, because they couldn't make it financially. There are better deals out there. It's like anything else, it is an international business. The competition comes from overseas, from other states.

REP. WINRICH the first sentence in Section 1, the licensee shall deduct up to twenty percent of the win, place or show pool, and then it describes how one half of one percent goes to the racing commission and one half of one percent goes to the breeder's fund, etc., and originally, the crossed out language says the remaining two percent, that doesn't add up to twenty percent.

MIKE CICHEY The twenty percent, this August when we ran a live meet in North Dakota, the take out rate for the live meet, will be twenty percent. Assume I want to place a bet at Churchill Downs on Kentucky Derby Day, when I walk in and bet my two dollars on Churchill Downs, then we are paying Churchill Downs' take out rate, by statute, we adopt those track rules.

Page 5
House Finance and Taxation Committee
Bill/Resolution Number SB 2285
Hearing Date March 10, 2003

REP. WINRICH What is a take out rate?

MIKE CICHEY The twenty percent, it is a paramutuel bet. The winners collect from the losers.

REP. WINRICH So, what is being paid out here is one half of one percent of the twenty percent?

MIKE CICHEY No, of the net handle, net is defined as gross minus cancelled and ____? Twenty percent of the total amount wagered in the win, place, show pool, if you bet a dollar, 80% will come back to whoever picked a winning horse. The other twenty percent goes to the state, if it is a live meet in North Dakota.

REP. WINRICH What are you taking one half of one percent of?

MIKE CICHEY Net wagers, your one dollar, or one hundred or a thousand dollars.

REP. WINRICH But you are only getting twenty percent of that.

MIKE CICHEY Correct, the group running the horse race, is getting twenty percent. First of all, the better gets paid, he gets his 80 cents, then of the 20 cents that is left, the state gets their tax out of there, as we are currently operating now, on a win bet, the state gets 2%, the promotion fund, the first one gets $\frac{1}{2}$ of one percent, and the breed fund gets $\frac{1}{2}$ of one percent, now there is 17 left, if you are going off the twenty percent, and that goes back to the live meet. If I am betting on Churchill Downs, of that twenty percent, out of the win bet, 2% still goes to the state, $\frac{1}{2}$ of one percent to the purse fund, and $\frac{1}{2}$ of one percent to the breed fund, and Churchill Downs is charging the entity, the charity or service provider, depending how you want to cut it, 6% for the signal, that comes out of that twenty percent. Now, you are looking at nine percent is gone, you have eleven percent left. Out of that eleven percent, the charity gets some, and there is your

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Deanna Waller
Operator's Signature

10/21/03
Date

Page 6
House Finance and Taxation Committee
Bill/Resolution Number SB 2285
Hearing Date March 10, 2003

profit. Unfortunately, the take out rate for a win bet, is more along the lines of fifteen percent, so that is where the squeeze is coming in. When a live meet runs in Fargo, and there is one hundred thousand dollars bet, after the statutory taxes are paid out, somewhere in the neighborhood of seventeen percent is going to be left for the charity, then that money will be used to operate the meet. That is the difference between live racing and simulcast racing.

REP. WINRICH Related to the first five million in the bill, two percent will be paid to the treasurer, and then the next ninety five million dollars, two percent will be paid to the state treasurer, it seems to me, that it would make more sense to say, on the first one hundred million.

MIKE CICHEY That was the initial bill, however, in looking at it, in making it more palatable from the tax standpoint, the five million is an estimated traditional handle. Once we get over the five million, we are talking professional players, then we are talking about people from out of state, come into the state, bet on out of state races, with out of state money, which we tax here. If you go to Capital Lanes and bet two dollars, that is generally North Dakota money. That was the rationale behind that.

REP. BELTER It says the licensee, the deleted words in line 10, who is the licensee?

