

2009 HOUSE JUDICIARY

HB 1551

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1551

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/27/09

Recorder Job Number: 7930

Committee Clerk Signature

Delmore

Minutes:

Vice-Chair Klemin: We will open the hearing on HB 1551.

Rep. Merle Boucher: Sponsor, support (attachment). We are trying to attract the large bettor account wagerers. We currently have two tracks that run live horse racing. The horse racing industry is dependent upon the funds that come from horse racing and the pari-mutuel wagering. We are betting that the big bettors will come back to the state of ND with the incentives that are created in this bill. As a result of the risk we are taking, we are hoping to have the horse racing industry dollars come back into the state.

Rep. Delmore: Do we have an audit or overall accounting from these various funds. It seems to me, that in the past, we've asked for those and they weren't provided in a timely manner. Could we see what those figures are so we know what the ramifications of this bill.

Rep. Merle Boucher: I understand the question raised and concerns that you have; indeed that has been one of my frustrations over the course of time. I feel that recently, I think we've developed a little bit better relationship with people involved who are accountable for this information and I feel that we are starting to get the information that we have been looking for. Maybe we don't always agree with the numbers, but I think we've established that rapport

where some of this information that we were lacking in the past, created problems and concerns for us are in the process of being corrected.

Rep. Kretschmar: I note that reducing the tax from the General Fund from 2% to ½%, where does that extra money go, or is this just going to disappear.

Rep. Merle Boucher: As I understand it that would probably go to the licensee, the provider to deal with their costs. I don't know the exact breakdown, I know there's a percent they get and the taxes that they are required to pay. That is part of the crux of the problem related with this. These are things that I think we are looking to find answers to.

Rep. Kretschmar: I kind of thought that this reduction in funds to the General Fund would be used to help the other funds.

Rep. Merle Boucher: I think it does create more of a balance with the other funds. Then again, in the General Fund, we are looking to have an increase in the large bettors' activity to offset what we are giving up.

Rep. Zaiser: Do you think at the present rates, especially for the big bettors, it is a deterrent for them to get involved.

Rep. Merle Boucher: This is what we have been told. I think you could make a good case for that. One of the biggest bettors left and went to the state of Oregon. While this bill is patterned after the Oregon bill when we talk about the percentages and the breakouts that we're talking here to be competitive with them, it is not a total mirror. Some people have tried to tell us that this is a complete reflection of the Oregon bill. It's not. Oregon has caps too, in a different fashion and some different applications and taxation that are not included in this bill. The basic premise, this bill is built upon, is to be competitive with the state of Oregon or any other state that has the same rules.

Rep. Zaiser: Then I assume that we all feel that the post-race funds are going to go into the breeder's fund, etc.

Rep. Merle Boucher: That's precisely what we are looking for. As we sit under the current environment that we're trying to operate under, that we exist under, we can't support racing much longer in the state of ND.

Vice Chair Klemin: Thank you. Further testimony in support of HB 1551.

Winston Satran, ND Racing Commission: Support (attachments).

Rep. Delmore: If the additional funds are raised, what would the funds be used for.

Winston Satran: This summer Pat Weir asked for a motion to be passed that no more breed fund monies be used to subsidize racing in ND. That was passed. There had been \$21,000 prior to that motion given to the Belcourt racing track, but the change was in effect in Fargo.

Rep. Delmore: Tell me a little about what you would do with that increased amount. How would you distribute those funds?

Winston Satran: I'm new on the Racing Commission since July 1. But I think there are lots of different avenues that can take. Not too long ago, I spoke with one of the race horse owners up at Belcourt and he said you guys have to do something to help us with our purses, because we can't get enough horses and we're running our horses too long. I think we need to take a look at the purse structure to encourage more horses to race in ND; that would one thing. The Director and I went to South Dakota to a Racing Commissioner's International Meeting in September. It was a wonderful education for me. Because of the things that have happened nationally in racing, racing is under scrutiny and there have been models and rules enacted all over the country. ND has to complex with those model rules. I would think that, in the future, if that money is generated, then we could comply with those model rules.

Rep. Klemin: Thank you. Further testimony in support.

John Ford, President, BAM Software & Services: Sponsor (attachment). It is critical that the ¼% tax be applicable to those funds; in order to be competitive in the account wagering industry. We looked at other competitive states, and Oregon is the best example, which probably handled over \$2 billion dollars last year in account wagering. Their pari-mutuel pact starts at a 1/8% on the first \$60 million in account wagering for any one provider, then goes to ¼%. They provide 45% in breakage to the account wagering provider. In 2007, when the legislation imposed the \$11 million dollar threshold, Lien Games said that in the first half of 2007, they had \$28 million dollars in account wagering; after that threshold was imposed, in the last half of 2007, was about \$1.4 million dollars. It evaporated because of a large player handle is extremely price sensitive. I had an occasion two weeks ago to talk to a customer who wagers about \$250,000 a month on racing, principally on New York races. It would not have been possible to attract that customer to ND with that 4% tax rate because he has better options in other states. So they are extremely price sensitive. One of the questions which was raised previously with regard to where the reduction in taxes goes to and who it will benefit. With regard to the reduction in the tax from 4% to a total of 2% for the walk-up rate during the live racing in ND, that would go to the benefit of the charity that's associated with that operator. Under the legislation in ND, it requires an account with a charity be associated with account wagering. So it would go to the benefit of the ND Association for the Disabled, etc. The service providers have a fixed fee that they receive and any cost savings go to the charity. With regard to account wagering and the large players, the reduction of the tax goes to the benefit of the player in the form of rewards being able to be given to the player; it doesn't increase the revenue to the account wagering provider, other than increasing the total amount handled, but the tax savings for the horse player goes to the horse player in order to entice them to play in this jurisdiction. I also wanted to address another issue in regard to the \$11

million threshold penalty being a deterrent for the large player account wagering. That has been the case, even under the proposed legislation of having a 1/4%, we're not as competitive as some other jurisdictions; but we are in the ballpark of being able to be competitive. So the ND operators and service providers accept a smaller margin, to be competitive with the account wagering providers in Oregon. With the 4% tax, they cannot be competitive. That's why the 2007 annual really fell off the cliff when it came in July 1, 2007. So the new legislation is intended to prevent that from happening again in July 1, 2009. Since the \$11 million threshold was achieved, account wagering has been broken in ND. There has been a concern among the large players of what will happen in July 2009 and so has not been able to build it up to where it was previously. We have every expectation that with a stable platform in ND of a 1/4% on account wagering, that account wagering will grow then significantly and not only preserve the account wagering that's going on today in ND, but grow it for the benefit of live racing.

