

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1316

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1316

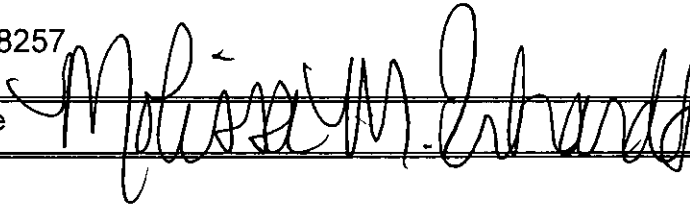
House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 01/30/02009

Recorder Job Number: 8257

Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on HB 1316. Clerk read the title.

**Rep. Jon Nelson, District 7:** I live in Rugby and I don't own horses, I don't raise horses and quite honestly I have never been to a horse race in ND although I hope that changes at some point in time. I am here today to introduce HB 1316, which I distributed a copy of some information from last session (See Attachment # 1), Engrossed Bill 1324, which reveals on the bottom of page 1, starting on line 23, it talks about the commission not transferring money among the funds. That language was introduced last session for the protection of the horsemen and horsewomen of this State to protect the breeder's fund. There has been an on-going battle between the racing commission and the three funds. There is a breeder's fund, the purse fund, and the promotion fund. Some of the breeder's fund money has been used to add to the purse fund in the past and with the declining revenues that the commission has used the horsemen and horsewomen in the State feel that they have not been heard in their desire to

move their agendas with the commission. So this bill was introduced to prevent that transfer of funds. The second handout is an excerpt from the audit report this summer from the racing commission and you will notice on page 2 of that audit it talks about the stability of the racing commission and how they are going to move forward into the future. It says in there under the funding mechanism, under the operational involvement part, "We recommend that the ND Racing Commission implement a plan that allows for sustained future operations, this plan should not be based on any assumption of future increased revenue, either through increased pari-mutuel betting through simulcast or account wagering sites or increased gambling opportunities presented at the Horse Park. This is where it is important to know that the racing commission in their response there agrees. The commission would like to see the racing industry leader's formulate legislation for the financial growth of the racing industry. Current time, the commission is working with the Horsemen's Council seeking their recommendation. I am here to tell you today that the Horsemen's Council has not met, or if they have met, they have met once since then. The relationships between the Racing Commission and the horsemen and horsewoman of the State is at an all time low, in my opinion. So I introduced HB 1316, to clarify what the desire was in 2007 legislation and this is not under any interpretation. It would just return the money that was transferred before August 1 back to the

breeder's fund. I know there are people from both sides that will be speaking on behalf of the specifics of what the ramifications of this bill are and I would leave that conversation to those that know a lot more about it than I do. With that, I will conclude my testimony, and I stand for any questions if there are any?

**Rep. Nathe:** You said return the money back to the breeder's fund? How much of that money was moved?

**Rep. Nelson:** I had that spreadsheet and someone borrowed it, but I think it was around \$250,000. Heather Benson from the Fargo Horse Park says it was \$381,000, with the current transfers.

**Chairman Grande:** Anyone else wishing to speak in favor of 1316?

**Sen. Richard Marcellais, District 9, Rolette County and Turtle Mountain**

**Band of Chippewa Tribal Chairman:** Testimony. See Attachment # 2. Rep. Nelson did cover most of my Testimony on HB 1324. The only thing I want to add to that is it did mention in there that the commission may not transfer money among the funds. This bill was passed both in the House; with a vote of 89 yeas, 2 nays, and 3 absent, and the Senate; 44 yeas, 0 nays, and 3 absent. I want to thank the committee for giving me this opportunity for testifying and support this bill. I will try to answer any questions that you may have.

**Chairman Grande:** Senator, so we passed legislation stating that they would not transfer and somebody proceeded to make transfers even after they were told not to. Is that person still employed after making those illegal transfers?

**Sen. Marcellais:** I believe that it was the Commission.

**Chairman Grande:** Is that commission still in place or have we replaced them?

**Sen. Marcellais:** As far as I know they are elected?

**Chairman Grande:** By whom?

**Sen. Marcellais:** They are appointed by the Governor's office.

**Chairman Grande:** Maybe that is where we need to start checking into some things?

**Sen. Marcellais:** That is one of the reasons they are trying to move the Racing Commission under the Attorney General's office to get more accountability. It is something like WSI was?

**Chairman Grande:** Any other questions from the committee? Anyone else wishing to speak in favor of 1316? Favor?

**Randy Schwartz, Vice President of the ND Quarter Horse Racing**

**Association:** My position on this is quite simple. The funds never should have been transferred in the first place. In fact, it is my belief that half of them were transferred in retribution because we testified on opposing sides against the bill when the commission was (can't understand) in the last legislative session. They

should have never been moved in the first place. To me it's just that simple. My interest in this is not actually containing a horse in racing. I am a breeder, I market breed, I raise colts to sell to other people. This breeders fund is what got me into the business.

**Chairman Grande:** Questions from the Committee? Favor?

**Mike(Lee) Backhaus, Representative for the ND (??) Thoroughbred Owners and Breeders Association:** I have been training these thoroughbreds for many years. Let me give you some history from way back when our previous Racing Commissioner was in there. We had some words about him stealing the money.

The dollar amount we have here has not gone back very far. This whole racing commission has been doing it for years. As far as I am concerned you have a rogue committee with no checks and balances, including the previous committee. We as horsemen had no representatives in that committee. Yes, they have a horsemen's council, or that is what they call it, but I have been on it in previous years and they do not listen to us anyway. Why even have it? As far as the money that has been taken out, if you run short of money can you go over to your neighbor and from his account and not have any repercussions from it? You just can't do that, but they think that they can. These guys are above the law and above your cut, they don't listen to you and they don't listen to us. We would like our money back because I have 20 thoroughbred mares and I haul

them to Minnesota and costs me over \$600 to foal out a foal over there, for the breeder's fund. Yes there is a breeder's fund but it would be much nicer to foal out a foal at my place and a lot less expense. To tell you what it actually means, a few years back, a weanling in ND would be about \$3,000 versus \$2,500, yes then it is worth racing a horse in ND. I had a futurity win, which is a black type win, so that would be double the points, so that would have been \$6,000 and I had two seconds in that, so that would have been about \$1,800 a piece. So my \$9,000 which should have been there was only \$1,900. I can't afford to breed horses in ND. The money was there but the mishandling of the whole

organization for the past years, they don't want to listen to anybody in the business. How can we have an organization that runs a business, when they do not know anything about the business and they are trying to tell us how to run our business and tell us what to do and it's going downhill.

**Rep. Froseth:** If you are a horse breeder how do you get money out of the fund other than racing horses?

**Lee Backhaus:** If I sell the colt and it has been ND breed, and it goes out and wins, it places or shows as a breeder, then it comes out of the breeders fund at the end of the year we get this money.

**Rep. Froseth:** A portion of the winnings?

**Lee Backhaus:** No, a portion of the breeders fund, not the winnings. It has nothing to do with the winnings, the purse money is separate.

**Rep. Froseth:** But you as a horse breeder get a share of the winnings from that horse?

**Lee Backhaus:** It is a percentage that goes on a point system and the breeders fund money that is allotted in the breeders fund.

**Rep. Nathe:** I was in the horse racing business for quite sometime and I share your frustration with the commission and I know what you are talking about. How do you answer this? Since they basically did an illegal transfer of money and currently now in the purse fund they have a little over a half million dollars, if you back out what they moved, they only used about \$150,000 and the commission is now saying that if you do that it is most likely going to end racing next year in 2010.

**Lee Backhaus:** I know that they are getting more money than that. So they are buffaloing you. It is coming from other places this year. But we are going to lose racing anyway at the rate they are going. The way we are going, I cannot race here, I haul my horses to Minnesota so they can run in Minnesota. I ran three horses in ND. I ran some in Belcourt it is fun, there is no money there, good training time. I go to Fargo, I run one horse, I ran a futurity one and I left. I



cannot afford to run there. So what is the use of having it if you cannot make any money, fun is fun but you have to have the pocket book to do it.

**Rep. Nathe:** Do you see a lot of other horse owners deciding now not to go to Fargo?

**Lee Backhaus:** Yes, I could give you a dozen names. The money is not there bring the money and the people will come.

**Rep. Nathe:** If I understand you right, you were in favor of this commission coming under the Attorney General's office?

**Lee Backhaus:** Something has to happen. Actually what I am in favor of is making the commission up of horsemen and some of the track members on there. Not just all people who have never been around and have to go through learning scale, and by the time they learn they are out.

**Rep. Nathe:** Isn't their members of those Associations right now on the board or at the recommendation of the association?

**Lee Backhaus:** If you talk to the Quarter Horse Association and see how there representative has been doing for them?

**Rep. Amerman:** If \$381,000 goes back to the breeder's fund and racing goes under and ND has no racing any more, what happens to the \$381,000?

**Lee Backhaus:** First of all, we will probably still have racing that is out there because the law states that you have to have live racing to have simulcasting,

and you have to have live racing to have a breeder's fund. So that part in the past has always (can't understand) it is fun, there is no money, but Fargo knew this was coming and the Representative knew this was coming. The commission knew it was coming and they just kept doing the same old thing. If something is not done now, drastically, if they want to keep our breeder's fund money just to run one more year and that is what it looks like, fine, I will take all my horses to Minnesota, I even have a place in Manitoba that I can ship off to. But all that money should stay here. We have a tremendous opportunity to get this business going and because of our politics it's been going backwards.