MIKE CICHEY In the case of a live meet, it will be whomever the North Dakota Racing Commission awards the license to operate. I am using the example of the Fair Circuit Horse Racing Association, they are the licensee for the meet in August. They are licensed to operate seventeen days. They will be held responsible for paying the taxes, etc. In the case of the service provider, Racing Services, is the licensed service provider in North Dakota. Racing Services signs the contracts with the charities. The charities are licensed by the North Dakota Racing Commission to operate off-track betting sites in North Dakota.

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House Finance and Taxation Committee

Bill/Resolution Number SB 2285

Hearing Date March 10, 2003

REP. BELTER If all of a sudden, the licensee is out the seventeen percent

MIKE CICHEY If it is live racing, then in North Dakota, it is dictated by statute as to what that seventeen or twenty percent, is the take out rate, if it is simulcast wagering, it is whatever anyone of forty different tracks that we take, whatever their equivalent of that seventeen percent is. That is the number you work off of. Whatever jurisdiction we go into, we adopt their take out rate.

REP. FROELICH Asked where they came up with the next ninety five, why not twenty five or fifty million?

MIKE CICHEY I did not write the bill, I guess that was just the number.

REP. FROELICH We could say the first ten or twenty million dollars and take the two and a half percent, and take the last eighty million could be one or one and a half percent, that would still be competitive across the nation.

MIKE CICHEY The first ten million is as important and the last ten million. After five million, our business is all out of state money.

REP. FROELICH Do you believe once the Fargo track is up and running, we will take in five to ten million dollars?

MIKE CICHEY No, but the Fargo track is a whole different agenda. We are talking walk up OTV. Whether it is the three sites in Fargo, or the one in Bismarck or Grand Forks, that is what the five million pertains to. The hope is, for the meet in Fargo, that if we get two hundred thousand, or four hundred thousand that will be a lot of people.

REP. FROELICH Asked if he could get anyone to broadcast it.

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House Finance and Taxation Committee
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MIKE CICHEY He stated the first year they wouldn't broadcast. Small tracks have tried it and do it, but they lose a lot of money the first year.

REP. BELTER I can't believe, in Fargo, ND, that we are going to have a lot of high class race horses that big money will want to bet on.

MIKE CICHEY If we keep the big betters here, in two or three years, we will have high class horses. That is what this tax is about, a little bit of pain here, but then generate a rural industry.

REP. WINRICH Going back to the five million dollar threshold, in paragraph two, regarding the exotic bets, the first five million is taxed differently then the next ninety five million, then in paragraph one, where we talk about win, place and show bets, the first five million is treated exactly the same as the next ninety five million, is it not?

MIKE CICHEY It would appear to be.

REP. WINRICH So, in the first paragraph, it could say the first one hundred million.

REP. WEILER Related to Section 2, under subsection B, two and one half percent goes to general fund, what is the current tax rate?

MIKE CICHEY The current tax rate on exotic betting is two and a half percent.

REP. WEILER Six to one hundred million, it is lowered to one percent.

Right

PAUL BOLLINGER, DIRECTOR OF RACING, FOR THE NORTH DAKOTA RACING

COMMISSION Testified in a neutral position. Appeared to answer questions and give information. 99.9% of the money generated in North Dakota is generated via simulcasting. That is when we bet on races which are outside of the state. When we put on live races in North Dakota, it costs us about thirty thousand dollars a day, and we make about one hundred and one

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House Finance and Taxation Committee
Bill/Resolution Number SB 2285
Hearing Date March 10, 2003

dollars. We lose money in live racing. Let's just talk about simulcasting. He stated the simulcasting money is taxed on the gross, which is different from any other business. Out of every dollar spent, four cents goes to the state. Explained how the money was divided by everyone. He stated it would be very doubtful that Fargo would be simulcasted out, that is where the money is. He stated, the five million amount in the bill is there because that is what is bet in North Dakota. This bill is simply trickle down economics, it is an incentive.

REP. FROELICH In paramutuel pools, win, place and show, why don't we have the same rate in the quinellas and trifectas.