Rep. Delmore: The assurances that we are given that this will work is based on something from other states, the benefits are based on what.

John Ford: We have already seen the increase in account wagering since the threshold was removed. For these large players, this is a business to them and they have relationships that they develop and employees that they work with. It takes a while to get that back in ND. Frankly, the prospect of July 1, 2009, has been competitive for bringing those players back, because they've rearranged their business affairs to start doing business here again and then come July 1, 2009, they've got to make other arrangements. The prospect of these increased rates that come on July 1, 2009, has been competitive to being able to bring that play in.

Notwithstanding that, account wagering of October exceeded \$5 million dollars for that month. We're past the volume that can certainly bring more revenue to live racing in ND, even with the

current state of wagering, and then live racing could do in a higher tax rate. At a higher tax rate, they took on about \$7.7 million to be wagered at the first part of the mid-biennium. That only translates, even with breakage, to \$142,000 for live racing. Live racing in 2009 had received grants out of the purse and promotion funds of some \$600,000. While racing, in itself, cannot support the live racing in this community, it has to have account wagering. We're trying to achieve a more stable ground for account wagering so that we can provide those additional monies for the providers.

Rep. Zaiser: I missed some of your resume, where you worked, what you've done. Can you please repeat that for me?

John Ford: I am a certified attorney, in private practice back east in a lawyer's law firm for about 14 years. I was appointed lead general counsel for racing in North America. In 1993 we had tracks throughout the country, the closest one in MN.

Rep. Zaiser: Based on your experience in running that national organization, where in ND did the rate structure and prize money, where do we fall in with the rest of the country. Are we in the middle, etc. in terms of the tax standpoint?

John Ford: The most competitive state is Oregon, which has a 1/8% tax and is 45% of breakage to the economy. The breakage is when you see a payoff of \$2.20 is the bet. If you did the calculations it might actually be \$2.24 or \$2.26 and for simplicity they are all rounded down to the next ten cents. So that extra is money that is there under ND law, that's paid to the promotion fund and actually generates a fairly good amount of the fund that you see today.

Rep. Zaiser: In looking at ND's numbers collectively as a whole, do you think we would be in good shape to fill up the different fund accounts and also operate in the black.

John Ford: I do. I wouldn't be here today if I didn't think that was the case. It is not the most competitive, but I think it is a place where we can work from to be competitive. It really

requires that ND service providers accept a lower margin in order to be able to compete with those states or able to get more. We are prepared to do that, because we do think there is a lot of value of working in ND and supporting live racing. We hope that we can continue to grow in the future.

Rep. Klemin: Is the intent of this bill to reduce the amount of tax that goes into the General Fund, but at the same time, we're going to require General Fund monies in an equal amount come back to support the Racing Commission. You're doing this in the hopes that the amount of money bet by these account bettors is going to increase due to the reduction in the tax rates which will hopefully make it break even, is that about it.

John Ford: That would be one way of looking at it, yes. We're really talking about two different kinds of reductions, the walk-up which really benefits the charities and provides them with additional income to support their charity operations. On the account wagering side, it's really about being competitive in accomplishing our business, because if we reach July 1, 2009, again, we will not be able to hold that large player account wagering, and we would be starting all over. We're trying to build on what we've been able to do since the threshold was achieved and retain the ¼%, which is the applicable tax rate today on account wagering, the ¼% continuously without being subjected to that much higher tax on the \$11 million dollars.

Rep. Klemin: So if we don't do this then you would expect that come July 1, 2009, the account wagering is going to fall off a lot until that \$11 million is built up again.

John Ford: There is no doubt that will happen at a minimum. The account wagering will fall off a cliff. In July 2007, the Premier Turf club subsidized this to keep it going, but one can only subsidize it for so long before it runs out of funds. The concern is that the industry will have to quit in ND if we're not able to get a more competitive environment. We need to be able to compete with the other states.

Rep. Boehning: Reducing the tax, how will that increase the funds?

John Ford: The walk-up account wagering, the 20% is generally taken out of the pool that's available to the people involved in racing. So 80% is paid back to people that selected the winning horses. That 20% goes to the track that the wager is placed on, they get somewhere between 3-10% depending on how valuable the track is. Then Lien Games takes 4% and then the balance of the funds goes to the charity. In walk-up wagering, that reduction of that 2% is going to mean more money going to the charity.

Rep. Boehning: Does that 2% go to the state treasury or what goes to the charity.

John Ford: If you have the 20% which is taken out, 7-8% goes to the host track, the ? company receives a payment, Lien Games receives a payment, and the balance remaining goes to the charity. So if the balance that is left is subject to only 2% tax as opposed to the 4% tax, then they're going to receive the benefit of that reduction in tax. In July of 2007, is that the difference in the tax makes us uncompetitive. It is a very close business when you take the payment to the host track, you subtract the costs, and you take a reward back to the player, the margins are very small. A change from 4% to 1/4% is a huge margin in business and you're just not able to compete. If a guy is betting \$250,000 a month and he can pick up another 2%, he's going to go someplace else.

Rep. Boehning: The 2% that goes to the walk-up charity?

John Ford: In walk-up account wagering the extra will all go to the charity.

Rep. Delmore: Is it possible to find out how much money is going to the charities now and what that projection would be.

John Ford: Part of the change is going on because of the increase in the close fees, the fees that are paid to the track that are putting on the races. Those used to be the standard 3% four years ago. As tracks thought they had a more valuable product, they increased that, so now

for the Kentucky Derby we pay approx. 10.36%; that comes from the 20%. The 20% hasn't changed, so as the host fees increased, the margins for the charities have decreased dramatically. Part of the change here is to provide monies to the charity on the walk-up wagering side. Because right now they are being squeezed. Their payments are very modest.

Rep. Zaiser: Do all horse racing states have charities that they contribute to.

John Ford: I don't know of any other state other than ND that has money given to charities.

Rep. Zaiser: Is it easier if there isn't a charity.

John Ford: It's a mixed bag. It is an additional cost. Personally, I am happy to incur that cost because it is part of the fabric of racing in ND. It supports charity, live racing and it is a cost we accept, and I'm not looking to eliminate that.