**Chairman Grande:** Any other questions? Anyone else in favor of 1316?

**Leon Glasser, Chairman of the ND Quarter Horse Racing Association:** I would like to thank Jon for helping us in the past as much as he did. We have had a lot of trouble with this and as far as I am concerned that problem continues today. However, if the sheet that I have here is correct it really puts us in a tough spot. If they have to return that \$381,000, there is no horse racing. That and the fact that it may come to an end, anyway, however, you do have a lot of people around the State that are ready to go for this area and have made the Futurity payments and there set to go on this. A few years ago we had about a 9-member advisory, the commission never gave us any direction, I was part of that, they didn't give us any issues to go over and whose ever idea it was about a year ago

they decided to cut that down and make it just a 5-member horsemen's advisory board. Of course, in my opinion, they were pretty much pre-selected, so the outcome would be the way they wanted it to be. They by law were supposed to be on the agenda at the Racing Commission meeting, if this had been discussed at the Horsemen's Advisory Committee meeting we probably wouldn't be here today. At this point in time, I don't know whether there is any negotiation, I know there is a new bill in now and I don't have all the numbers on that and I think so far that has moved ahead. In HB 1551, in that if I am correct there is an awful lot of money on the breakage analysis that goes into the promotion fund. I think that

if this would have come to light to the Horsemen earlier there would have been some type of negotiation that we could have done and agreed upon. The money should have never been taken out of the breeders fund, plain and simple. On the other hand, if it has to go back, there is not going to be enough money to fund this year. So I am really tore on this issue, I would like to have seen some negotiation happen sooner where we could have looked out and hammered out some type of agreement before it come to this here. This is kind of a "be damned if you do and be damned if you don't" situation. I am really confused on the whole thing. I hope that I didn't confuse you more but I know what you are going to have to go through, the yeas or the nays, this is a tough one. The money should not have been taken out. On the other hand, there is a lot of

people that are ready to run this year and what do they do. So it is a tough deal and I wish I had a golden answer for you. Unless we can move some of that money that can come back into the breeder's fund down the road. I came here with the intent of saying the money should go back, but then we have all the horsemen that are ready to go and what do we tell them. If you have any questions be happy to answer for you.

**Rep. Winrich:** The money was transferred from the breeders fund to the purse fund improperly?

**Leon Glasser:** It wasn't directly taken out of the breeder's fund, it was sent to Fargo and they used it. The race track used it as purse money so depending on how technical you want to be yes and no.

**Rep. Winrich:** Why was the purse fund depleted or why was there not enough money in the purse fund to deal with this in the first place?

**Leon Glasser:** In my view, mismanagement all along. We are seeing it today, AIG and all that stuff. There was no one looking down the road at all.

**Chairman Grande:** Mismanagement by whom?

**Leon Glasser:** As far as I am concerned by the racing commission.

**Rep. Nathe:** As far as the revenue's that the commission collects are those on the rise steady are the going down, where are they at?

**Leon Glasser:** What the commission is getting in, and I don't have the numbers in front of me, Randy can correct me there, we had an \$11 million cap before, and there was not a lot of betting going on before that \$11 million cap was hit. Then after that \$11 million they picked up, so the bill that is up here now, changed that so that there is no \$11 million cap, they start getting money from dollar one. Is that going to work, are people going to flock here and bet in billions, I don't know, hopefully, for the horsemen it does. So the funds are not accumulating right now.

**Rep. Nathe:** Could you explain the cap to the committee and what it means?

**Leon Glasser:** On the betting there was an \$11 million cap in place and I forget the percentages, but there was a higher percentage coming back into the funds, and after that \$11 million that percentage that would drop. So after the \$11 million what came into the funds was a smaller number.

**Rep. Nathe:** Did a lot of that come from simulcast racing?

**Leon Glasser:** Simulcast and off-track betting.

**Chairman Grande:** Anyone else wishing to speak in favor of? Opposed?

**Heather Benson, General Manager, ND Horse Park, Testimony.** See Attachment # 3.

**Rep. Froseth:** I understand the dilemma, being short of money in certain areas but the money was apparently moved around and spent contrary to what the

Century Code called for? This committee's position is to see that the Century Code is abided by and operated by in your organization?

**Heather Benson:** I understand completely that argument. The Horse Parks part we followed the direction in 2007 and prior to that of the Racing Commission, I cannot speak as to what happened in prior years. In the year 2008 and 2009 we did our part to not even request those funds so that we could follow as closely as possible in an effort to maintain our forward momentum.

**Rep. Nathe:** The fund currently roughly has over a half million dollars, how much of that do you need to run your 2009 season?

**Heather Benson:** Our request that was approved on Dec 9, 2008 to the Racing Commission was for \$350,000 for purses, in 2009 we will also contribute an estimated \$100 thousand of our own dollars that come from our on track revenue and our simulcast outlets as well as sponsorships for purses. The Chippewa Downs in Belcourt had also requested \$68,250 for a total amount of \$418,250.

**Rep. Nathe:** You said you would need the help of this purse for the following two seasons, because this will only get you through just one.

**Heather Benson:** What we are hoping to do is by 2010 there will be at least probably enough receipts coming in, between now and 2010, around the \$200,000 mark. Our goal is to eventually (can't understand). This year we will contribute about \$100,000 of our own cash that we have raised through

sponsorships and revenue. By 2010 we hope to increase that gap even further and by 2011 to keep rolling in that direction.

**Rep. Kasper:** You said follow the law as closely as you could? Does that mean you did follow the law or you didn't follow the law or if you didn't follow the law you did not know you weren't following the law?

**Heather Benson:** As far as our directive in 2008, we followed the law, we did not receive any money from the breeder's fund, all of our funds came directly from the purse funds as we also will in 2009, should we be able to move forward. Prior to 2008, again I would not want to speak directly as I came on in March of 2008.

**Rep. Froseth:** What is the State appropriation (cannot hear the rest).

**Heather Benson:** As far as the General Fund or from Fargo? The Horse Park receives no funds from the General Fund at this time. I am not perfectly up to the numbers from the Racing Commission at this time, Randy Bloseg can speak better on that, on our part, all of our funds are through special funds that are coming through simulcast dollars, tax dollars, promotions and purse funds.

**Rep. Froseth:** Is the State Fund the only fund there is (cannot hear the rest).

**Heather Benson:** I am not sure.

**Chairman Grande:** Any other questions from the committee? Opposition?  
Opposition?

**Randy Bloseg, ND Racing Commission Director:** Testimony. See

Attachment # 4.

**Chairman Grande:** Come back to the top of Exhibit 1, Listed as Page 4, Director explain the doubling, tripling, points, and legal counsel stated the current law does not allow this for in State and would need a variance to allow extra points? What do you mean by need a variance, you are going to change the law yourself right there?

**Randy Bloseg:** The Racing Commission rules and regulations has an allowance in the regulations, if the commission, there is a specific reason how they can vote on a variance of the regulations.

**Chairman Grande:** So you have rules but you get to vote to change your rules any time you want to do that?

**Randy Bloseg:** That was prior to (can't hear the speaker).

**Chairman Grande:** I am just asking. Are these administrative rules or house rules?

**Randy Bloseg:** These are administrative rules.

**Chairman Grande:** You don't have to come through administrative rules to change your rules?



**Randy Bloseg:** They have a rule that has been approved and there are specific guidelines with action that has to be taken with administrative rules and if action has to be taken the can issue a variance.

**Vice Chairman Randy Boehning:** When they did that that was when they had what you called intermove and you could change them you wanted to?

**Randy Bloseg:** Interim Standard Rules.

**Vice Chairman Randy Boehning:** How does this work under the administrative rules currently?

**Randy Bloseg:** The Interim Standard Rules that you are referencing were the rules that were applied to the simulcasting rules and regulations, when they were put into effect back in the mid 1990's. What we are referencing to here is in the current administrative rules and regulations that the Racing Commission functions under.

**Chairman Grande:** In there administrative rules they have stated we can change our rules by vote any time?

**Randy Bloseg:** (Can't hear the speaker speaking).

**Chairman Grande:** Do you know the section of the administrative code you refer to?

**Randy Bloseg:** It would not be in this section.

**Chairman Grande:** It would be in administrative code though? What is the administrative code statute?

**Randy Bloseg:** That is correct. 2800. That would be my guess.

**Chairman Grande:** Can you get that for me please?

**Randy Bloseg:** I certainly can.

**Chairman Grande:** Go ahead.

**Randy Bloseg:** Continuing with testimony.

**Chairman Grande:** Is that to correct the mistake from before, is that what you are telling me?

**Randy Bloseg:** That was to correct the illegal motion made. In deference to all this, the Racing Commission always made it point to get the advice the Asst. Attorney General before they allocated any funding from this breeder's fund to supplement purses. Continuing with Testimony.

**Rep. Nathe:** Just want to know what is the mind-set of the commission when you are going ahead and depleting the breeder's fund and now you have left the purse fund in such terrible shape? What is the commission thinking, I don't understand, I have to agree with Lee it is mismanagement. Now we find ourselves in this spot.

**Randy Bloseg:** The Racing Commission has made every effort to explore as many means as possible to hopefully regenerate the fund. One of their avenues

has been in this year's appropriation where the funding for operating the Racing Commission office will hopefully come from the General Fund. I suppose a large portion of it has always come from various other funds. That would be money in those funds which could then be used for racing itself. That in addition to hopefully generating small wagering will, we hope, stabilize the industry. The Racing Commission has looked at this long and hard, all of these individuals want to do what is best for racing and there is no other way to interrupt it.

**Rep. Nathe:** I just want to say that my hat's off to the Park, I think that they have done a wonderful job and they are trying to pull themselves away from the commission and I would suggest going that direction.

**Chairman Grande:** Rep. Nathe were you suggesting they do it as quick as possible?

**Rep. Nathe:** Yes.

**Chairman Grande:** Anyone else wishing to speak against 1316? Against? Neutral? Closed the hearing on 1316.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One 1316

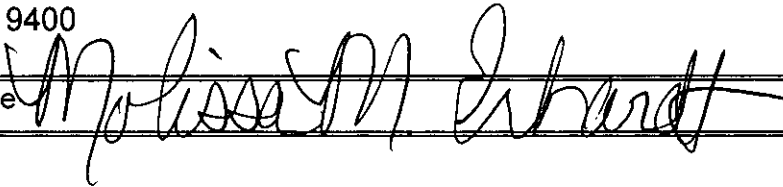
House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Hearing Date: 02/12/2009

Recorder Job Number: 9400

Committee Clerk Signature



Minutes:

### COMMITTEE WORK ONE:

**Chairman Grande:** We will have work on HB 1316.

**Vice Chairman Randy Boehning:** Motion for Amendments. It is going to take the Racing Commission and move it under the Attorney General's office.

Basically, the bill was in the Senate but the Senate bill did not give the Attorney General the power to appoint the commissioner's to the Racing Commission.

What I am doing is on Section 1, the members will be appointed by the Attorney General. The Commissioner will be subject to the supervision and the direction of the Attorney General. So he will be under the direct supervision of the Attorney General. Except with the authority to spend funds. The commission will have to pay the Attorney General for attorney fees, like they do now currently.

