

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1390

2005 HOUSE JUDICIARY

HB 1390

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1390

House Judiciary Committee

☐ Conference Committee

Hearing Date 2/2/05

| Tape Number | Side A | Side B | Meter # |
|--|--------|--------|-----------|
| 3 | xx | | 11.8-22.2 |
| 4 | xx | | 1.7-10.9 |
| | | | |
| Committee Clerk Signature <i>Alawn Penrose</i> | | | |

Minutes: 14 members present.

Chairman DeKrey: We will open the hearing on HB 1390.

Mike Cichy, Lien Games: (see written testimony).

Representative Klemin: These races being broadcast are reruns.

Mike Cichy: Because there is nothing else to bet on.

Representative Klemin: But you already know the outcome.

Mike Cichy: There are 100,000 reruns and all identifying information is disguised. The races are randomly selected and it will produce what is called past performance information, but it will all be disguised. You get the information without the name of the horse.

Representative Klemin: It seems to me that anyone with a computer database at all, would have the information instantly available on their laptop.

Mike Cichy: No, he doesn't know which race it is and he doesn't know the names of the runners. In theory you could use your laptop to handicap with the data you've got, but that type of thing you could do in your head, it's not that complicated.

Representative Boehning: The way I'm understanding this, all of the statistics for the animals running are correct, but the names are changed.

Mike Cichy: Yes.

Representative Boehning: So the information is correct, but the names aren't listed on that information, they're just listed as numbers?

Mike Cichy: Conceivably, it could be the Kentucky Derby, but you wouldn't know until you saw the race go off, that that was the runner that was in there.

Representative Delmore: You mentioned an amendment to this bill.

Dean Meyer, Racing Commissioner: If you look at the fiscal note, what this bill does is it would tax it the same as other horse races and simulcast. That really won't work because the take out on live races and on simulcast, vary from 20-25% and then the state gets 4% that's put up between the state general fund and the three other funds. The machines, the company that puts them out, is subject to a different kind of tax. We would have to find an amendment that would make it work. If you look at the fiscal note that's prepared, it compare us with Wyoming where they are using these machines. They tax it at about 2%, which is probably what we would have to look at doing, but that hasn't been prepared yet, but everybody is in agreement that if this comes, we can't tax it the same as the other simulcast, because the take out is much less.

Mike Cichy: But the reverse is also the case, we don't want to give it away free, so we want to tax it and still allow it to operate and 2% seems to be where we are going to land.

Dean Meyer: If you look at Wyoming's general fund, and we use Wyoming because their population is about the same as ours, with the machines in Cheyenne, the state took in just over \$100,000 and they only have one fund, a breeder's fund that took in \$20,000 at a 2% rate. Arkansas has been doing really well in the past few years, since they started in 2002, they made quite a bit of money. We might not do as well as Arkansas, but I think if we had machines in the Fargo area, you would probably do better than Wyoming does. That's been a really lucrative thing for the tracks and the horse people.

Chairman DeKrey: We need that amendment today, because this bill has to go today because this will have a fiscal note on it.

Representative Boehning: Is this going to be simulcast, or is this going to be talking about the machine. Everybody plays individual races, or set up a bank of machines where I'm playing one race and someone else is playing another race.

Mike Cichy: Yes everybody would be playing a different race. It is still a simulcast, because it goes through our hub in Fargo and then the wagering data will be transmitted to a paramutual hub in Oaklawn, in Hot Springs, Arkansas, where the main bank of computers are, as in all paramutual wagering, the losers pay the winners. So whoever has the winning horse, gets paid based on what was bet on the losing ones.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition.

Warren DeKrey, ND Council on Gambling Problems: I appear in opposition to HB 1390. This is another expansion of gambling and I'm not convinced that we need more gambling. We have an awful lot of it in ND now, and we've been talking about a lot more gambling coming up. We've heard about the problems with the horse racing in Fargo, and there are many problems

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House Judiciary Committee

Bill/Resolution Number HB 1390

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associated with any kind of gambling. It looks like it's electronic video gambling, very simple slot machine gambling. In this case, somebody wins and somebody loses. We've talked so much about the winnings, but very little about losing.

Chairman DeKrey: Thank you. Further testimony in opposition. We will close the hearing.
(Reopened later in the same session).

Chairman DeKrey: What are the committee's wishes in regard to HB 1390.

Representative Meyer: I move the Kretschmar amendment.

Representative Onstad: Seconded.

Chairman DeKrey: Motion carried.

Representative Klemin: I move a Do No Pass as amended.

Representative Bernstein: Seconded.

6 YES 7 NO 1 ABSENT MOTION FAILED

Representative Boehning: I move a Do Pass as amended.

Representative Kretschmar: Seconded.