Rep. Klemin: Thank you. Further testimony in support.

Mike Cichy, Premier Turf Club: Support (attachment).

Rep. Delmore: Is this the yearly totals.

Mike Cichy: This breaks it out monthly.

Rep. Delmore: Can you walk us through the attachment.

Mike Cichy: Yes (explained the attachment-monthly handle summary).

Rep. Klemin: Thank you. Further testimony in support. Testimony in opposition. We will close the hearing.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1551

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 1/28/09

Recorder Job Number: 7976

Committee Clerk Signature

Penrose

Minutes:

Ch. DeKrey: Let's take a look at HB 1551. What are the committee's wishes.

Rep. Wolf: I move a Do Pass with rereferral to Appropriations.

Rep. Boehning: Second.

11 YES 1 NO 1 ABSENT

DO PASS WITH REREFERRAL TO APPROPRIATIONS

CARRIER: Rep. Boehning

FISCAL NOTE
Requested by Legislative Council
04/14/2009

Amendment to: HB 1551

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			(\$262,168)	\$220,439	(\$192,418)	\$797,969
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).*

The legislation increases the funds derived from account, simulcast and walk-up wagering. These funds will be placed in the three special funds to enhance and sustain racing in North Dakota.

Amendment will have no impact on fiscal note.

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.*

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.*

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.*

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.*

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	328-4633	Date Prepared:	04/15/2009

FISCAL NOTE

Requested by Legislative Council

03/13/2009

Amendment to: HB 1551

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

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The legislation increases the funds derived from account, simulcast and walk-up wagering. These funds will be placed in the three special funds to enhance and sustain racing in North Dakota.

Amendment will have no impact on fiscal note.

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.*

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.*

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.*

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.*

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	701-328-4633	Date Prepared:	03/13/2009

FISCAL NOTE

Requested by Legislative Council
01/20/2009

Bill/Resolution No.: HB 1551

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	
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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).*

The general fund is reduced to use funds derived from wagering to fund the horse racing industry. The legislation increases the funds derived from account, simulcast and walk-up wagering. These funds will be placed in the three special funds to enhance and sustain racing in North Dakota.

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.*

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

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

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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.*

Name:	Randy Blaseg	Agency:	Racing Commission
Phone Number:	328-4633	Date Prepared:	01/23/2009

Date: 1/28/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1551

HOUSE JUDICIARY COMMITTEE

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ DP ☐ DNP ☐ DP AS AMEND ☐ DNP AS AMEND

Motion Made By Rep. Wolf Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Ch. DeKrey	✓		Rep. Delmore	✓	
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Vig	✓	
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Hatlestad	✓		Rep. Zaiser		
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total (Yes) 11 No 1

Absent 1

Floor Carrier: Rep. Boehning

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

REPORT OF STANDING COMMITTEE (410)
January 28, 2009 12:10 p.m.

Module No: HR-17-1073
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1551: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1551 was rereferred to the Appropriations Committee.

2009 HOUSE APPROPRIATIONS

HB 1551

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1551

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02/05/09

Recorder Job Number: 8846

Committee Clerk Signature

Lou Engelson

Minutes:

Rep. DeKrey approached the podium to explain HB 1551. HB 1551 is on the pari-mutuel racing that we have in North Dakota. The bill shows a \$257,000 reduction in revenue. It's moving it from a special fund to the General Fund. After extensive testimony from the industry and from charities, we believe that this leaves the tax rate where it is right now. On July 1 it will go back to the 4% on the first \$11 million wagered and, the unintended consequence is that it would shut down betting in North Dakota because the pari-mutuel wagering has gotten so competitive nationwide that that little bit of a difference in what we charge as a tax will drive them to other states. Oregon is leading with the lowest tax rate. After testimony we believed that the \$257,000 loss in revenue is a worst case scenario. If we keep the rate where it is at right now, 2%, the betting will continue to where it is at now, \$5 million a month, and that would generate \$621,000 from locked-up wagering and would make it a positive effect for the state.

Chm. Svedjan: This fiscal note shows something different. It shows a decline in revenue of \$262,168, but then an increase in revenue of \$220,439 in other funds. That's for 09-11.

Rep. DeKrey: That's what I have. That would be the worst case scenario, but we felt that if the tax rate stayed at 2% instead of going back to the 4% that the wagering would stay up where it is now instead of dropping back down July 1 after the 2% rate would go back into effect.

Chm. Svedjan: Those other funds are deposited where?

Rep. DeKrey: General Fund would be \$147,573. Purse fund then would be \$39,730. The breeder's fund would be \$39,730 and the promotion fund and breakage would be \$65,951.

Rep. Glassheim: How much is the state General Fund getting in taxes at current rates that we would lose if we lost all betting?

Rep. DeKrey: If we expect the \$5 million level of account wagering, it would generate \$621,000 from account wagering and \$145,411 from walk-up wagering as opposed to the \$532,000 for the present biennium.

Rep. Glassheim: So you think \$621,000 plus \$145,000 or \$760,000 goes to the General Fund from the wagering at this current level.

Rep. Metcalf: It seems to me we were sitting here not too long ago and were looking at the people who were addicted to gambling. We have \$400,000 earmarked for their treatment and we're trying to get another \$300,000, but they also said highest addiction was through horse racing. Here we're trying to continue the horse racing. I think we should be aware of that. Will horse racing contribute anything to our addiction problem?

Rep. DeKrey: I don't know if we are paying anything towards the addiction problem. All gaming has a fund as a whole. I can't tell you if horse racing contributes to that. I would mention that the biggest proponents of us doing this is the North Dakota Association of the Disabled. We received testimony from them that they were in support of the bill because they thought if we kept it at the 2% rate, that the charities would do better.

Chm. Svedjan: Is this a form of gambling that is done by big out-of-state gamblers?

Rep. DeKrey: That's what we hope. When pari-mutuel wagering was riding high in North Dakota, this was mostly out-of-state money that was coming into North Dakota. We did this

last session – that 4% in for the first \$11 million. Two years later we found that was really not a smart thing to do.

Rep. Nelson: On p. 2 of the bill, the overstruck language, the 2% of the amount wagered, was going to the General Fund. That's changed to 1/16 of a percent. Is the assumption of increased betting making up the difference?