It goes on to spell out what the Commission exists of, the chairman, four other

members who will be appointed by the Attorney General. The Attorney General will be appointing the commissioners. On the second page, the members are

entitled to the same compensation mileage as we are allowed. Then basically, doing the 56.2-03 it clarifies that language in there.

**Rep. Kasper:** There is a big change in Section 2. The Attorney General is going to appoint the director.

**Vice Chairman Randy Boehning:** That is the intent, because you will have to follow as you did in Section one.

**Chairman Grande:** Committee as you can tell by the testimony on this, this commission has run amuck. This commissioner needs a little oversight. I know as the testimony went the Fargo track really will have some difficulty with this money issue. To be totally honest with you, I want to pass this out with the money issue. The Senate will deal with it, and I know that sounds awful but you know what this commission has to face a little bit of this. Is that in agreement? We have these amendments in front of us made by Rep. Boehning? Do I have a 2<sup>nd</sup>.

**Rep. Wolf:** 2<sup>nd</sup>. How does the Attorney General feel about handling this?

**Chairman Grande:** He actually doesn't mind when he has all of it.

**Rep. Kasper:** Are we repealing Section 1 of the current bill?

**Chairman Grande:** No, we are letting that transfer.

**Rep. Nathe:** Rep. Kasper what that does is buy the Fargo Horse Park one more year and the racing season this year.

**Rep. Kasper:** Don't see where that was put in the amendment properly?

**Chairman Grande:** We will just let it re-numerate itself. The intent of the amendment is to keep the transfer in. For the record, that is what our intent is today. We have the amendments before us any discussion? All in favor? I (consent). Opposed? (None). The amended bill is in front of us, do I have a motion?

**Vice Chairman Randy Boehning:** Move for a Do Pass As Amended.

**Rep. Wolf:** 2<sup>nd</sup>.

**Chairman Grande:** Moved by Rep. Boehning, 2<sup>nd</sup> by Rep. Wolf. Do Pass As

Amended. Since this is not General Fund money, this does not have anything to do with appropriations. Discussion? Call the roll.

**Clerk Erhardt:** Roll Call. Total: Yes: 13. No: 0. Carrier: Rep. Boehning.

**FISCAL NOTE**  
**Requested by Legislative Council**  
02/17/2009

Amendment to: HB 1316

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

As amended, this bill moves the Racing Commission into the Office of Attorney General (OAG) and requires the OAG to transfer the amount paid from the Breeders' fund to supplement purses from July 1, 2007 through July 31, 2009 back to the Breeders' fund.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill will move the Racing Commission budget into the Office of Attorney General.

The fiscal impact of this bill regarding the Breeders' & Purse funds is estimated to be less than \$5,000. At this point, the Attorney General does not have access to either the Breeders' or the Purse fund of the Racing Commission.

**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.*

N/A

**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.*

The fiscal impact of this bill is estimated to be less than \$5,000.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The fiscal impact of this bill is estimated to be less than \$5,000.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	02/17/2009

**FISCAL NOTE**  
**Requested by Legislative Council**  
01/13/2009

Bill/Resolution No.: HB 1316

**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.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

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

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires the Office of Attorney General to determine the amount paid from the Breeders' fund from July 1, 2007 through July 31, 2009. Before August 31, 2009 the Attorney General is required to transfer the amount determined above from the Purse fund to the Breeders' fund.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The fiscal impact of this bill is estimated to be less than \$5,000. At this point, the Attorney General does not have access to either the Breeders' or the Purse fund of the Racing Commission.

**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.*

N/A

**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.*

The fiscal impact of this bill is estimated to be less than \$5,000.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The fiscal impact of this bill is estimated to be less than \$5,000.

<b>Name:</b>	Kathy Roll	<b>Agency:</b>	Office of Attorney General
<b>Phone Number:</b>	328-3622	<b>Date Prepared:</b>	01/17/2009



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2/13/09  
102

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1316

Page 1, line 1, after "Act" insert "to amend and reenact sections 53-06.2-02 and 53-06.2-03 and subsection 6 of section 53-06.2-11 of the North Dakota Century Code, relating to the racing commission and the authority of the attorney general; and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-02. Racing commission - Members - Appointment - Term - Qualifications - Compensation.**

1. A North Dakota racing commission is established ~~consisting in the office of the attorney general.~~ The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services rendered to the commission. Payment for those services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the ~~governor~~ attorney general. One of the members must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves for the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.
2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of racing in this state. A person who has a financial interest in racing cannot be a member of the commission and cannot be employed by the commission. Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission. For purposes of this section, a person has a financial interest in racing if that person has an ownership interest in horses running at live or simulcast meets conducted or shown in this state subject to this chapter or rules of the commission, is required to be licensed under this chapter or the rules of the commission, or who derives any direct financial benefit from racing, individually or by or through an entity or other person, as regulated by this chapter or the rules of the commission.

- 282
3. Commission members are entitled to ~~seventy-five dollars per day for the same compensation,~~ and mileage and expense reimbursement as allowed to other state employees provided for members of committees of the legislative council under section 54-35-10.

**SECTION 2. AMENDMENT.** Section 53-06.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-03. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.**

1. The ~~commission~~ attorney general shall appoint a director of racing. The ~~commission~~ attorney general shall establish the director's qualifications and salary.
2. The director shall devote such time to the duties of the office as the ~~commission~~ attorney general may prescribe. The director is the executive officer of the commission and shall enforce the rules and orders of the commission. The director shall perform other duties prescribed by the ~~commission prescribes~~ attorney general.
3. The director may employ other ~~persons~~ individuals as authorized by the ~~commission~~ attorney general.

**SECTION 3. AMENDMENT.** Subsection 6 of section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

6. The 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 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. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission, upon approval of the ~~emergency~~ commission attorney general, may receive no more than twenty-five percent of the racing promotion fund for the payment of the commission's operating expenses."

Renumber accordingly

Date: 2/12/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1316

House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

Motion Made By

Seconded By

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total

(Yes)

13

No

0

Absent

Floor Assignment

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

**REPORT OF STANDING COMMITTEE**

**HB 1316: Government and Veterans Affairs Committee (Rep. Grande, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1316 was placed on the Sixth order on the calendar.

Page 1, line 1, after "Act" insert "to amend and reenact sections 53-06.2-02 and 53-06.2-03 and subsection 6 of section 53-06.2-11 of the North Dakota Century Code, relating to the racing commission and the authority of the attorney general; and"

Page 1, after line 3, insert:

**"SECTION 1. AMENDMENT.** Section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

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1. A North Dakota racing commission is established ~~consisting in the office of the attorney general.~~ The commission is subject to the supervision and direction of the attorney general, except with regard to the commission's authority to spend the funds described in subsection 6 of section 53-06.2-11. The attorney general may require payment for any services rendered to the commission. Payment for those services must be deposited into the attorney general's operating fund. The commission consists of the chairman and four other members appointed by the ~~governor~~ attorney general. One of the members must be appointed from a list of four nominees, one of whom is nominated by the state chapter or affiliate of the American quarter horse racing association, one of whom is nominated by the state chapter or affiliate of the United States trotting association, one of whom is nominated by the state chapter or affiliate of the international Arabian horse association, and one of whom is nominated by the state chapter or affiliate of the North Dakota thoroughbred association. The members serve five-year terms and until a successor is appointed and qualified. A member appointed to fill a vacancy arising from other than the natural expiration of a term serves for the unexpired portion of the term and may be reappointed. The terms of the commissioners must be staggered so that one term expires each July first. At the expiration of the five-year term of each incumbent member of the commission, the governor shall appoint a new member to the commission.
2. A person is ineligible for appointment to the commission if that person has not been a resident of this state for at least two years before the date of appointment. A person is also ineligible if that person is not of such character and reputation as to promote public confidence in the administration of racing in this state. A person who has a financial interest in racing cannot be a member of the commission and cannot be employed by the commission. Failure to maintain compliance with this subsection is grounds for removal from the commission or from employment with the commission. For purposes of this section, a person has a financial interest in racing if that person has an ownership interest in horses running at live or simulcast meets conducted or shown in this state subject to this chapter or rules of the commission, is required to be licensed under this chapter or the rules of the commission, or who derives any direct financial benefit from racing, individually or by or through an entity or other person, as regulated by this chapter or the rules of the commission.

3. Commission members are entitled to ~~seventy-five dollars per day for the same compensation,~~ and mileage and expense reimbursement as allowed to other state employees provided for members of committees of the legislative council under section 54-35-10.

**SECTION 2. AMENDMENT.** Section 53-06.2-03 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-03. Director of racing - Appointment - Qualifications - Salary - Duties - Other personnel.**

1. The ~~commission attorney general~~ shall appoint a director of racing. The ~~commission attorney general~~ shall establish the director's qualifications and salary.
2. The director shall devote such time to the duties of the office as the ~~commission attorney general~~ may prescribe. The director is the executive officer of the commission and shall enforce the rules and orders of the commission. The director shall perform other duties prescribed by the ~~commission prescribes attorney general.~~
3. The director may employ other ~~persons~~ individuals as authorized by the ~~commission attorney general.~~

**SECTION 3. AMENDMENT.** Subsection 6 of section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

6. The 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 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. The commission may not transfer money among the funds. The commission shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The commission shall distribute payments awarded to qualified owners and breeders from the breeders' fund without requiring owners and breeders to apply for the payments. The commission, upon approval of the ~~emergency commission attorney general~~, may receive no more than twenty-five percent of the racing promotion fund for the payment of the commission's operating expenses."

Renumber accordingly

2009 SENATE JUDICIARY

HB 1316

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1316

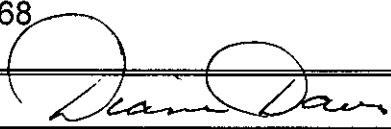
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/09/09

Recorder Job Number: 10468

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

**Relating to the racing commission and authority of the Attorney General. Provide for a transfer to return to the breeders fund certain moneys paid from that fund for racing purses.**

**Representative Jon Nelson** – Introduces the bill - See written testimony.

**Representative Rand Boehning** – Explains what the House did to make this bill better. This bill allows the Attorney General to make appointments. Att. Gen. would also be able to hire and fire the racing commissioner.

**Senator Fiebiger** – Asks, how by moving it to the Attorney General will this fix problems.

**Rep. Boehning** – This allows the Att. Gen. to appoint a new commissioner if need be.

**Senator Olafson** – Asks, if there was wrong doing on the part of the director of the commission who would investigate those allegations.