PAUL BOLLINGER Quinellas, are exotic betting, win, place or show are called wps.

Anytime the bet depends on the outcome of two or more horses, they are quinellas. If you bet in an exotic pool, the take out is 12%. They are trying to encourage people to bet on that bet. win, place or show is 17%. Exotic, is typically, a lot higher. The industry takes more out of exotic betting. Explained the difference in handle.

REP. HEADLAND Stated he had a breeder in his district, who talks to him extensively about this. He expressed his opinion, that if we fail to pass this bill, his belief is that these betters will leave and we will kill the horse racing in North Dakota, do you have an opinion about this?

PAUL BOLLINGER I have thought a lot about this, and have been asked that question, this is why I have been advised to take a neutral position. I can only tell you, they came to this body in 1989 and said we can make this industry successful, and you went from nothing to now having 5.7 million dollars put into the general fund in the last biennium. They have done what they said. Their position is, these betters will leave. I do think they will do what is in their best economic advantage.

Page 10
House Finance and Taxation Committee
Bill/Resolution Number SB 2285
Hearing Date March 10, 2003

REP. WEILER You just made a comment, about the 5.7 in the general fund. The estimated amount on the fiscal note is 3.27 million, and yet it shows only \$800,000 of lost revenue, so it looks like we are losing 2.5 million.

PAUL BOLLINGER I believe that was based on what the Governor had projected what the revenue would be. Every time they call me, they ask what do you project for the next six months of horse racing, I go back to the indigenous handle, because I have no way of knowing whether this big better will be here or not.

REP. WEILER The lost revenue of \$800,000 is probably more accurate than the 3.27 million.

PAUL BOLLINGER Obviously, if the handle goes up, you are going to have a larger loss. It is a trickle down economics, you are hoping by giving a break, you will have an increase in handle.

MIKE CICHEY commented again regarding the Governor's projection for loss of taxes. There will be a tremendous amount of money going into purse and breed, if we reach that level.

REP. WINRICH TO PAUL BOLLINGER The five million threshold that keeps cropping up in various ways. As I understand the testimony, North Dakota residents bet approximately five million on horse races each year, then everything over and above that, one hundred and seventy one million last year, comes from out of state betters. This is all simulcast betting, why do they come to North Dakota to bet their money

PAUL BOLLINGER With the account wagering statute, we can allow them to bet via the phone or through other electronic devices. There were two major reasons the larger betters were here, #1, we had the best service and technology available, back five years ago of any service provider in the country, #2, they instituted a better incentive program where the better receives back a portion of their bet, which is now standard in the industry and is making the industry

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10/21/03
Date

Page 11
House Finance and Taxation Committee
Bill/Resolution Number SB 2285
Hearing Date March 10, 2003

much more competitive. We are losing the handle in North Dakota, that is why I am hopeful, I can tell you what I call the indigenous handle, we have one site in Fargo, called the winner's circle, which is only made up of people who come off the street in Fargo. About three years ago, they did seven hundred thousand, with all of the publicity we received from the Fargo race track, I think we are close to three million. This is what the Racing Commission is trying to do, is get us in the public eye and get this industry generated. I am hopeful, if the big betters leave, we can try to get our indigenous handle up to at least ten million dollars in Fargo.

With no further testimony, the hearing was closed.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2285

House Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
2		X	18
Committee Clerk Signature <i>Ganier Stein</i>			

Minutes:

COMMITTEE ACTION

REP. KLEIN Made a motion for a **DO PASS**

REP. CLARK Second the motion.

During discussion committee members were concerned with the fiscal note. Some of the committee members felt it would bring big wagers to our state.

MOTION CARRIED THE BILL WAS REREFERRED TO APPROPRIATIONS.

10 yes 4 no 0 absent

REP. WEILER Was given the floor assignment.

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Date

Date: **3-11-03**
Roll Call Vote #: **1**

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. **278**

House FINANCE & TAXATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Do Pass and refer to Approps.