Rep. DeKrey: History has shown that very small amounts in the tax make huge differences in the amount wagered in the state. Out-of-state betters that are betting on this will go to the venue where they get the best payback when they call the race rate. Very small changes in the percentage of the tax make a huge difference in the amount wagered in the state.

Rep. Nelson: I remember lowering the tax rate on betting two sessions ago with that same promise. It didn't happen.

Rep. DeKrey: Your memory is better than mine.

Rep. Berg: It's the same as if you lower an income tax, how it will generate more income tax revenue for the state. We lower a corporate tax and it will generate more jobs and more income revenue for the state, the same thing with racing.

Rep. Kempenich: Our biggest problem is our horse went to jail.

Rep. Wald: I move a **do pass**.

Rep. Berg: Second.

Rep. Meyer: Rep. DeKrey, what do our simulcast providers have to pay for a licensure here in North Dakota?

Rep. DeKrey: I don't recall it off the top of my head.

Rep. Svedjan: On a motion for a **do pass** on HB 1551, we'll take a roll call vote.

17 yes, 7 no, 1 absent and not voting. Rep. Boehning was assigned to carry the bill.

Date: 2/5/09
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1551

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Wald Seconded By Berg

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempenich	✓				
Rep. Skarphol	✓		Rep. Kroeber	✓	
Rep. Wald	✓		Rep. Onstad	✓	
Rep. Hawken	✓		Rep. Williams	✓	
Rep. Klein		✓			
Rep. Martinson	✓				
Rep. Delzer		✓	Rep. Glassheim	✓	
Rep. Thoreson	✓		Rep. Kaldor	✓	
Rep. Berg	✓		Rep. Meyer	✓	
Rep. Dosch	✓				
Rep. Pollert	✓		Rep. Ekstrom	✓	
Rep. Bellew		✓	Rep. Kerzman	✓	
Rep. Kreidt		✓	Rep. Metcalf		✓
Rep. Nelson		✓			
Rep. Wieland		✓			

Total (Yes) 17 No 7

Absent 1

Floor Assignment Rep. Buchanan

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

REPORT OF STANDING COMMITTEE (410)
February 5, 2009 4:55 p.m.

Module No: HR-23-1852
Carrier: Boehning
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1551: Appropriations Committee (Rep. Svedjan, Chairman) recommends DO PASS
(17 YEAS, 7 NAYS, 1 ABSENT AND NOT VOTING). HB 1551 was placed on the
Eleventh order on the calendar.

2009 SENATE JUDICIARY

HB 1551

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1551

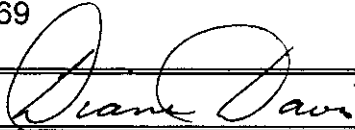
Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/09/09

Recorder Job Number: 10469

Committee Clerk Signature



Minutes: **Senator Nething, Chairman**

Relating to taxes on pari-mutuel wagering.

Representative Merle Boucher – Introduces the bill – See written testimony. He proposes an amendment and explains that amendment. This reduces the amount going to the promotion fund and more to the purse fund and breeder's fund. He breaks down the breakage to each fund.

Senator Nething – Asked what are the breakout of funds in Oregon.

Rep. Boucher – Said he is not sure but they're rates are better, we have lost our big bettors to them.

Senator Nething – Asks how does this benefit the bettor.

Rep. Boucher – Replies, this impacts them significantly, less tax for the bettor. He then goes into more detail on how this works. They have found when you go to a lower cap rate it does bring some of the betting back. They are betting on lowering the tax rate to expand the volume.

Senator Nething – Asks for an explanation to understand it better.

John Ford – President of BAM Software, Technology Consultant to Lean Games Racing – They operate the network that provides account wagering for Lean Games.

He explains to the committee that the 20% is the deduction out of the wagering pool which is made before the winnings are paid back on winning wagers. He further explains out of every \$100 wagered under the statute no more than \$20 can be retained and \$80 paid to the winners. Of that \$20 there is a fee that goes to the track at which the race was run. The track gets a percentage, the tote provider gets a percentage and in the case of account wagering a percentage of that money is paid back to the bettor. This bill reduces the impact of the tax as a payout so more money can be given to the account bettor. The large account bettor receives somewhere between 7 & 12 % of the amount wagered. When you have other states that only have .25% tax as Oregon does there is less of a cost structure so the more money can be given back to the large players as a frequent player reward. By reducing the pari-mutuel tax from a total of 4 on this first 11 million dollars that is wagered down to .25% then that additional money is available to pay to the bettors. The 80% goes to the people that picked the winners of the races. A small bettor would get a small reward and large bettor will get a larger reward. We are talking people who wager a million to sixty million a year on horse racing. Those players because they are valuable customers they are able to demand higher rewards for bringing their wagering to a service provider. By being able to offer a larger reward we're able to capture more of those players. As example, in 2007 when the current law was enacted it became effective in July of 2007. For the previous 6 months the account wagering had been 28 million dollars for Lean Games in ND, when that legislation became effective the balance for the balance of 2007 the account wagering was 1.4 million compared to 28 million in the previous 6 months. It reflects the very competitive nature of attracting account wagering bettors. This is designed to take away that 11 million dollar threshold so we can have a current and always effective tax rate of .25% in order to be able to attract those customers.

Senator Olafson – Remarks by reducing tax rate on the bettors we would encourage more people to become involved in betting which would increase the revenues and actually increase the tax revenues for our state General Fund. Would you explain the fiscal note?

Rep. Boucher - That is the whole objective of what is going on here. The fiscal note is all projections, so when you talk about the reduction in the fiscal note, we are reducing the amount from the general fund because it is wagered and based on the numbers we work with currently, the 11 million dollars. We hope to bring in beyond. Based upon that we would see some loss and we would probably still would see a loss at that much reduced rate, it depends on how far out this will go and how much we bring back here before we see that number become positive.

Senator Olafson – Asks, if the fiscal note is prepared based on a static assumption that if we change tax rates the revenue will be reflected based on current number of bets placed. In fact does not reflect the theory that we may actually increase revenues.

Rep. Boucher – Explains, the fiscal note and mentions the hope is the end result would be a positive. It was very positive for the state before. The walk up betting is a small portion of this overall endeavor. It is the account wagering that is so lucrative.

Randy Blaseg – Director of Racing for the ND Racing Commission – See written testimony.