**Rep. Boehning** – Responds, they would appoint someone from outside the office that wouldn't have a conflict of interest.

**Rep. Shirley Meyer** – She says a standalone agency is unworkable. Two years ago they dealt with issues that they couldn't address. She mentions they had to wait 6 or 7 months for minutes of the meeting. The Horseman's Advisory Council was to present before the

commission before every meeting but they weren't being allowed to be put on the agenda at all. They had to hire an attorney to get on the agenda. She said you must have an elected official.

**Tom Trenbeth** – Chief Deputy Attorney General – Opposes the bill. Attorney General's office recommends do not pass.

**Senator Olafson** – Asks if he sees any problem with the Att. General making appointments then being in charge of an investigation of wrong doing by that body.

**Trenbeth** – Replies, if it was alleged criminal conduct the Att. Gen. wouldn't be in an investigative capacity .

**Senator Fiebiger** – He wonders if the Governor has some authority to help solve some of these problems

**Trenbeth.**– Says, there problem isn't a better home for it than right where it's at.

**Senator Nelson** – Doesn't understand where he is putting this new timing in.

**Rep. Nelson** - Said it is not in the bill. His suggestion is putting HB1316 back in its original form and just includes section 4 with a delayed date.

Close the hearing on 1316



## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1316

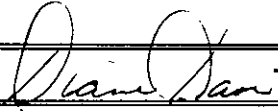
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/23/09

Recorder Job Number: 11364

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Committee work

The committee discusses an amendment offered by Representative Nelson.

Senator Nething questions if we need this bill at all. The committee asks Chief Deputy

Attorney General Trenbeth to come to answer some questions. Senator Olafson goes through the proposed amendment with Mr. Trenbeth. Mr. Trenbeth says that all the questions about where the horse racing commission will finally end up and who will have responsibility is apparently going to come to a head in an appropriations bill. He says regardless of what is decided in this committee there will still be another skirmish in appropriations. He said the Attorney General's office doesn't believe this is a good bill. He said if the committee decides to amend it they wouldn't have a problem with that either.

Senator Nelson moves the amendment

Senator Olafson seconds

Verbal vote all yes

Senator Nelson moves a do not pass as amended

Senator Olafson seconds

Vote – 6-0 – Senator Olafson will carry

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1316

Page 1, line 1, remove "amend and reenact sections 52-06.2-02 and 53-06.2-03 and subsection 6"

Page 1, remove line 2

Page 1, line 3, remove "the authority of the attorney general; and to"

Page 1, remove lines 6 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 22

Page 3, line 25, replace "2009" with "2011"

Renumber accordingly

Date: 3/23  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES HB 1316  
BILL/RESOLUTION NO.

Senate JUDICIARY Committee

☐ Check here for Conference Committee Amendments

Legislative Council Amendment Number \_\_\_\_\_

Action Taken ☐ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Sen. Nelson Seconded By Sen. Olafson

Senators	Yes	No	Senators	Yes	No
Sen. Dave Nething – Chairman			Sen. Tom Fiebiger		
Sen. Curtis Olafson – V. Chair.			Sen. Carolyn Nelson		
Sen. Stanley W. Lyson			Sen. Mac Schneider		

Total (Yes) \_\_\_\_\_ (N) \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Sen.

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

Verbal yes

Date: 5/23  
Roll Call Vote #: 2

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO.**

1316

Senate JUDICIARY Committee

☐ Check here for Conference Committee

**Legislative Council Amendment Number**

Action Taken ☐ Do Pass ☒ Do Not Pass ☒ Amended

Motion Made By Sen. Nelson Seconded By Sen. Olafson

[illegible]

Total (Yes) 6 (N) 0

Absent

Floor Assignment Sen. Olafson

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

**REPORT OF STANDING COMMITTEE**

HB 1316, as engrossed: Judiciary Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1316 was placed on the Sixth order on the calendar.

Page 1, line 1, remove "amend and reenact sections 52-06.2-02 and 53-06.2-03 and subsection 6"

Page 1, remove line 2

Page 1, line 3, remove "the authority of the attorney general; and to"

Page 1, remove lines 6 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 22

Page 3, line 25, replace "2009" with "2011"

Renumber accordingly

2009 TESTIMONY

HB 1316

Attachment #1

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1324

Introduced by

Representatives S. Meyer, Boe, Kretschmar

Senators Marcellais, Taylor

1 A BILL for an Act to create and enact a new section to chapter 53-06.2 of the North Dakota  
2 Century Code, relating to the breed registry of the North Dakota racing commission; and to  
3 amend and reenact subsection 6 of section 53-06.2-11 of the North Dakota Century Code,  
4 relating to the purse, breeders', and racing promotion funds of the racing commission.

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

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

8 **North Dakota-bred registry - Contract requirements.** The commission shall provide  
9 for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse  
10 supplements. The commission shall contract with a private person to maintain the registry.  
11 Through a competitive bidding process, the commission shall award the contract to the lowest  
12 responsible bidder. The cost of the contract must be paid from the breeders' fund.

13 **SECTION 2. AMENDMENT.** Subsection 6 of section 53-06.2-11 of the North Dakota  
14 Century Code is amended and reenacted as follows:

15 6. The racing commission shall deposit the moneys received pursuant to  
16 subsections 1, 2, and 3 and from the North Dakota horse racing foundation  
17 pursuant to subsection 5 of section 53-06.2-05 in three special funds in the state  
18 treasury. These funds must be known as the breeders' fund, the purse fund, and  
19 the racing promotion fund. Moneys, and any earnings on the moneys, in the  
20 breeders' fund, purse fund, and racing promotion fund are appropriated to the  
21 commission on a continuing basis to carry out the purposes of those funds under  
22 this chapter and must be administered and disbursed in accordance with rules  
23 adopted by the commission. The commission may not transfer money among the  
24 funds. The commission shall distribute awards and payment supplements from the

Sixtieth  
Legislative Assembly

- 1 breeders' fund in the same calendar year the money was earned by the recipient.
- 2 The commission shall distribute payments awarded to qualified owners and
- 3 breeders from the breeders' fund without requiring owners and breeders to apply
- 4 for the payments.



select the contractor to maintain the Registry. The State Procurement Office used a Request for Proposal process which is the type of solicitation normally used for management services contracts (See N.D.C.C. § 54-44.4-10, N.D.A.C. § 4-12-08-04 and Level 1 Procurement Manual, Section 5.4). The request for proposal process is generally considered best practice when procuring professional services because it enables the agency develop evaluation criteria to determine which proposal or contractor is most advantageous, based upon cost and other factors, such as experience and qualifications.

Action has been taken. The first contract was terminated without cause by the contractor in May 2008. The Racing Commission worked with the OMB State Procurement Office to develop an Invitation for Bid to award a contract for North Dakota Breeders' Fund Administration services to the lowest, responsible bidder. The Invitation to Bid was issued on June 4, 2008, and bids are due on July 2, 2008.

### **Use of Breeders' Funds for Purse Supplements**

We are unable to determine if the North Dakota Racing Commission is in compliance with North Dakota Century Code section 53-06.2-11 regarding the use of breeders' funds for purse supplements.

House Bill 1324 of the 2007 session amended North Dakota Century Code 53-06.2-11, section 6, which references the breeders' fund, purse fund, and racing promotion fund and states that the commission may not transfer money among the funds.

According to one of the sponsors of House Bill 1324, it was their intent that this amendment prevents the North Dakota Racing Commission from using funds from the breeders' fund for any purses.

The North Dakota Racing Commission's legal counsel from the Attorney General's Office has interpreted the law as not having any effect on the use of breeders funds for purse supplements as they have never 'transferred' money between funds.

The North Dakota Racing Commission does use funds from the breeders' fund to supplement purses for races at the two North Dakota tracks. Races that receive this purse supplement are exclusively for North Dakota bred horses, which are also eligible for breeders' award payments. Per review of the February 11, 2008 North Dakota Racing meeting minutes, they approved payments of \$125,000 for the 2008 racing season from the breeders' fund for purse supplements.

We reviewed bill testimony and feel it is unclear if this law would forbid the use of breeders' fund dollars to be used for purse supplements as is currently the case.

### **Recommendation:**

We recommend the North Dakota Racing Commission seek a formal Attorney General's opinion to determine if their current practice is in compliance with the state law.

### **North Dakota Racing Commission Response:**

The Racing Commission agrees that an opinion from the Attorney General for the use of Breed Fund money to supplement purses for certified North Dakota Bred races is a wise move to resolve this issue. This opinion was requested March 30<sup>th</sup>.

<b>Breeders Fund</b>	2004	2005	2006	2007
Beginning Fund Balance	\$ 2,369,555	\$ 1,939,451	\$ 1,676,001	\$ 1,327,612
Income	30,136	135,352	77,612	82,016
Expenses	(460,240)	(398,802)	(426,001)	(666,844)
Ending Fund Balance	<u>\$ 1,939,451</u>	<u>\$ 1,676,001</u>	<u>\$ 1,327,612</u>	<u>\$ 742,784</u>
<b>Purse Fund</b>	2004	2005	2006	2007
Beginning Fund Balance	\$ 2,415,584	\$ 2,010,078	\$ 1,746,488	\$ 1,355,275
Income	30,705	137,030	80,288	84,389
Expenses	(436,211)	(400,620)	(471,501)	(522,054)
Ending Fund Balance	<u>\$ 2,010,078</u>	<u>\$ 1,746,488</u>	<u>\$ 1,355,275</u>	<u>\$ 917,610</u>
<b>Promotion Fund</b>	2004	2005	2006	2007
Beginning Fund Balance	\$ 1,943,744	\$ 1,420,890	\$ 1,144,174	\$ 873,268
Income	80,170	243,165	188,788	164,566
Expenses	(603,024)	(519,881)	(459,694)	(480,903)
Ending Fund Balance	<u>\$ 1,420,890</u>	<u>\$ 1,144,174</u>	<u>\$ 873,268</u>	<u>\$ 556,931</u>
<b>Total Fund Balances</b>	<u>\$ 5,370,419</u>	<u>\$ 4,566,663</u>	<u>\$ 3,556,155</u>	<u>\$ 2,217,325</u>

***Operational Improvement:***

We recommend the North Dakota Racing Commission implement a plan that allows for sustained future operations. This plan should not be based on any assumption of future increased revenue – either through increased pari-mutuel betting through simulcast or account wagering sites or increased gambling opportunities presented at the Horse Park.