7 YES 6 NO 1 ABSENT DO PASS AS AMENDED CARRIER: Rep. Boehning

FISCAL NOTE
Requested by Legislative Council
02/07/2005

Amendment to: HB 1390

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.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$140,000 | \$210,000 | \$140,000 | \$210,000 |
| 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.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

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

This bill allows the Racing Commission to offer wagering on previously run horse or dog races. As amended, the bill provides the tax structure for wagering on these races. One percent would be deposited in the general fund, and 1/2 of 1% would be deposited in each of the three Racing funds - Purse, Promotion, and Breeders.

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.*

Wyoming currently allows wagering on historic horse races. For calendar year 2004, the amount wagered was \$7,313,462, which did not include any of this type of wagering in Cheyenne (it was prevented by a local ordinance). The revenue estimate uses \$7 million of wagering per year at the rate structure provided in the bill. In the event a change in the rate structure is passed by the legislature, the revenue amounts would need to be revised.

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.*

N/A

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.*

N/A

| | | | |
|----------------------|-------------------------|-----------------------|----------------------------|
| Name: | Dean Meyer / Kathy Roll | Agency: | Office of Attorney General |
| Phone Number: | 328-4290 328-3622 | Date Prepared: | 02/07/2005 |

FISCAL NOTE
Requested by Legislative Council
01/18/2005

Bill/Resolution No.: HB 1390

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.*

| | 2003-2005 Biennium | | 2005-2007 Biennium | | 2007-2009 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | \$0 | \$0 | \$328,476 | \$188,476 | \$328,476 | \$188,476 |
| 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.*

| 2003-2005 Biennium | | | 2005-2007 Biennium | | | 2007-2009 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

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

This bill allows the Racing Commission to offer wagering on previously run horse or dog races.

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.*

Wyoming currently allows wagering on historic horse races. For calendar year 2004, the amount wagered was \$7,313,462, which did not include any of this type of wagering in Cheyenne (it was prevented by a local ordinance). The revenue estimate uses \$7 million of wagering per year for both the 2005-07 and 2007-09 bienniums, at the current statutory rate structure. In the event a change in the rate structure is passed by the legislature, the revenue amounts would need to be revised.

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.*

N/A

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.*

N/A

| | | | |
|----------------------|------------|-----------------------|-------------------|
| Name: | Dean Meyer | Agency: | Racing Commission |
| Phone Number: | 328-4290 | Date Prepared: | 02/01/2005 |

House Amendments to HB 1390 - Judiciary Committee 02/03/2005

Page 1, line 1, after "to" insert "create and enact a new subsection to section 53-06.2-11 of the North Dakota Century Code, relating to transmissions of historic previously run horse and dog races; and to"

Page 1, after line 8, insert:

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

For each transmission of historic previously run horse and dog races 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. 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, one-half of one percent must be paid to the North Dakota racing commission to be used for the racing promotion fund; and one percent must be paid to the state treasurer to be deposited in the general fund."

Renumber accordingly

Date: 2/2/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1390

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass as Amended

Motion Made By Rep. Klemin Seconded By Rep. Bernstein

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------|-----|----|------------------------|-----|----|
| Chairman DeKrey | | ✓ | Representative Delmore | | ✓ |
| Representative Maragos | A | | Representative Meyer | | ✓ |
| Representative Bernstein | ✓ | | Representative Onstad | | ✓ |
| Representative Boehning | | ✓ | Representative Zaiser | | ✓ |
| Representative Charging | ✓ | | | | |
| Representative Galvin | ✓ | | | | |
| Representative Kingsbury | ✓ | | | | |
| Representative Klemin | ✓ | | | | |
| Representative Koppelman | ✓ | | | | |
| Representative Kretschmar | | ✓ | | | |
| | | | | | |
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| | | | | | |

Total (Yes) 6 No 7

Absent 1

Floor Assignment Failed

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

Date: 2/2/05
Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1390

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Rep. Boehning Seconded By Rep. Kretschmar

| Representatives | Yes | No | Representatives | Yes | No |
|---------------------------|-----|----|------------------------|-----|----|
| Chairman DeKrey | ✓ | | Representative Delmore | ✓ | |
| Representative Maragos | A | | Representative Meyer | ✓ | |
| Representative Bernstein | | ✓ | Representative Onstad | ✓ | |
| Representative Boehning | ✓ | | Representative Zaiser | ✓ | |
| Representative Charging | | ✓ | | | |
| Representative Galvin | | ✓ | | | |
| Representative Kingsbury | | ✓ | | | |
| Representative Klemin | | ✓ | | | |
| Representative Koppelman | | ✓ | | | |
| Representative Kretschmar | ✓ | | | | |
| | | | | | |
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| | | | | | |

Total (Yes) 7 No 6

Absent 1

Floor Assignment Rep. Boehning

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

REPORT OF STANDING COMMITTEE

HB 1390: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS and BE REREFERRED to the Appropriations Committee (7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). HB 1390 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new subsection to section 53-06.2-11 of the North Dakota Century Code, relating to transmissions of historic previously run horse and dog races; and to"

Page 1, after line 8, insert:

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

For each transmission of historic previously run horse and dog races 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. 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, one-half of one percent must be paid to the North Dakota racing commission to be used for the racing promotion fund; and one percent must be paid to the state treasurer to be deposited in the general fund."