John Ford – BAN Software and Gaming – In support of bill. He explains the tax rate and account wagering. It gives account wagering always a .25%, this gets us a little bit more competitive to Oregon. These large players are very price sensitive. When the tax rate went from .25 to 4% overnight in 2007 the volume fell off dramatically. These bettors are more than the casual bettor. This has been a challenge to bring those large account bettors back.

Senator Olafson – Asks if the fiscal note will look a lot better than what we see today.

Ford – Responds, yes he does. We don't have the most competitive environment, Oregon still does. But with the reduction we'll be competitive.

Senator Schneider – Asks how Oregon will react to this.

Ford – Replies, online operators don't move from state to state but we will be more competitive to draw customers. Oregon still has a lower tax rate plus a cap rate. ND will be able to compete for more customers.

Senator Nething – Asks if this industry is recession proof.

Ford – Replies, it used to be said that gambling was recession proof. This downturn has seen a drop off in land based gaming, the online side has been better in the last 30 days than it was all year. People may not be traveling as much and play online.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB1551

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 3/11/09

Recorder Job Number: 10670

Committee Clerk Signature

Minutes: **Senator Nething, Chairman**

Committee Work

Discussion about the amendment and taking off the "to".

The handout specifies the breakdown of the division of money.

Senator Nelson moves the amendment

Senator Olafson seconds

Verbal vote on the amendments, all yes.

Senator Lyson motions do pass as amended, and re-referred to appropriations

Senator Schneider seconds

Discussion follows on the fiscal note and where the money is coming from and how much is lost the first year.

Vote – 6-0

Senator Nething will carry

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1551

Page 3, line 28, after "breakage" insert "of which twenty percent is to"

Page 3, line 29, after "fund" insert ", thirty percent is to be deposited in the breeders' fund, and
fifty percent is to be deposited in the purse fund"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1551

Page 3, line 28, after "breakage" insert "of which twenty percent is"

Page 3, line 29, after "fund" insert ", thirty percent is to be deposited in the breeders' fund, and
fifty percent is to be deposited in the purse fund"

Renumber accordingly

Date: 3/11/09
Roll Call Vote #: 1

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

1551

Amendment
Committee

Senate JUDICIARY

☐ 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

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 _____

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

Verbal yes

#B 1551

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

Senate JUDICIARY Committee

☐ Check here for Conference Committee

Re-Referend

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Sam Lyson Seconded By Ter Schneider

[illegible]

Total (Yes) 6 (N) 0

Absent

Floor Assignment Sen. Nothing

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

REPORT OF STANDING COMMITTEE

HB 1551: Judiciary Committee (Sen. Nethling, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1551 was placed on the Sixth order on the calendar.

Page 3, line 28, after "breakage" insert "of which twenty percent is"

Page 3, line 29, after "fund" insert ", thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse fund"

Renumber accordingly

2009 SENATE APPROPRIATIONS

HB 1551

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1551

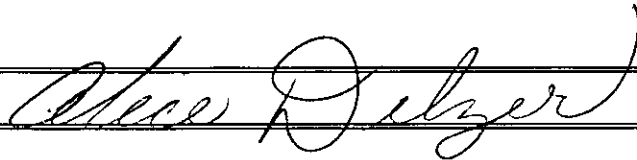
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-18-09

Recorder Job Number: 11181

Committee Clerk Signature



Minutes:

V. Chair Grindberg: Opened the hearing on HB 1551 relating to taxes on pari-mutuel wagering; and to provide an effective date. All members' presents.

Merle Boucher: Representative District 9 introduced and testified in favor of HB 1551. (See written testimony #1)

V. Chair Grindberg: We recall the person 6 years ago and we were having the debate about the big betters and after hearings and sub-committee meetings, there were very contentious feelings with horsemen across the state over various turf battles in the industry. I have two questions; 1) Is that more tranquil today, and 2) Didn't we have a bill last session trying to lure big betters back?

Merle Boucher: To answer your first question, yes the environment is a lot more tranquil. I think they have come to an understanding something we can agree on and do what is good for the whole of the industry. To answer the second question regarding the past bill, yes, they were very frustrated.

Senator Wardner: I am not a big horse better. On page 1 of the bill, it talks about wagering the win place show. Of the amount wagered. Let's say I wagered \$100. Would pay out the percentages what would the rest of the money be. 14.34)

Heather Benson: Executive Director Horse Racing of North Dakota 16.21) unlike black jack you bet against each other. A race track makes money on what we call "take out". For every dollar wagered we take a 15-20% take out. So on a \$1 bet, the house takes 22 cents. When they say the total amount wagered, the ½ comes out of the total amount. There is 22 cents available profit for every dollar wagered. There is profit walk up wagering, my profit that is what we pay for the machines that calculate, when you take simulcast wagers you have to pay the track at which the wager was taken and that can be anywhere from 3-11%, whatever is left, is the profit the race track gets. A big portion of that involves charities. Our profit margins at some of the bigger tracks can be as low as 4 cents on the dollar, so for us to gain a cent or half of cent is huge.

Senator Wardner: Out of a dollar, 22% is set aside and the tax comes out of the 22%. What about the other 78 cents?

Heather Benson: That gets paid back to the betters.

Senator Wardner: Out of that 22 you pay all your expenses.

Heather Benson: That is correct.

Merle Boucher: The 78 cents is the betters share.

Senator Fischer: Do you feel those factions have come together so that among the horse rules. Is that in a position now where you are comfortable?

Merle Boucher: All these things are unknown. I am more comfortable than I was two years ago. I sat in on the administrative hearings and those discussions, I think from where we have come, people understand this has to be resolved. At this point and time compromise is more important.

Heather Benson: General Manager Executive Director of the North Dakota Horse Park in Fargo. I came on as general manager one year ago. I attended my first racing commission

meeting and it was very interesting to say the least. Since that time, through a lot of work with Pat Were, we have opened up communications.

This last meeting, we voted on 6 different issues on March 4, and voting was unanimous we had great discussion. Looking down the road, let's make them grow equally, you look proactive, if using more put in. the horsemen have an active voice. They will hold regular meets. We have made huge progress since I came on board. The State of Oregon has done extremely well. I think horse racing stands a very good spot going into the future.

Joe Cichy: Testified in support of HB 1551. If this bill is not passed, the big betters won't stay here because other places are more competitive.