***North Dakota Racing Commission Response:***

The racing commission agrees. The commissioner would like to see that racing industry leaders formulate legislation for the financial growth of the racing industry. At the current time the Commission is working with Horsemen's Council seeking their recommendations

***Breeders' Registry Contract 07-2***

We noted the length of time for the North Dakota Racing Commission to set up the contract for the Breeders' Registry seemed excessive.

***Background:***

House Bill 1324, which was signed by the Governor on March 21, 2007, required the commission to contract with a private person to maintain the registry of North Dakota-bred horses for qualification for breeders' fund awards or purse supplements.

The one-year contract with a private person to maintain the registry was signed on December 4, 2007, which was more than eight months after the house bill became law.

We also noted during April 2008, the vendor terminated their contract with the North Dakota Racing Commission.

### **Testimony**

**House Bill No. 1316 – to provide for a transfer to return to the breeders' fund certain moneys paid from that fund for racing purses**

**Government and Veterans Affairs Committee  
Representative Bette B Grande, Madam Chair  
January 30, 2009**

**Madam Chair Grande, members of the House Government and Veterans Affairs Committee, for the record is my name is Richard Marcellais, Senator from District 9, Rolette County and Turtle Mountain Band of Chippewa Tribal Chairman.**

**House Bill 1316 request the attorney general office to determine the amount paid from the breeders' fund after June 30, 2007 and before August 1, 2009.**

**During the Sixtieth Legislative Assembly House Bill N. 1324 was passed that required "the racing commission to deposit horse racing funds in three accounts 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. The commission may not transfer money among the funds" This bill passed with a House Vote of 89 Yeas, 2 Nays, 3 Absent and the Senate 44 Yeas, 0 Nays, 3 Absent.**

**Thank you very much for the opportunity to appear in support of House Bill # 1316. I will try an answer any questions the committee may have.**

# Breeders' Fund - 2007 #278 3000

Balance of fund on January 1, 2007 \$ 1,327,611.87

Month	Name		Expense	Ending Balance
January	Lien Games - Nov. '06	3,881.45	Salaries	2,722.93
	Interest	2,761.72		\$1,328,770.39
				\$1,331,532.11
		\$ 6,643.17		\$ 2,722.93
February	Lien Games - Dec. '06	3,186.84	Salaries	2,676.74
	Interest	2,769.70		\$1,332,042.21
				\$1,334,811.91
		\$ 5,956.54		\$ 2,676.74
March	Lien Games - Jan. '07	3,487.15	Breeders' Admin. Fund	165,951.45
	Interest	2,508.75	ITD 1/3 *	61.67
			DOT 1/3 *	35.91
			Command Center 1/3 *	156.60
			ARCI 1/3 *	165.00
			Salaries	3,520.62
		\$ 5,995.90		\$ 169,891.25
April	Interest (Admin. Staff Officer on Medical Leave)	2,562.69	Salaries	3,335.77
				\$1,170,143.48
		\$ 2,562.69		\$ 3,335.77
May	Lien Games - Feb. '07	3,595.48	ORDA - 2007 Grand	50,000.00
	Lien Games - March '07	4,551.52	C & S Services 1/3 *	21.33
	Interest	2,360.92	ORDA - '07 Grass Roots	5,000.00
			Salaries	3,600.67
			ITD 1/3 *	91.29
			UND - IVN	30.16
			ITD 1/3 *	123.34
			J. Cichy Law Office	851.34
			AG's Office - Legal Services	10.73
		\$ 10,507.92		\$ 59,728.86
				\$ 59,728.86
June	Lien Games - April '07	3,302.68	Salaries	3,537.49
	Premier Turf - Feb - May	303.48	J. Cichy Law - Void Ck	(851.34)
	Interest - 2 mos.	4,634.28	UND-IVN Void Ck	(30.16)
			JVs (7*)	(655.14)
		\$ 8,240.44		\$ 2,000.85
July	Lien Games - May '07	2,367.06	Horse Race ND - '07 Grant	1,300,000.00
	Premier Turf - June	114.82	Salaries	3,521.67
				\$829,529.19
		\$ 2,481.88		\$826,122.34
August	ORDA - June Meet	30.49	Salaries	3,517.27
	Lien Games - June '07	1,785.79		\$822,635.56
	Interest	1,923.48		\$824,421.35
		\$ 3,739.76		\$826,344.83
				\$ 3,517.27

# Breeders' Fund - 2007 #278 3000

Balance of fund on January 1, 2007 \$ 1,327,611.87

September	Lien Games - July '07	7,496.45	Salaries	3,565.18	\$830,276.10
	Premier Turf - July '07	2,302.57			\$832,578.67
	Premier Turf - Aug. '07	4,058.75			\$836,637.42
	Interest	1,724.03			\$838,361.45
		\$ 15,581.80		\$ 3,565.18	
October	Lien Games - Aug. '07	3,600.97	Salaries	3,652.22	\$838,310.20
	Premier Turf - Sept. '07	3,798.66			\$842,108.86
	Interest	1,614.66			\$843,723.52
		\$ 9,014.29		\$ 3,652.22	
November	Lien Games - Sept. '07	1,418.90	Salaries	3,653.08	\$841,489.34
	Horse Race ND - Live Meet	2,521.94			\$844,011.28
	Premier Turf - Oct. '07	2,273.92			\$846,285.20
	Interest	1,681.64			\$847,966.84
		\$ 7,896.40		\$ 3,653.08	
December	Lien Games - Oct. '07	1,758.18	Breeders' Admin. Fund	104,795.18	\$744,929.84
	Interest	1,636.82	ITD - Nov. - Vendor Internet	30.75	\$746,535.91
			Salaries	3,751.96	\$742,783.95
		\$ 3,395.00		\$ 108,577.89	

\$742,783.95

Attachment #3



### Objection to House Bill 1316

The management and board of the North Dakota Horse Park and Horse Race North Dakota would like to publicly state their objection to House Bill 1316 that would transfer monies from the Purse Fund to the Breed Fund in an effort to return certain monies paid out in 2007 and 2008 from that fund.

The result of such a transfer on the horse racing industry in North Dakota would be calamitous as it would take the available Purse Funds down to an unsustainable level. The bill, if passed, would be the end of live racing in Fargo and perhaps Belcourt as well.

#### **Currently, the following amounts are held in each fund:**

Purse: \$535,907.97  
Breed: \$676,211.41  
Promotion: \$331,139.46

If the total amount (\$381,250) paid in 2007 and 2008 for breeder's purses is transferred from the Purse Fund to the Breed Fund, the balance of the **Purse Fund would be reduced to \$154,057.00**

The dollars that have been requested and approved for purses in 2009 from the North Dakota Horse Park and Chippewa Downs were:

North Dakota Horse Park:	\$350,000.00
Chippewa Downs (Belcourt):	\$68,250.00
<b>Total Amount Needed for 2009 Purses:</b>	<b>\$418,250.00</b>

As you can easily see, if the Purse Fund is reduced to \$154,057, it would create an **instant deficit of \$264,193.00 for racing in 2009**. This would mean that there would be no living racing in Fargo in 2009 and perhaps no future live racing at any track in 2010 and beyond. Monies held in each fund are currently at all time low and in this, a year of rebuilding for horse racing in North Dakota, reducing the funds to an even lower level would cause such damage that cannot be sustained by the industry. Currently, it is estimated that **the horse racing industry of North Dakota contributes over \$22 million a year to the local economy**, primarily through the breeding and raising of horses in rural areas.

We hope that, as representatives of the people of North Dakota, you will see fit to stop this bill from moving forward. A vote to pass this bill is, in essence, a vote to end live racing in North Dakota and destroy the livelihood of hundreds of rural North Dakotans. Please help us in sustaining an industry with a 110 year history in this state.

Heather Benson  
General Manager  
North Dakota Horse Park

## **Economic Impact of Live Racing at the North Dakota Horse Park: Overview**

The North Dakota Horse Park, a live horse racing venue in Fargo, ND, was established in 2003 through the use of funds generated by special taxes placed on simulcast wagering for the development and promotion of live racing in the state of North Dakota. The live race meet, managed by Horse Race North Dakota, a 501(c)4 non-profit corporation, has seen steady increases in all market factors from numbers of horses racing to daily attendance and handle to corporate sponsorships. The regional economic impact of the North Dakota Horse Park has grown into the millions of dollars and its long-term importance to the regional economy cannot be underestimated.

The economic impact of live racing at the North Dakota Horse Park may be broke down into 3 distinct segments:

*Revenue Generated by Breeding and Raising of Horses for Use in Racing*

*Revenue Generated from Care and Use of Horses While at Track*

*Revenue Generated by On-track Attendance*

### **Revenue Generated by Breeding and Raising of Horses for Use in Racing: \$12,000,000 +**

In 2007, the total population of horses in North Dakota numbered at over 60,000 or 1 horse for every 10.5 people. Of this number, approximately 4000 horses are bred and raised for racing purposes with nearly 400 racing-bred horses registered in 2007. On average, it costs \$2200 per year in goods and services for the upkeep of one adult breeding horse and \$10,000 per year for young horses in training to race. That accounts for over \$12,000,000 in dollars generated for goods and services, primarily in the rural areas of the state. With over 80% of the breeders in North Dakota residing in metropolitan areas of less than 2500 people, the feed, fuel and services purchased by these people for their horses make up a significant portion of their local economies.

### **Revenue Generated from Care and Use of Horses While at Track: \$2,240,000 +**

During the eight week North Dakota Horse Park race meet in 2007, nearly \$40,000 per day is spent by horsemen and women on goods and services for themselves and their horses. That equates to \$2,240,000 in just 8 weeks time. There are over 400 licensed horse owners, trainers, grooms and riders that purchase hotel rooms, food, fuel, etc during the race meet in Fargo. In a city that usually experiences a summer economic lull due to the nature of a collegiate economic infrastructure, these dollars have become important to the year-round well-being of various businesses in the Fargo-Moorhead area.