Motion Made By

Rep. Klein

Seconded By

Rep. Clark

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR		✓			
CLARK	✓				
FROELICH		✓			
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH		✓			
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH		✓			

Total (Yes) **10** No **4**

Absent **0**

Floor Assignment

Rep. Weiler

If the vote is on an amendment, briefly indicate intent:

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Deanna Wallis

12/21/03
Date

REPORT OF STANDING COMMITTEE (410)
March 11, 2003 4:17 p.m.

Module No: HR-43-4508
Carrier: Weller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2285, as engrossed: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2285 was rereferred to the Appropriations Committee.

(2) DESK, (3) COMM

Page No. 1

HR-43-4508

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2003 HOUSE APPROPRIATIONS

SB 2285

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2285

House Appropriations Committee

☐ Conference Committee

Hearing Date 03-20-03

Tape Number	Side A	Side B	Meter #
2	X		-16.5
Committee Clerk Signature <i>Chris I. Nyhus</i>			

Minutes:

Chairman Svedjan Opened SB 2285 for discussion. A quorum was present.

Paul Bollinger, Director of the Racing Commission 99% of the money coming in is through simulcast betting on out of state races.

Rep. Delzer If they squeeze that small percentage of an advantage that ND offers, will they have those betters still?

Bollinger I'm not sure, we're neutral on this issue and there are too many variables to say if we would retain those betters.

Rep. Timm Why do large betters come here?

Bollinger For two reasons. One is that the RSI could provide a technological advantage. The second reason is that there was a better incentive program by a sliding scale refund.

Rep. Skarphol What happened to the better incentive?

Bollinger It's still there, but its getting squeezed.

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Deanna D. Seltz
Operator's Signature

10/21/03
Date

Page 2
House Appropriations Committee
Bill/Resolution Number SB 2285
Hearing Date 03-20-03

Rep. Wald What is the commission to Capitol Lanes?

Bollinger Capitol Lanes is only a house for it.

Rep. Timm If we lower this tax will we get more big betters?

Bollinger There are too many variables to tell, but it shouldn't hurt.

Rep. Skarphol So we'll lose \$809,000. What will we receive? How much are we currently putting in the General Fund now?

Bollinger I believe we put 5.7 million dollars in the last biennium.

Rep. Delzer By lowering this do we put more money in the better's pocket or to the company?

Bollinger It could go both ways.

Mike Sitch, Research Services The player can go anywhere, but if we give them a break the charities will get more.

Rep. Wald I move a Do Pass. 2nd by Rep. Warnke. Motion Carries 20-1-2. Rep. Weller will carry this bill on the floor.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2285

House Appropriations Committee

☐ Conference Committee

Hearing Date 04-22-03

Tape Number	Side A	Side B	Meter #
1	X		0.0 - 7.0
Committee Clerk Signature <i>Chris S. Nelson</i>			

Minutes:

Rep. Brusegaard I move to reconsider. 2nd by Rep. Koppleman.

Motion Passes.

Rep. Rick Berg, House Majority Leader Handed out a spreadsheet. See racing revenue spreadsheet. It is denoted in millions of dollars. This lowers ND's percentage to 1.25%.

Chairman Svedjan So you just covered the amendment?

Rep. Berg Yes.

Rep. Monson I move amendment .0302 to SB 2285. 2nd by Rep. Wald.

Motion Carries.

Rep. Monson I move a Do Pass As Amended. 2nd by Rep. Wald.

Motion Carries 15-6-2. Rep. Monson will carry this bill on the floor.