V. Chair Grindberg: Close the hearing.

Written testimony #2 entitled Meeting of the North Dakota Horsemen's Advisory Council was provided to the committee after the hearing.

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1551

Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 04-03-09

Recorder Job Number: 11719 (starts at (8.43) in the tape.

Committee Clerk Signature	<i>Alice Delger</i>
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Minutes:

Chairman Holmberg called the committee to order in reference to HB 1551, relating to taxes on pari-mutuel wagering. (Job #11719 which also records HB 1256 and HB 1231)

SENATOR FISCHER MOVED A DO NOT PASS. SECONDED BY VICE CHAIRMAN GRINDBERG.

Chairman Holmberg asked for discussion. He stated this is the pari-mutuel betting wagering. There was no discussion in regards to this bill.

Chairman Holmberg asked the clerk to call the roll on 1551 on Do Not Pass.

ROLL CALL VOTE WAS TAKEN ON A DO NOT PASS for HB 1551 RESULTING IN 10 YEAS, 4 NAYS, 0 ABSENT. SENATOR FISCHER WILL CARRY THE BILL.

Chairman Holmberg closed the hearing on HB 1551. (11.15)

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1551

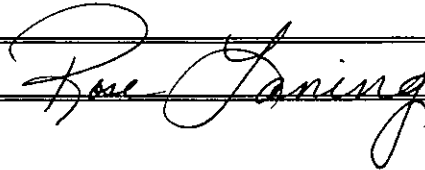
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 10, 2009

Recorder Job Number: 11818

Committee Clerk Signature



Minutes:

V. Chair Grindberg moved to reconsider the committee's previous action.

Senator Fischer seconded.

Voice vote – passed.

Chairman Holmberg: We have the bill before us and we also have an error. In March 2009, the Senate Judiciary committee approved an amendment (.0102) that was not added on the bill. It's being passed out now and we just got it.

Senator Robinson moved the amendment .0102.

Senator Krauter seconded.

Voice vote passed.

Chairman Holmberg: Now we have HB 1551 before us.

Senator Fischer: I'd like to add another amendment. I don't have a copy of it, but I'd like to put a sunset on this piece of legislation with a date of June 30, 2015.

Chairman Holmberg: Roxanne has something.

Roxanne Woeste: The last amendment was added to the bill by the Judiciary. After it was adopted in Judiciary, it was re-referred here. You guys took it out with a Do Not Pass.

Chairman Holmberg: So, let's reconsider our action by which we did what we shouldn't have done, but all should have happened if that should have been attached to the bill. It's in the computer.

Roxanne Woeste: The version technically that this committee is working with already includes this amendment. Unless you want to change the motion and pass the bill out.

Chairman Holmberg: All in favor of undoing what we did, say "Aye". Voice vote passed.
OK, we undid what we did.

Senator Fischer: This goes back too far and the committee won't want hear the whole discussion about the racing commission, but with I didn't have a lot to do with it up until last January when the rules committee brought in rules that weren't even close to legislative intent in the 2007 session. I really believe that some of the people working at the racing commission have acted in an irresponsible way and I have seen the improvements that have been promised. I visited with the minority leader who is the sponsor of this bill in the House with Rep. Meyer who sponsored the legislation that was supposed to clean this up which the executive director of the racing commission. I have met with the majority leader and the Lt. Governor and the chairman of the racing commission and they were ok with bringing the bill back down here and discussing it as well as possibly changing the recommendation on the bill. To bring it down here and change the recommendation; I thought maybe something else should be done. In thinking about it, and to give them some sort of signal from the legislature as a whole would be to put a sunset clause on it and let's take a look at it and how they are acting and how they're working. Either one biennium or maybe two because it will take some

time for this to come together and that's the reason for my proposed amendment and I move that amendment.

Chairman Holmberg: Your amendment was to put a sunset clause two biennia.

Senator Fischer: That would be June 30, 2013.

V. Chair Bowman seconded.

Senator Krauter: Before we get out of here, there is another bill that is going to be coming over that takes this whole racing commission and divides it into two. The change is going to come effective July 1, 2011 and it puts all the gaming portions of the racing commission into attorney general's office and everything else goes to the ag department. To make this effective after that I think is ok. If we a sunset before that, we might be inviting some problems. It has to get sorted out.

Chairman Holmberg: All in favor of that amendment say "Aye".

Voice vote passed.

Senator Fischer moved Do Pass as Amended on HB 1551.

Senator Seymour seconded.

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 1

Senator Fischer will carry the bill on the floor.

Date: 4/3/09

Roll Call Vote # 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1851

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended

Motion Made By Fischer Seconded By Grindberg

Senators	Yes	No	Senators	Yes	No
Sen. Ray Holmberg, Ch	☒	☐	Sen. Tim Mathern	☐	☒
Sen. Tony S. Grindberg, VCh	☒	☐	Sen. Aaron Krauter	☐	☒
Sen. Bill Bowman, VCh	☒	☐	Sen. Larry J. Robinson	☐	☒
Sen. Randel Christmann	☒	☐	Sen. John Warner	☒	☐
Sen. Rich Wardner	☒	☐	Sen. Elroy N. Lindaas	☒	☐
Sen. Ralph L. Kilzer	☒	☐	Sen. Tom Seymour	☐	☒
Sen. Tom Fischer	☒	☐			
Sen. Karen K. Krebsbach	☒	☐			

Total Yes 10 No 4

Absent 0

Floor Assignment Fischer

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

REPORT OF STANDING COMMITTEE (410)
April 3, 2009 1:13 p.m.