### **Revenue Generated by On-track Attendance: \$6,000,000 +**

The North Dakota Horse Park expends an annual budget of nearly \$1,000,000 in wages, goods and services to provide staff and services for a 6-8 week race meet. The Horse Park has historically averaged nearly 2500 fans per race day that visit the Fargo-Moorhead area. Not only do these fans spend over \$130,000 each weekend at the Horse Park itself, they are spending dollars on food, fuel and hotels while in the area. The Horse Park attracts patrons from Canada, Minnesota, South Dakota and Montana to enjoy a weekend at the races. The estimate economic impact of this tourism is well over \$5,000,000.

**In 2007, the horse racing and breeding industry contributed the following estimated sums to the North Dakota economy:**

North Dakota Horse Park-purses, wages, goods and services:	\$1,500,000
Horsemen's expenses during the North Dakota Horse Park meet:	\$2,240,000
Horsemen's expenses during the Chippewa Downs meet:	\$1,000,000
Goods and services purchased by ND racehorse breeders:	\$12,000,000
Good and services purchased by race patrons at Fargo:	\$5,000,000
<b>Total:</b>	<b>\$21,740,000</b>

House Bill No. 1316

House of Representatives Government and Veterans Affairs Committee, Chairman Bette Grande, Vice Chairman Boehning

January 30, 2009 – 10:30 a.m.

Testimony of Randy Blaseg, ND Racing Commission Director

Chairman Grande, Vice Chairman Boehning, and Committee Members, my name is Randy Blaseg. I am the Director of Racing for the North Dakota Racing Commission. The Racing Commission is opposed to HB No. 1316.

I would like to give you a history regarding requests for the use of Breeders' Fund monies for racing in North Dakota which dates back to the mid 1990s.

Exhibits will show dollars granted by the North Dakota Racing Commission.

The Outdoor Recreation and Development Association of Belcourt and Horse Race North Dakota of Fargo on January 26, 2006 requested funding from the Purse and Breeders' Fund to supplement the 2006 live race meets. In Exhibit 1 note the action taken by the Racing Commission to grant awards.

Note in Exhibit 2 funding requests were again made by Outdoor Recreation and Development Association (ORDA) and Horse Race North Dakota on April 5, 2007 and again the minutes will show the Commission's actions.

Exhibit 3 will show requests again by both associations at the Commission meeting on February 11, 2008. The minutes in the exhibit shows the Commission's action and it also shows the ND Horsemen's Council's recommendation for using Breeders' Fund dollars to supplement the live race meets.

In Exhibit 4 at the July 18, 2008 commission meeting discussion was held regarding granting dollars from the Special Funds. A decision was made by the Commission that the motion made at the February 11<sup>th</sup> meeting granting \$22,500 from the Breeders' Fund to ORDA would remain in place as those dollars had already been spent at the ORDA's June race meet.



Further discussion stressed that the Commission does not have authority to transfer money from the Purse Fund to repay the Breeders' Fund the \$22,500.

Since the July 18<sup>th</sup> meeting was held prior to the Fargo race meet the Commission made the motion to reallocate funding from the Purse Fund to Horse Race North Dakota to replace the February 11th motion which had allocated funding from the Breeders' Fund.

Exhibit 5 is the Purse Fund balance sheet showing the current balance of \$535,308. Of this balance the Commission at the December 9<sup>th</sup> meeting awarded \$418,250 to Horse Race North Dakota and Outdoor Recreation and Development Association which when issued this spring and summer would leave an estimated \$117,000 in the Purse Fund.

A copy of the December 9<sup>th</sup> commission meeting motions granting dollars from the Purse Fund for the 2009 race meet is shown in Exhibit 6. No dollars were granted from the Breeders' Fund. This action shows that the commission has made a commitment to no longer award funding from the Breeders' Fund to conduct racing at the live race meets.

The North Dakota Racing Commission is opposed to House Bill No. 1316.

1. Live Race Track Reports for 2005
  - ORDA - Belcourt
  - Horse Race North Dakota – Fargo
2. Accountant's report on ORDA and ND Horse Park 2005 Race Meets
3. Breeders Fund Distribution for 2005
  - a. Approval of payment of the 2005 Breeders Fund Awards
  - b. Replenishment of the Breeders Administrative Fund
  - c. Advice of counsel regarding point system  
Consideration of Double and Triple Point Awards - 2005 Breeders' Fund Awards
4. 

<u>Purse/Breeders' Fund Requests</u>	-	<u>Total Requests = \$ 810,500</u>
a. ORDA - \$ 128,000 – Purse		
<u>20,000 – Breeders</u>		
\$ 148,000		
b. Horse Race North Dakota		
\$ 450,000 – Purse		
<u>150,000 – Breeders</u>		
\$ 600,000		
c. Horse Race North Dakota (Harness Meet)		
\$ 35,000 – Purse		
<u>7,500 – Breeders</u>		
\$ 42,500		
d. Grass Roots Stallion Stakes (ORDA)		
\$ 5,000 – Futurity		
<u>5,000 – Derby</u>		
\$ 10,000		
e. ND Quarter Horse Racing Association		
\$ 5,000 – 2008 Stallion Stakes		
<u>5,000 – 2009 Derby</u>		
\$ 10,000		

Director Blaseg explained the double and triple point awards and Legal Counsel Bill Peterson stated the current rules do not allow for extra points for in-state races and would need a variance to allow extra points.

**Commissioner Clement made the motion to grant the variance for 2005 for a purse of \$10,000 or more but less than \$25,000 for double points, purses \$25,000 or more but less than \$50,000 for triple points for in state races. Commissioner Frederick seconded the motion.** Chairman Arthaud asked the Director to call the roll:

Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Commissioner Secrest	-	Yes
Chairman Arthaud	-	Yes

The motion passed.

Legal Counsel suggested a permanent rule be put in place to eliminate the need for a yearly variance. Discussion was held in regards to the process it takes to make a rule change and the time frame for the process is about six months.

4. **Purse/Breeders' Fund Requests** - **Total Requests = \$ 810,500**

a. ORDA - \$ 128,000 – Purse  
          20,000 – Breeders  
          **\$ 148,000**

Doug DeMontingy on behalf of ORDA, made the request of \$148,000 for eight days of racing. Chairman Arthaud made the recommendation to grant \$65,000 in Purse dollars and \$35,000 from the Breeders Fund for a total of \$100,000 for ORDA with funding in this amount for the Grass Roots Stallion Stakes out the Breeders Fund. If race days are reduced the commission would expect money to be refunded to the Purse and Breeders Fund appropriately.

**Commissioner Frederick made the motion to grant ORDA \$65,000 in Purse dollars and \$35,000 from the Breeders Fund for eight days of race a total of \$100,000 which includes \$5,000 for the Grass Roots Stallion stakes out the Breeders Fund dollars. If any race days would be cut, monies would be returned to the commission prorata per days cut.** Commissioner Clement seconded the motion.

Chairman Arthaud asked the Director to call the roll:

Commissioner Frederick	-	Yes
Commissioner Clement	-	Yes
Commissioner Pladson	-	Yes
Commissioner Secrest	-	Yes
Chairman Arthaud	-	Yes

The motion passed.

b. Horse Race North Dakota  
      **\$ 450,000 – Purse**  
      150,000 – Breeders  
      **\$ 600,000**

c. Horse Race North Dakota (Harness Meet)  
      **\$ 35,000 – Purse**  
      7,500 – Breeders  
      **\$ 42,500**

Rob Lynch, ND Horse Park General Manager stated Horse Race ND was in a position to significantly reduce their October grant request from \$485,000 to \$370,000 from the Purse Fund and from \$157,000 to \$150,000 for the Breeders Fund for 19 days of racing plus the 3 days for the Harness racing.

Chairman Arthaud made the recommendation to grant Horse Race ND \$370,000 from the Purse Fund and \$150,000 from the Breeders' Fund.

**Commissioner Clement made the motion to grant Horse Race ND \$370,000 from the Purse Fund and \$150,000 from the Breeders' Fund. If any race days would be cut, monies would be returned to the commission prorata per days cut. Commissioner Pladson seconded the motion.** After no further discussion, the Chairman asked the Director to call the roll:

Commissioner Clement	-	Yes
Commissioner Pladson	-	Yes
Commissioner Frederick	-	Yes
Commissioner Secrest	-	Yes
Chairman Arthaud	-	Yes

The motion passed.

**d. Grass Roots Stallion Stakes (ORDA)**

\$ 5,000 – Futurity  
5,000 – Derby  
\$ 10,000

(This item was included in the motion under agenda item 4a.)

**e. ND Quarter Horse Racing Association**

\$ 5,000 – 2008 Stallion Stakes  
5,000 – 2009 Derby  
\$ 10,000

Leon Glasser explained the request of \$10,000 for the 2008 Stallion Stakes and 2009 Derby. Chairman Arthaud made a final recommendation of \$2,500 per race which was granted in the previous year.

**Commissioner Secrest made the motion to grant the ND Quarter Horse Racing Association \$2,500 for the 2008 Stallion Stakes and \$2,500 for the 2009 Derby from the Purse Fund. Commissioner Clement seconded the motion.** After no further discussion, the Chairman asked the Director to call the roll:

Commissioner Secrest	-	Yes
Commissioner Clement	-	Yes
Commissioner Frederick	-	Yes
Commissioner Pladson	-	Yes
Chairman Arthaud	-	Yes

The motion passed.

**5. Promotion Fund Requests - Total Requests = \$ 838,900**  
(The chairman asked that the Horse Race ND's request be acted on as the first item.)

**b. Horse Race ND**

\$ 578,300 – Operating  
51,600 – Harness Meet  
\$ 629,900

Rob Lynch, ND Horse Park General Manager, stated the modified 2006 grant request from the Promotion Fund would be \$350,000 instead of the original October 1<sup>st</sup> request of \$629,900. Chairman Arthaud made the recommendation to grant the \$350,000.