Renumber accordingly

2005 TESTIMONY

HB 1390

Mike

HB 1390

- ♦ This legislation will allow us to attract players who do not want to expend time and effort handicapping horse races.
- ♦ The system is operating at Oaklawn Park in Hot Springs, Arkansas and at a number of sites in Wyoming.
- ♦ The attached spread sheet indicates that it is quite profitable.
- ♦ This system is the difference between financial success and failure at Oaklawn Park.
- ♦ Lien Games, the Horsemen, Horse Race North Dakota, and the Racing Commission support this legislation.
- ♦ We wish to attach an amendment that will divert some of the revenue to the Commission office.

Mike

INSTANT RACING
2004 PROFIT & LOSS

| | JANUARY | FEBRUARY | MARCH | APRIL | MAY | JUNE | JULY | AUGUST | SEPTEMBER | OCTOBER | NOVEMBER | DECEMBER | TOTAL |
|---------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| DAYS | 25 | 25 | 26 | 26 | 31 | 30 | 31 | 31 | 30 | 31 | 30 | 30 | 346 |
| HANDLE | 4,538,105.00 | 5,821,752.15 | 5,867,382.45 | 5,581,781.75 | 5,220,712.10 | 5,759,734.50 | 6,360,184.30 | 6,735,766.60 | 6,437,170.40 | 7,039,539.20 | 7,311,299.75 | 7,568,068.05 | 74,259,516.85 |
| TOTAL TAKEOUT | 439,934.91 | 560,719.55 | 570,725.95 | 543,147.69 | 509,796.95 | 562,519.45 | 613,289.44 | 652,766.41 | 627,901.17 | 684,569.66 | 704,500.55 | 683,971.97 | 7,158,863.70 |
| RACETECH FEES | 87,986.99 | 112,143.93 | 114,145.19 | 108,829.53 | 101,959.41 | 112,503.90 | 123,657.88 | 122,201.63 | 117,543.09 | 128,151.43 | 131,882.49 | 128,039.54 | 1,388,845.01 |
| RACE USE FEES | 13,198.04 | 16,821.58 | 17,121.79 | 16,294.42 | 15,293.91 | 16,875.59 | 18,548.68 | 19,563.62 | 18,837.04 | 20,537.08 | 21,135.03 | 20,519.17 | 214,765.95 |
| STATE TAX | 45,381.06 | 58,217.53 | 58,673.83 | 55,817.84 | 52,207.11 | 57,597.34 | 63,801.82 | 67,357.86 | 64,371.72 | 70,385.41 | 73,113.01 | 75,660.69 | 742,595.22 |
| GOVERNMENT BREAKAGE | 1,417.65 | 1,902.34 | 1,984.53 | 1,866.20 | 1,747.14 | 2,025.97 | 2,281.49 | 2,520.08 | 2,514.29 | 2,485.74 | 2,236.35 | 2,362.52 | 25,324.30 |
| HBP* | 67,149.67 | 85,721.43 | 87,041.43 | 82,827.98 | 77,676.12 | 85,706.02 | 94,381.11 | 100,899.00 | 96,901.98 | 105,724.56 | 109,043.13 | 107,549.85 | 1,100,622.24 |
| GROSS PROFIT ** | 224,801.50 | 285,912.74 | 291,759.18 | 277,711.72 | 260,913.26 | 287,810.63 | 315,618.46 | 340,224.22 | 327,733.07 | 357,295.44 | 367,090.54 | 349,840.20 | 3,886,710.98 |

TERMINALS IN OPERATION

| | | | | | | | | | | | | |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 145 | 150 | 151 | 178 | 172 | 168 | 186 | 186 | 185 | 185 | 185 | 185 | 185 |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|

* Negotiated contract with horsemen, breeders, & legislative purse fund

** Does not include ancillary revenue streams (parking, concessions, programs, etc.)

Hours of Operation: January - April ~ Monday - Thursday, Sunday - 11a.m. - 6p.m.
Friday, Saturday - 11a.m. - 11p.m.
Dark - Tuesday

May - December ~ Monday - Saturday - 11a.m. - 11p.m.
Sunday - 11a.m. - 6p.m.