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10/21/03
Date

Date: _____
Roll Call Vote #: _____

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2285

House _____ Appropriations _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DP

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Rep. Svedjan (Chairman)	✓		Rep. Glassheim	✓	
Rep. Timm (Vice-Chairman)	✓		Rep. Kroeber	✓	
Rep. Martinson	✓		Rep. Warner	✓	
Rep. Brusegaard	✓		Rep. Delzer	✓	
Rep. Monson	✓		Rep. Warnke	✓	
Rep. Rennerfeldt	✓		Rep. Bellew		✓
Rep. Wald	✓		Rep. Kempenich	✓	
Rep. Aarsvold	✓		Rep. Kerzman	✓	
Rep. Gulleason	✓		Rep. Metcalf	✓	
Rep. Carlisle	✓				
Rep. Carlson					
Rep. Koppleman					
Rep. Skarphol	✓				
Rep. Thoreson	✓				

Total (Yes) 20 No 1

Absent 2

Floor Assignment Fin / Tax carrier Weiler

If the vote is on an amendment, briefly indicate intent:

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12/21/03
Date

REPORT OF STANDING COMMITTEE (410)
March 21, 2003 9:39 a.m.

Module No: HR-51-5399
Carrier: Weller
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2285, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman)
recommends DO PASS (20 YEAS, 1 NAY, 2 ABSENT AND NOT VOTING).
Engrossed SB 2285 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-51-5399

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10/21/03
Date

REPORT OF STANDING COMMITTEE (410)
April 22, 2003 4:32 p.m.

Module No: HR-72-8121
Carrier: Monson
Insert LC: 30594.0302 Title: .0400

REPORT OF STANDING COMMITTEE

SB 2285, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (15 YEAS, 6 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2285 was placed on the Sixth order on the calendar.

Page 1, line 15, replace "five million" with "thirty-five million five hundred thousand" and replace "calendar" with "biennium"

Page 1, line 16, remove "year"

Page 1, line 17, remove "next ninety-five million dollars of" and after "in" insert "excess of thirty-five million five hundred thousand dollars in"

Page 1, line 18, replace "calendar year, two" with "biennium, one-half of one"

Page 1, line 19, remove "On the total wager handle in excess of one hundred million"

Page 1, remove lines 20 and 21

Page 2, line 4, replace "five million" with "one hundred two million four hundred thousand" and replace "calendar year" with "biennium"

Page 2, line 11, remove "next ninety-five million dollars of", after "handle" insert "in excess of one hundred two million four hundred thousand dollars", and replace "calendar" with "biennium"

Page 2, line 12, remove "year"

Page 2, line 15, after "and" insert "one-fourth of"

Page 2, remove lines 17 through 23

Renumber accordingly

Deanne Waller
Operator's signature

12/21/03
Date

2003 TESTIMONY

SB 2285

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10/21/03
Date



NORTH DAKOTA QUARTER HORSE RACING ASSOCIATION

Post Office Box 634 • Bismarck, ND 58502

Phone: 701.222.3499 • Fax: 701.222.0103 • e-mail: info@ndqhra.org

Web site: www.ndqhra.org

TESTIMONY OPPOSING SB2285

BY LEON GLASSER

JANUARY 27, 2003

9:30 a.m.

SENATE FINANCE & TAXATION COMMITTEE
HERB URLACHER, CHAIRMAN

Good morning Mr. Chairman and members of the Senate Finance and Taxation Committee.

My name is Leon Glasser and I am here on behalf of the North Dakota Quarter Horse Racing Association (NDQHRA). The NDQHRA is a non-profit organization whose purpose is to promote and stimulate interest in racing and breeding the American Quarter Horse in North Dakota.

Our association is here in opposition to this bill as it would be detrimental, not only to the state's budget, but to the horse racing industry in North Dakota. As owners and breeders of ND horses we rely on the breeders program as it is currently written and funded. The proposed reduction to these funds would severely hinder the sale and resale of ND bred horses, making it impossible to maintain or upgrade our breeding and racing stock in which many of us have invested high dollars.

The proposed reduction in purse, promotion and breed funds, especially now with the reality of a major race track in Fargo— would negatively impact the industry by decreasing purses and breeder awards thus making ND bred horses less desirable.