**Commissioner Pladson made the motion to grant Horse Race ND \$350,000 from the Promotion Fund. Commissioner Clement seconded the motion.** After no further discussion, the Chairman asked the Director to call the roll:

Commissioner Pladson	-	Yes
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**NORTH DAKOTA RACING COMMISSION**

Live and Telephone Meeting  
 500 North 9<sup>th</sup> Street, Bismarck, ND  
 Thursday, April 5, 2007  
 10:30 a.m. (central time)

**AGENDA**

1. **Approval of Minutes**
2. **Live Race Track Reports for 2006**
  - ORDA - Belcourt
  - Horse Race North Dakota - Fargo
3. **Purse/Breeders' Fund Requests** **Total requests = \$691,200**

a. ORDA -		\$ 115,200
	6 days of racing - average purse \$2,400	
	\$115,200 - Purse	
b. Horse Race North Dakota		\$ 561,000
	26 days of racing	
	(Including 6 Harness Meet days)	
	\$411,000 - Purse	
	\$150,000 - Breeders	
c. ND Grass Roots Stallion Stakes		\$ 5,000
	\$ 2,500 - Futurity	
	\$ 2,500 - Derby	
d. ND Quarter Horse Racing Association		\$ 10,000
	\$ 5,000 - 2009 Stallion Stakes	
	\$ 5,000 - 2010 Derby	
<b>TOTAL</b>		<b><u>\$ 691,200</u></b>
4. **Promotion Fund Requests** **Total Requests \$ 499,700**

a. ORDA		\$ 120,000
	\$100,000 - Operating	
	\$ 20,000 - Track Improvement	
b. Horse Race North Dakota		\$ 350,000
c. Horse Race North Dakota		\$ 8,200
	Jockey Incentive Program	

**NORTH DAKOTA RACING COMMISSION**

**Live and Telephone Meeting**

500 North 9<sup>th</sup> Street, Bismarck, ND

Thursday April 5, 2007

10:40 a.m. (central time)

Chairman Arthaud called the meeting to order at 10:40 a.m. central time and asked the temporary Office Assistant Valentin to take the roll:

Chairman Arthaud	-	Here
Commissioner Clement	-	Here
Commissioner Secrest	-	Here
Commissioner Pladson	-	Here (by phone)
Commissioner Frederick	-	Here

**PRESENT:**

Chairman Jim Arthaud, Commissioners Jim Clement, Clarence Frederick, DeAnn Pladson, Tom Secrest, Legal Counsel Bill Peterson, Director Randy Blaseg and temporary Office Assistant Loretta Valentin.

**ABSENT:** Helen Tessmann, Administrative Staff Officer

**OTHERS PRESENT:**

Leslie Schmidt, Representative Randy Boehning, Representative Kathy Hawken, Blaine DeCoteau, Lance Hagen, Representative Shirley Meyer, Representative Lois Delmore, Senator Richard Marcellais, Representative Tracy Boe, George Frederick, Doug DeMontigny, Mike Cichy, John Bubel, Jim Tilton, Mona Hurt, Tracy Fugere, Jim Hughes, Brenda Hughes, Blaine Malaterre, Richard Nevins, Leon Glasser, and Janell Cole.

1. **Approval of Minutes**

The copies of the minutes for the previous meeting, March 14, 2007, had been previously provided to the commissioners for their review.

**Commissioner Secrest made the motion to approve the minutes of March 14, 2007.**

**Commissioner Clement seconded the motion.** Director Blaseg wanted to include discussion on Item #13 involving account wagering rules and a clarification of that is included verbatim to be included in the minutes. Chairman Arthaud asked the Director to take the roll:

Chairman Arthaud	-	Yes
Commissioner Secrest	-	Yes
Commissioner Frederick	-	Yes
Commissioner Clement	-	Yes
Commissioner Pladson	-	Yes

**The motion carried.**

2. **Live Race Track Reports for 2006**

Doug DeMontigny reported on the ORDA live track 2006 season in Belcourt.

Jim Tilton reported on the Horse Race North Dakota live track 2006 season in Fargo.

3. **Purse/Breeders' Fund Request** - **Total requests \$691,200**

a. **ORDA** - 6 days of racing - average purse \$2,400

\$ 65,000 - Purse

\$ 50,000 - Breeders' Fund

\$115,000

Doug DeMontigny on behalf of ORDA, made the request of \$115,000 for three weekends of racing versus four weekends the previous year. Chairman Arthaud made the recommendation to grant ORDA \$65,000 out of the Purse Fund and \$50,000 out of the Breeders' Fund.

Chairman Arthaud reported the fund totals were as follows: Purse Fund balance was \$1,365,658, Breeders' Fund balance of \$1,178,928 and the Promotion Fund balance of \$904,585 with the Promotion Fund being the most likely fund to deplete at a faster rate than the other two funds.

**Commissioner Secrest made the motion to grant ORDA \$65,000 from the Purse Fund and \$50,000 from the Breeders' Fund for a total of \$115,000. Commissioner Frederick seconded the motion.** Chairman Arthaud asked the Director to call the roll:

Chairman Arthaud	-	Yes
Commissioner Frederick	-	Yes
Commissioner Clement	-	Yes
Commissioner Pladson	-	Yes
Commissioner Secrest	-	Yes

The motion passed.

**b. Horse Race North Dakota**

26 days of racing (including 6 Harness Meet days)

\$ 411,000 – Purse Fund

\$ 150,000 – Breeders' Fund plus late additional request of \$150,000

\$ 561,000

Jim Tilton on behalf of Horse Race North Dakota, stated the request included 26 days of racing, extending the racing schedule by three days for harness racing. (Horse Race North Dakota's additional request for \$150,000 was a late request arriving shortly before the commission meeting. Horse Race North Dakota had anticipated the passage of historic racing but that effort failed in the 2007 Legislative Session.)

Commissioner Secrest requested an explanation for the late request. Leslie Schmidt, Track Manager, stated the additional \$150,000 request was to increase the purses for races of North Dakota bred horses.

Representative Shirley Meyer was opposed to the granting of the additional \$150,000 and Representative Randy Boehning took no stance. Leon Glasser, President North Dakota Quarter Horse Racing Association, stated he was opposed to additional funds being granted to Horse Race North Dakota.

Commissioner Secrest strongly supported making live racing successful in North Dakota and an increase in purses for North Dakota breeds would or should increase participation in those races. Commissioner Secrest said he was in support of the extra \$150,000 for the reason that he thinks it will promote live racing in North Dakota and it has a good chance of success for live racing.

**Commissioner Secrest made the motion to grant Horse Race North Dakota \$411,000 from Purse Fund and \$300,000 from Breeders' Fund for a total of \$711,000. Commissioner Pladson seconded the motion.** Chairman Arthaud asked the Director to call the roll:

Chairman Arthaud	-	Yes
Commissioner Secrest	-	Yes
Commissioner Pladson	-	Yes
Commissioner Frederick	-	No
Commissioner Clement	-	No

The motion passed.

**c. ND Grass Roots Stallion Stakes**

\$2,500 – Futurity

\$2,500 – Derby

Doug DeMontigny on behalf of ND Grass Roots Stallion Stakes for stallion incentives in North Dakota requested the amount of \$2,500 for the Futurity and \$2,500 for the Derby for a total of \$5,000. Commissioner Frederick recommended granting the amount as they are the two big races that are run at ORDA.

A motion was made to hire Debbie Eisenhower as the Independent Auditor at a cost of \$2,495.00. (Secrest/Pladson/Clement-Y, Weir-Y, Secrest-Y, Pladson-Y and Frederick-Y) Motion passed.

5. **Las Vegas Dissemination Company's Tote Provider Application**

Director Blaseg presented the Las Vegas Dissemination Company's (LVDC) tote provider application. LVDC has the ability to provide the services to the Hong Kong race tracks for both service providers Lien Games Racing and Premier Turf Club. The current tote provider, AmTote, does not provide this service.

A motion was made to approve the tote provider application and grant a license to Las Vegas Dissemination Company upon approval of the Attorney General's Office. (Secrest/Frederick/Clement-Y, Weir-not voting, Secrest-Y, Pladson-Y and Frederick-Y) Motion carried. (Commissioner Weir stated due to a question to his law firm regarding this application decided to not vote.)

6. **2007 Live Race Track Reports**

- ORDA – Belcourt - Doug DeMontigny
- Horse Race North Dakota – Fargo – Dr. Jim Tilton

Report was given by Doug DeMontigny for ORDA. Lengthy discussion was held regarding the matter of insurance coverage and costs for the live race meets. Discussions also included jockey insurance coverage.

Commissioner Secrest suggested the tracks continue to seek whether jockeys' insurance coverage could be obtained under the Workforce Safety and Insurance (WSI). Commissioner Secrest suggested the item of insurance matters for track and horsemen's employees, jockeys and spectators, or anyone on the track be placed on the next meeting's agenda. The Chairman asked Commissioner Secrest if he would consider initiating the matter of WSI being available for jockey insurance coverage and other employees' insurance coverage. Commissioner Secrest answered, yes.

Dr. Jim Tilton gave the 2007 live race meet report for Horse Race North Dakota. One item he reported was the hiring of the General Manager hopefully by the first of March. Duties of the General Manager were discussed including developing fund raising.

7. **Accountant's report of the 2007 Chippewa Downs and ND Horse Park Race Meets**

(Previously hard copy reports were provided to the commissioners.)

Roger Thompson presented his reports for the Chippewa Downs (Belcourt) and ND Horse Park Race (Fargo) meets for 2007.

8. **ND Horsemen's Council Committee Report**

Dr. Jim Tilton presented Les Schmidt's, President of the ND Horsemen's Council Committee written report of the first meeting of January 14 at Steele, ND. Officers elected were: Les Schmidt, President, Randal Schwartz, Vice President, and Doug DeMontigny Secretary/Treasurer.

The council recommended:

- The Breed money should be used for Purse supplement.
- No more than the amount paid out in breeders' awards be paid out for Purse supplement.
- 1/3 of the Purse Fund to be used for the 2008 purses.

Doug DeMontigny, council member, reported the council will discuss important issues and it is hopeful to come before the commission as a unified voice. The council will attempt to deal with controversial issues at their council meetings instead of at the commission meetings.



Chairman Clement suggested the council visit the ND Ag Department's web site for possible grants available through APUC.

*At 2:20 p.m. the commission took a break. Meeting resumed at 2:42 p.m.*

<b>9.</b>	<b>Purse/Breeders' Fund Requests</b>	<b>-</b>	<b>Total requests = \$ 906,000</b>
	<b>a. ORDA –</b>		<b>\$ 181,000</b>
	\$ 25,000 – Breeders Fund		
	\$ 156,000 – Purse Fund		
	<b>b. Horse Race North Dakota</b>		<b>\$ 710,000</b>
	\$ 410,000 – Purse Fund		
	\$ 300,000 – Breeders Fund		

Chairman Clement gave his recommendations of how monies should be granted for the two horse parks by the Purse and Promotion Funds. He recommended not using monies out of the Breed Fund. His proposal included a hand out showing his options.