Module No: SR-57-6132
Carrier: Fischer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1551, as amended, Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING).
HB 1551, as amended, was placed on the Fourteenth order on the calendar.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1551

In addition to the amendments adopted by the Senate as printed on page 740 of the Senate Journal, House Bill No. 1551 is further amended as follows:

Page 1, line 2, remove "and" and after "date" insert "; and to provide an expiration date"

Page 4, line 25, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 4, line 26, after "2009" insert ", and before July 1, 2013, and is thereafter ineffective"

Renumber accordingly

Date: 4-10-09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1551

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number Fischer amendment

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Fischer Seconded By Bowman

Representatives	Yes	No	Representatives	Yes	No
Senator Wardner			Senator Robinson		
Senator Fischer			Senator Lindaas		
V. Chair Bowman			Senator Warner		
Senator Krebsbach			Senator Krauter		
Senator Christmann			Senator Seymour		
Chairman Holmberg			Senator Mathern		
Senator Kilzer					
V. Chair Grindberg					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

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

*voice vote
passed*

Date: 4-10-09
Roll Call Vote #: 2

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1551

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☒ Amended

Motion Made By Fischer Seconded By Seymour

Representatives	Yes	No	Representatives	Yes	No
Senator Krebsbach	✓		Senator Seymour	✓	
Senator Fischer	✓		Senator Lindaas	✓	
Senator Wardner	✓		Senator Robinson	✓	
Senator Kilzer	✓		Senator Warner		✓
V. Chair Bowman	✓		Senator Krauter	✓	
Senator Christmann	✓		Senator Mathern	✓	
V. Chair Grindberg	✓				
Chairman Holmberg	✓				

Total Yes 13 No 1

Absent 0

Floor Assignment Fischer

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

REPORT OF STANDING COMMITTEE

HB 1551, as amended, Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1551, as amended, was placed on the Sixth order on the calendar.

In addition to the amendments adopted by the Senate as printed on page 740 of the Senate Journal, House Bill No. 1551 is further amended as follows:

Page 1, line 2, remove "and" and after "date" insert "; and to provide an expiration date"

Page 4, line 25, after "**DATE**" insert "- **EXPIRATION DATE**"

Page 4, line 26, after "2009" insert ", and before July 1, 2013, and is thereafter ineffective"

Renumber accordingly

2009 HOUSE JUDICIARY

CONFERENCE COMMITTEE

HB 1551

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1551

House Judiciary Committee

☒ Check here for Conference Committee

Hearing Date: 4/22/09

Recorder Job Number: 12098

Committee Clerk Signature

Delmore

Minutes:

Rep. Boehning: Call conference committee on HB 1551 to order.

Attendance: All present.

Rep. Boehning: Senate please explain your amendments.

Sen. Nething: On page 3, we specified that the breakage was going to be 20% to the Racing Promotion Fund, 30% to the Breeder's Fund, and 50% to the Purse Fund.

Rep. Delmore: Can you explain why you broke it down in that way.

Sen. Lyson: It was requested in the hearing.

Rep. Boehning: Requested by the Commissioners or from the Director, or Horsemen?

Sen. Nething: I think it was the Commissioners. They wanted to try and have a division of the breakage to help these people with their dollars.

Rep. Boehning: Previously it all went into Promotion Fund?

Sen. Nething: Yes.

Rep. Boehning: I don't have those numbers to know how much is in each fund; some are large and some are smaller than others. On page 4, on .0300 you put in an expiration date.

What was the rationale for that?

Sen. Nething: I believe Senate Appropriations put that on.

Sen. Lyson: Maybe it was explained to us on the Floor. It had something to do with the other bills that were there, trying to find out where fullness would be to try and get everything done, and wouldn't be able to get it done in time.

Rep. Boehning: So basically it's in there so that it is revisited in four years. I do have amendments here which I talked over with Sen. Lyson yesterday, and other House conference committee members. The amendments were going put the Racing Commission into the office of the Agriculture Commissioner, and the gaming part would go to the AG's office. The Agriculture Department doesn't want it. They are dead set against it. I was down and talked to the Secretary of State's office before I came up here today, and he is willing to take a look at it. I was looking at a .5 FTE, but when talking with him, he wanted 1 FTE to cover kickboxing, mixed martial arts and the racing commission. This way we would be able to have a director that would take care of all of it for us. He is willing to look at it; I think we have to do something. We have been dealing with this over and over again each session. The amendments would allow us to hire a Director who would have control over this area and report to the commissioners.

Sen. Nething: I don't see how they affect the amendments we made.

Rep. Boehning: I feel that this helps the bill,

Sen. Nething: We are to focus the conference committee on the amendments placed on the bill by the Senate. Do you contest our amendment?

Rep. Boehning: Personally I don't like the amendments on the percentages.

Sen. Nething: That's what we're supposed to focus our discussion on, the amendments. If you have different feelings on it, we should hear those feelings.

Rep. Boehning: I don't have the numbers in front of me, how the fund is run, but the way it has been set up has working fairly well, to beef up the promotion fund. I think that's used for a lot of things; to make it a little more open for them.

Sen. Nething: What percentage would you like?

Rep. Boehning: One hundred percent (100%).

Sen. Nething: We thought we were making some changes in the other funds. This was the money, as I understand it, coming from the pari-mutuel, so really none of that going anyplace right now. Is that accurate.

Rep. Boehning: I don't know what the number for breakage is.

Sen. Nething: I don't think it's very much.

Rep. Boehning: No, it's not, probably less than \$30,000.

Sen. Lyson: One of the things that I recall from the Committee, the breeder's were in and really complaining that they weren't getting any funds.

Sen. Nething: This was something that the horse people wanted it. I don't have any strong feelings about it.

Sen. Lyson: I don't care how the money is split up either.

Rep. Klemin: I don't really have enough information about what the amendment does or what the effect of it is. You said the horse people asked you to do it. Does that mean the Racing Commission or one of these other organizations?

Sen. Nething: Yes.

Rep. Klemin: Which?

Sen. Nething: Both.

Rep. Klemin: They were both there? The Racing Commission and the horse people.

Sen. Nething: We can get the testimony to you if you want.

Rep. Klemin: That would be helpful. I don't have an opinion one way or the other. I would just like more information.

Sen. Nething: I don't either. I'm not here to defend them. We thought it made sense, just to try and give each group something. We didn't know you had a strong feeling about keeping that money there.

Rep. Klemin: So it goes 20% one way, 30% one way, and 50% one way. What is the rationale for that?

Rep. Boehning: We will look at the testimony to see what the rationale was.

Rep. Delmore: I think one of the good things they did, with the amendment you put on; it quits taking out of one fund and putting it into others. That was in our bill, and I was never a big fan of that. I think the money should be spelled out, that if you're going to put money in, we should determine which of those funds the money will go to. I think there is an additional problem and that's what Rep. Boehning is trying to address. That's the fact that we have almost a stand alone agency that thinks they can do whatever they want. They don't promulgate rules for administrative rules, they don't furnish materials when they're asked in a committee to do so, and I think we need to get a handle on that before we lose racing altogether in this state. I think that would be a travesty. We've worked hard to make it viable and right now I think it is going down the wrong track. I think that is what Rep. Boehning is trying to accomplish.