We urge a DO NOT PASS on SB 2285.

Thank you for your time and consideration. I would be happy to answer any questions you might have.

Exhibit A

Racing Services, Inc
Listing of Statutory & Horseman Fees Paid
For the five year period January 1, 1998 through December 31, 2002

North Dakota:	5 Year Total	2002
General Fund Taxes	13,911,241	4,101,389
Promotion Fund	5,103,613	668,528
Purse Fund	2,947,817	860,406
Breeders Fund	2,947,817	860,406
Total	24,910,488	7,278,834

\\schristensen\My Documents\Taxes Horsemens fund Licenses_Ties to NDRC

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10/21/03
Date

Mike Sichey

**Senate Bill Number 2285
North Dakota Pari-Mutuel
Summary of Competitive Tax Environment**

- TVG, a high profile wagering operation in the horseracing industry, moved from Kentucky to Oregon; this decision was based on the lower tax rate of .0025% with negotiated Horsemen's Fees (rather than statutorily defined horsemen's fees).
- Florida Greyhound Channel was also moved to Oregon, based on the lower tax rate.
- Ohio Tab was the first account wagering system in the United States and they have moved to Oregon because of the tax rate.
- California-based YouBet moved to operate in Oregon because of the tax rate.
- The combined number of employees in these organizations is approximately 120.
- Other states are currently considering lowering their tax rates to compete.
- Track signal fees have been increased 50% - 100% over the last five years.
- Offshore wagering sites which pay no taxes or horsemen's fees have been activated over the past three years.
- With the new technology, it is a national and international marketplace; wagering handle can be conducted from almost any jurisdiction to the jurisdiction which hosts the wagering activity.
- A substantial portion of the wagering handle in North Dakota is at risk to move out of the state without a more competitive tax rate.
- Consider the tax incentives that would be offered to get wagering handle to move into the state if it were not here.
- Handle is needed in the state to continue to support the economic development of the North Dakota state horse industry.

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10/21/03
Date

Exhibit #2

Racing Services, Inc
Listing of Statutory & Horseman Fees Paid
For the five year period January 1, 1998 through December 31, 2002

North Dakota:	5 Year Total	2002
General Fund Taxes	13,911,241	4,101,389
Promotion Fund	5,103,613	668,528
Purse Fund	2,947,817	860,406
Breeders Fund	2,947,817	860,406
Total	24,910,488	7,278,834

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12/21/03
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Exhibit
#3



NORTH DAKOTA QUARTER HORSE RACING ASSOCIATION

Post Office Box 634 • Bismarck, ND 58502

Phone: 701.222.3499 • Fax: 701.222.0103 • e-mail: info@ndqhra.org

Web site: www.ndqhra.org

TESTIMONY OPPOSING SB2285
BY LEON GLASSER, NDQHRA PRESIDENT
February 13, 2003
3:00 p.m.

SENATE APPROPRIATIONS COMMITTEE
RAY HOLMBERG, CHAIRMAN

Mr. Chairman and members of the Senate Appropriations Committee:

My name is Leon Glasser and I am here on behalf of the North Dakota Quarter Horse Racing Association (NDQHRA). The NDQHRA is a non-profit organization whose purpose is to promote and stimulate interest in racing and breeding the American Quarter Horse in North Dakota.

The NDQHRA is opposed to SB2285. Horsemen rely on the purse and breed funds to continue to breed, race, and upgrade our livestock. A reduction in these funds now, would be very poor timing.

No one has explained the need for this bill. No one has asked for our support. No one has asked for our input.

We would like to know, who will receive this money from the reductions in tax and breed, purse and promotion fund money? Will the "big better or bettors" receive some or all of it, who will give this money to them, and how?

We are talking about a huge amount of money, somewhere around \$4-5,000,000. Therefore, we cannot support SB2285 and request a no vote from you.

Thank you for your time and consideration.