Chairman Clement stated an audit will be done of the Commission at the end of February and the audit will be presented to the Legislative Audit and Fiscal Review Committee sometime in May. They will specifically look into legislative intent with the Breeders' Fund.

Commission Secret suggested that allowances be made so that the racing program could be run for a three year period.

Director Blaseg read Legal Counsel's written statement stating that the "Breed Fund may be used to supplement purses". (53-06.2-04.1)

**A motion was made to award from the Purse Fund \$305,000 with 15% (\$45,750) going to ORDA and 85% (\$259,250) to Horse Race North Dakota.**  
(Secret/Pladson)

Commissioner Frederick made **a motion to amend the motion** to award 20% to ORDA and 80% to Horse Race North Dakota. (Frederick/Clement) Clement-Y, Frederick-Y, Secret-N, Pladson – N, Weir-N. The motion failed.

**Vote on original motion** to award 15% to ORDA and 85% to Horse Race North Dakota:  
Clement-N, Frederick-N, Secret-Y, Pladson-Y, Weir-Y. The motion carried.

**A motion was made to award from the Breed Fund** for the Purse supplement for a total of \$125,000 with \$22,500 to ORDA and \$102,500 to Horse Race North Dakota. (Secret/Weir) Clement-N, Frederick-Y, Secret-Y, Pladson-Y, Weir-Y, the motion carried.

<b>c. ND Grass Roots Stallion Stakes</b>	<b>\$ 5,000</b>
\$ 2,500 – Futurity	
\$ 2,500 – Derby	

**A motion was made to table awarding monies from the Purse Fund to ND Grass Roots Stallion Stakes.** (Secret made the motion, no second.)

**A motion was made to deny the request from ND Grass Roots Stallion Stakes for monies from the Purse Fund.** (Weir/Secret) Clement-N, Weir-Y, Secret-Y, Pladson-Y, Frederick-N. The motion carried.

<b>d. ND Quarter Horse Racing Association</b>	<b>\$ 10,000</b>
\$ 5,000 – 2010 Stallion Stakes	
\$ 5,000 – 2011 Derby	

**Continuance of Declining Fund Balance**

Recommendation was the ND Racing Commission implement a plan that allows for sustained future operations. This plan should not be based on any assumption of future increased revenue – either through increased pari-mutuel betting through simulcast or account wagering sites or increased gambling opportunities presented at the Horse Park.

Chairman Weir stated the Racing Commission is committed to do its very best over the next 12, 18, 24 months to preserve racing, to improve the product in Belcourt and Fargo, to make it more user friendly, to increase the crowds, to increase the on-site betting activity. We are taking the steps to increase the simulcast handle. We have a new General Manager of the track in Fargo with lots of good ideas who will be addressing us today. Racing is in peril because of the decrease in gambling. We are going to do everything we can to keep racing viable although maybe on a limited bases.

**Breeders' Registry Contract**

Recommendation was that the ND Racing Commission ensures they minimize the time necessary to award future contracts.

Chairman Weir thanked Kevin Scherbenske for the audit report.

**5. Independent Auditor's annual audit review of 2007 Breeders' Awards**

This item was heard later in the meeting. (See this item after #14.)

**6. Outdoor Recreation Development Association  
- 2008 Race Meet Report**

Mr. DeMontigny called the Director and informed that he was unable to attend today's meeting.

Before he continued with the agenda, the Chairman asked to have a general discussion regarding the Breeders' Fund. Chairman Weir asked the Director to explain to the audience how the purses were supplemented by monies from the Breeders' and Purse Funds. Director Blaseg explained the revenue received by the Special Funds. Discussion included "what was the Legislative's Intent" during the last session. The current balances were reported for the Purse, Breeders and Promotion Funds.

Discussion was held regarding the granting of dollars from the Special Funds. It was decided to leave the \$22,500, which previously had been allocated and paid from the Breeders' Fund to Outdoor Recreation Development Association, as granted due to not having the authority to transfer funds from the Purse Fund back to the Breeders' Fund. This action was done in good faith not totally understanding what the wishes were of the Legislature.

Les Schmidt reported that the ND Horsemen's Council had addressed this issue at their last meeting on July 14th.

Chairman Weir read from the Administrative Rules regarding the Purse Fund and the Promotion Fund.

**Commissioner Secrest made the motion to reallocate \$102,500 to Horse Race ND** which had previously had been allocated from the Breeders Funds would now be re-allocated from the Purse Fund. Commissioner Pladson seconded the motion. The Director called for the vote. (Weir-Y, Satran-Y, Frederick-Y, Pladson-Y, Secrest-Y. The motion carried.)

The General Manager was instructed to change the condition book to reflect the purses for races receiving dollars from the Purse Fund and not the Breeders Fund.

At 1:45 p.m. the Chairman adjourned the meeting for a ten minute break. The meeting was reconvened at 1:55 p.m. The Chairman called the meeting back to order with all the commissioners present.

# Exhibit 5

Purse Fund - 2008 #290 2000

Balance of fund on January 1, 2008 \$ 917,609.67

September	Lien Games - July	2,096.96	Salaries	3,640.10	\$529,610.03
	Premier Turf - June	1,530.05			\$531,140.08
	Premier Turf - July	1,340.38			\$532,480.46
	Interest	676.84			\$533,157.30
		\$ 5,644.23		\$ 3,640.10	
October	Lien Games - July add'l.	251.45	Salaries	3,640.11	\$529,768.64
	Lien Games - August	2,733.99			\$532,502.63
	Interest	659.36			\$533,161.99
		\$ 3,644.80		\$ 3,640.11	
November	Premier Turf - Aug.	1,534.26	Salaries	3,776.35	\$530,919.90
	Lien Games - Sept.	2,165.29			\$533,085.19
	Interest	658.67			\$533,743.86
		\$ 4,358.22		\$ 3,776.35	
December	Lien Games - Oct.	2,749.06	Salaries	3,862.81	\$532,630.11
	Premier Turf - Oct.	2,126.54			\$534,756.65
	Interest	551.32			\$535,307.97
		\$ 5,426.92		\$ 3,862.81	

12-9-08 Award to Horse Race ND - 350,000  
Award to ORDA - 68,250  
Balance 117,057.97

\$535,307.97

July 17, 18, 19 - Standard Bred Races – Harness Meet  
July 24, 25, 31  
August 1, 7, 8, 14, 15, 21, 22, 28, 29  
September 4, 5, 6, 7

Discussion was held on the best possible dates for the Harness Meet in Fargo.

A motion was made by Commissioner Secrest to approve the 2009 race dates requested by Outdoor Recreation Development Association and Horse Race North Dakota with the understanding that the dates may change for the Harness Meet in Fargo. Commissioner Satran seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

A ten minute break was taken at 2:20 p.m. and the meeting was reconvened at 2:30 p.m.

14.	<b>Purse Fund Requests</b>	<b>Total requested</b>	<b>\$ 480,200</b>
	a. ORDA	\$	115,200
	6 days of racing		
	b. Horse Race North Dakota	\$	350,000
	19 days of racing		
	(Includes Standard Bred Racing)		
	c. ND Grass Roots Stallion Stakes	\$	5,000
	\$ 2,500 – Futurity		
	\$ 2,500 – Derby		
	d. ND Quarter Horse Racing Association	\$	10,000
	\$ 5,000 – 2011 Stallion Stakes		
	\$ 5,000 – 2012 Derby		
15.	<b>Promotion Fund Requests</b>	<b>Total Requested</b>	<b>\$ 337,500</b>
	a. ORDA	\$	100,000
	b. Horse Race North Dakota	\$	225,000
	c. ND Quarter Horse Racing Association	\$	5,000
	Stallion Season Service Auction		
	d. ND Thoroughbred Association	\$	5,000
	Stallion Season Auction		
	e. Personal Management Services Inc.	\$	2,500
	Annual Horsemen's Awards Banquet		

A motion was made by Commissioner Pladson to approve granting Horse Race North Dakota from the Purse Fund \$ 350,000 and from the Promotion Fund \$ 225,000 for 2009. Commissioner Secrest seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

A motion was made by Commissioner Pladson to approve granting \$ 68,250 to Outdoor Recreation Development Association from the Purse Fund and \$ 31,000 from the Promotion Fund. Commissioner Secrest seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

A motion was made by Commissioner Secrest to deny granting any dollars from the Purse Fund for the ND Grass Roots Stallion Stakes. Commissioner Pladson seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

A motion was made by Commissioner Secrest to deny granting any dollars from the Purse Fund for the ND Quarter Horse Racing Association for the 2011 Stallion Stakes and the 2012 Derby. Commissioner Pladson seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

A motion was made by Commissioner Secrest to deny granting any dollars to the ND Quarter Horse Racing Association for the Stallion Season Service Auction and to the ND Thoroughbred Association for

## TESTIMONY FOR HB 1316

### REP. JON NELSON

Good morning Chairman Nething and members of the Senate Judiciary Committee. My name is Jon Nelson and I serve District 7 in the North Dakota House of Representatives. I appear before you this morning to introduce HB 1316 and support its passage.

HB 1316 was originally introduced to complete legislative intent in legislation of last session to transfer funding from the ND Racing Commissions purse fund to the breeders fund.

The engrossed bill that is before you today also transfers the authority for the appointment of the Racing Commission as well as its director to the Attorney General's office. Although I fully support these additional sections in the bill I was not part of the decision making of those changes.

It is not my intent to hamper this year's racing season with the introduction of this legislation about because of the budget mismanagement of the current Racing Commission, this bill's passage would probably not allow racing to take place this year. Because of that, I would offer a suggestion to your committee to delay the implementation of Section 4 of the engrossed bill until the beginning of the next biennium.

It is my hope that with the changes that are included in HB 1316 that communication between the horsemen and women of this state, track officials, and those interested in taking part in horse racing will have more of a voice in the decision making of this industry than they currently have.

I would ask that your committee would give engrossed HB 1316 favorable consideration after your thorough review.

Thank you.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1316

Page 1, line 1, remove "amend and reenact section 53-06.2-02 and 53-06.2-03 and subsection 6

Page 1, remove line 2

Page 1, line 3, remove "the authority of the attorney general; and to"

Page 1, remove lines 6 through 24

Page 2, remove lines 1 through 31

Page 3, remove lines 1 through 22

Renumber accordingly