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Operator's signature

12/21/03

Date



"Susan Bala"
<sbala@racingservices.com>

To: <jheilkam@state.nd.us>, <tgrindbE@state.nd.us>
cc:
Subject: Senate Bill 2285

02/19/2003 08:22 AM

Exhibit
#4

Dear Senators Heitkamp and Grindberg:

We forwarded to you the explanation of the amendments via email yesterday (see attached) in summary, the amendments do the following:

- 1.) Carve out first \$5,000,000 in annual wagering "handle" at the existing tax rate to maintain the tax on the historical in state handle;
- 2.) Scale the tax on increasing levels of handle from outside the state to create stimulus at higher volumes;
- 3.) Adds simulcast exchange wagering to create upside potential for future growth;
- 4.) Modifies the contributions to the Horsemen funds to address their concerns.

Please let me know if I can be of any assistance.

Sincerely,



Susan Bala Senate Bill 2285 02-18-03.doc

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Deanne D. Hall
Operator's Signature

10/21/03
Date

SENATE BILL # 2285

Overview with Proposed Amendments

February 13, 2003
(Draft Two)

1. Senate bill # 2285 proposes a scaled tax rate on horseracing wagers, which are generated by players outside the state, to be able to position North Dakota more competitively in the national marketplace.
2. Currently, North Dakota tax rate is an effective 4.25%; of this approximately 2.4% goes to the state general fund and 1.85% to state horsemen's funds. This rate must now compete with states that have dropped the tax to 0.25% with a negotiated fee to the horsemen's funds.
3. The tax rate in the proposed amendments to senate bill # 2285 are structured to (1) keep the tax rate the same on the total wagering of up to \$5 million annually, which is the historical volume generated by players in the state of North Dakota and, (2) scale the rate downward as the volume increases on handle generated from outside to the state to attract volume as well as balance the in-state horsemen's interests. The tiered rate proposed is summarized below:

Tier	Fees		Win-Place-Show wagering	Exotic wagering	Total effective tax rate
Tier 1	Up to 5mm in annual wagering (tax remains rate)	State Horsemen(*)	2.0% 1.0%	2.5% 1.5%	2.4% 1.85% (*)4.25%
2	5mm to 100mm in annual wagering	State Horsemen(*)	1.5% 1.0%	1.0% 1.5%	1.1% 1.85% (*)3.0%
3	Over 100mm in annual wagering	State Horsemen(*)	1.0% 1.0%	1.0% 1.0%	1.1% 1.4% (*)2.5%

(*) Horsemen also get Breakage and unclaimed tickets of approximately .48 % of the wagering included in this number

Please note that numbers may vary slightly due to rounding

4. COMPARISON: the difference to the state currently set forth in Senate Bill #2285 is (-1.16%) to the state and (-.28%) to the horsemen; with the amendments the state would be (-1.3%) and the horsemen (-.16%). This is based on the wagering volume brought to the state remaining the same as it was in 2002. It should be noted that this is a hypothetical that the probability exists that a significant portion of the wagering could move to other jurisdictions. Therefore, future wagering volume for a comparison is difficult to project.

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5. To create the possibility to bring new wagering volume to offset reductions, language for simulcast horseracing exchange wagering has also been added.

Explanation: in simulcast pari-mutuel wagering, a pool of players play against one another; in simulcast exchange wagering, a pool of players may play against one another one on one.

The tax rate in other jurisdictions is 10% of the commission split between the horsemen and the general fund, which has been added to the bill.

As provided for in this Chapter, all wagering is regulated under rules promulgated by the North Dakota Racing Commission

BREAKDOWN OF THE PARI-MUTUEL DOLLAR

One Dollar wagered	100%
Distribution to winning players	80% - 81% remaining commission is 19%-20%
Statutory Fees and State Taxes	4.3%
Host Racetrack Fees	4% - 6.5%
Tote system and software fees	0.5% - 1.0%
Technical, Decoders and Telecomm network	2.0% - 3.0%
Average Site Fee	4%
Central Overhead, Payroll, Operations; profit derived from remaining balance	3.0% - 4.0%

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2285

Amended on Floor - 2/20/03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 53-06.2-11 of the North Dakota Century Code, relating to the parimutuel tax levied upon wagers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

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

1. For each day of a live race meet or a simulcast day in this state on win, place, and show parimutuel pools, the licensee shall deduct up to twenty percent of the total win, place, and show pool. ~~The licensee may retain seventeen percent for expenses.~~ One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota purse fund. One-half of one percent must be paid to the North Dakota racing commission to be used for the North Dakota breeders' fund for the respective breed of horses racing at that meet. ~~The remaining~~ On the first five million dollars of total wagering handle in each calendar year, two percent must be paid to the state treasurer to be deposited in the general fund. On the next ninety-five million dollars of total wagering handle in each calendar year, two percent must be paid to the state treasurer to be deposited in the general fund. On the total wager handle in excess of one hundred million dollars in each calendar year, one and one-half percent must be paid to the state treasurer to be deposited in the general fund.
2. For each day of a live race meet or a simulcast day in this state for each daily double, quinella, exacta, trifecta, or other wager combining two or more horses for winning payoffs, the licensee shall deduct up to twenty-five percent of each wagering pool. ~~Of this amount, the licensee may retain twenty-one percent for expenses.~~ One-half Of each wagering dollar, the amounts to be deposited in the general fund and other funds are as follows:
 - a. On the first five million dollars of wagering handle in each calendar year, one-half of one percent must be paid to the commission to be deposited in the purse fund. One-half; one-half of one percent must be paid to the commission to be deposited in the promotion fund. One-half; one-half of one percent must be paid to the commission to be deposited in the breeders' fund. The remaining; and two and one-half percent must be paid to the state treasurer to be deposited in the general fund.
 - b. On the next ninety-five million dollars of wagering handle in each calendar year, one-half of one percent must be paid to the commission to be deposited in the purse fund; one-half of one percent must be paid to the commission to be deposited in the promotion fund; one-half of one percent must be paid to the commission to be deposited in the breeders' fund; and one percent must be paid to the state treasurer to be deposited in the general fund.

Page No. 1

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Deanna Wallis
Operator's Signature

10/21/03
Date

- c. On wagering handle in excess of one hundred million dollars in each calendar year, one-third of one percent must be paid to the commission to be deposited in the purse fund; one-third of one percent must be paid to the commission to be deposited in the promotion fund; one-third of one percent must be paid to the commission to be deposited in the breeders' fund; and one percent must be paid to the state treasurer to be deposited in the general fund.
3. Unclaimed tickets and breakage from each live race meet and simulcast program as defined by the commission and the percentage of the wagering pool to be paid to the racing promotion fund under subsections 1 and 2 must be retained by the commission in a special fund to assist in improving and upgrading racetracks in the state, for the promotion of horse racing within the state, and in developing new racetracks in the state as necessary and approved by the commission. Notwithstanding this section, the commission may, upon approval of the attorney general, receive no more than twenty-five percent of this fund for the purpose of payment of operating expenses of the commission.
4. The licensee conducting a live race meet or simulcast program shall retain all other money in the parimutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting parimutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under subsection 2 of section 53-06.1-11.
6. The racing commission shall deposit the moneys received pursuant to subsections 1, 2, and 3 and from the North Dakota horse racing foundation pursuant to subsection 5 of section 53-06.2-05 in three special funds in the state treasury. These funds must be known as the breeders' fund, the purse fund, and the racing promotion fund. Moneys, and any earnings on the moneys, in the breeders' fund, purse fund, and racing promotion fund are appropriated to the commission on a continuing basis to carry out the purposes of those funds under this chapter and must be administered and disbursed in accordance with rules adopted by the commission."

Renumber accordingly

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Deanna D. [Signature]

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