Sen. Nething: That's not where our differences are. I don't think we can even talk about that here, we can only talk about the amendments we put on the bill. I don't think that would solve the problem with that. I'm not married to anything on the purse issue. It just seemed to make sense to us.

Rep. Boehning: The way I'm looking at it, I would like to put more amendments on to the bill.

Sen. Nething: That has nothing to do with our differences; it has nothing to do with what we are to talk about.

Rep. Boehning: I'm trying to look for an avenue to fix this and we're running out of avenues.

Sen. Nething: Put in a delayed bill, have a hearing on it.

Rep. Klemin: What is the status of the Appropriations bill?

Rep. Boehning: That is in conference committee as well.

Rep. Klemin: That had the same language that you are proposing.

Rep. Boehning: That one had the same language. I just talked to the Secretary of State's office this morning. I had amendments drafted for the Ag Dept., and after talking with them, they didn't want to do it. So I haven't had a chance to talk with the Appropriations people to see if that is still in conference on SB 2024 yet.

Rep. Klemin: What is the amendment that you're talking about? It sounds like you're saying that the Racing Commission would be taken over by the Secretary of State. Is that what you're talking about?

Rep. Boehning: That would be what the proposed language would do. The amendments were drafted with the Ag Dept. taking on this, but after talking with the Secretary of State, he said that he would be willing to look at it.

Rep. Klemin: You should probably have those drafted with the Secretary of State in place of the Ag. Dept.

Sen. Lyson: I don't know if that would work or not, because we are supposed to be discussing the amendments that the Senate put on the bill. That is all we're to be discussing.

Sen. Fiebiger: I would agree with Sen. Nething's assessment of what the task is. We should only be discussing the amendments. I struggle as I hear the discussion remembering the testimony and how this was sort of the "child nobody wanted". I would agree with Sen.

Nothing's assessment of what the task is. We should only be discussing the amendments. I struggle as I hear the discussion remembering the testimony and how this was sort of the "child nobody wanted". You said that the Ag. Dept. doesn't want it, and the Secretary of State will take a look at it, I'm not sure if that's necessarily an overwhelming endorsement of putting it in that Dept. either. Without having a hearing and have the groups weigh in how effective they think it would be, I'm not sure what we can do. I also understand that there is some new leadership with Pat Weir and others that I think have been fairly well received that it may be worth it to give them some time. I'm nervous about forcing it to go somewhere where it may not fit as well.

Rep. Klemin: Is this something that can be considered by the Appropriations conference committee.

Rep. Boehning: It could be; I haven't had a chance to talk to members on the Appropriations committee. I just got hold of the Secretary of State's office. If we don't fix the Racing Commission this session, it will be gone by the next biennium.

Sen. Nothing: Why don't we put in a delayed bill, if you feel that strongly about it?

Rep. Boehning: I'm trying to come up with a solution to this problem.

Sen. Nothing: That way it gets a hearing. I would like to see it get a hearing. Our leadership has been pretty firm about staying with the subject, only discuss the amendments that are in question, not bring in new amendments.

Rep. Klemin: If it is already in another bill that might be the more appropriate place to put in the Secretary of State's office.

Rep. Boehning: Why don't we adjourn and I will reschedule for another meeting.

Rep. Delmore: I would like to see the testimony.

Rep. Boehning: We will be in recess.

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1551

House Judiciary Committee

☒ Check here for Conference Committee

Hearing Date: 4/24/09

Recorder Job Number: 12182

Committee Clerk Signature



Minutes:

Rep. Boehning: Call conference committee for HB 1551 to order.

Attendance: All present.

Rep. Boehning: After looking through the Minutes, I saw that it was Rep. Boucher who proposed the amendments, with the split into the funds.

Sen. Nething: Yes.

Rep. Boehning: Then, the expiration date was put on by the Senate Appropriations. Do you know what the explanation was, or was it just so that it would be revisited when we came back in four years.

Sen. Nething: Right.

Rep. Boehning: I guess I'm satisfied with it; I'm not going to put any more amendments on it. I think it is being taken care of by SB 2024.

Rep. Klemin: I move that the House accede to the Senate amendments.

Rep. Delmore: Second.

Rep. Boehning: Discussion. Roll call vote.

6 YES 0 NO 0 ABSENT

MOTION CARRIED

Rep. Boehning: We are adjourned.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1551 (, as (re)engrossed):

Date: 4/22/09

Your Conference Committee HJUD

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen. Nething			Rep. Boehning		
Sen. Lyson			Rep. Klemin		
Sen. Fiebiger			Rep. Delmore		

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

_____, and place _____ on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: _____

CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: _____

SECONDED BY: _____

VOTE COUNT YES NO ABSENT

Revised 4/1/05

All present. No motions.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

Bill Number 1551 (, as (re)engrossed):

Date: 4/24/09

Your Conference Committee HJUD

For the Senate:

For the House:

	YES / NO			YES / NO	
Sen. Nething	✓		Rep. Boehning	✓	
Sen. Lyson	✓		Rep. Klemin	✓	
Sen. Fiebigen	✓		Rep. Delmore	✓	

recommends that the (~~SENATE~~/HOUSE) (~~ACCEDE~~ to) (~~RECEDE~~ from)

the (~~Senate~~/House) amendments on (SJ/HJ) page(s) 1451 --

✓, and place 1551 on the Seventh order.

_____, adopt (further) amendments as follows, and place _____ on the Seventh order:

_____, having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) 1551 was placed on the Seventh order of business on the calendar.

DATE: 4/24/09

CARRIER: Rep. Boehning

LC NO. _____	of amendment _____
LC NO. _____	of engrossment _____
Emergency clause added or deleted _____	
Statement of purpose of amendment _____	

MOTION MADE BY: Rep. Klemin

SECONDED BY: Rep. Delmore

VOTE COUNT 6 YES 0 NO 0 ABSENT

REPORT OF CONFERENCE COMMITTEE

HB 1551: Your conference committee (Sens. Nething, Lyson, Fiebiger and Reps. Boehning, Klemin, Delmore) recommends that the **HOUSE ACCEDE** to the Senate amendments on HJ page 1451 and place HB 1551 on the Seventh order.

HB 1551 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

HB 1551

HOUSE JUDICIARY COMMITTEE

HB 1551

REPRESENTATIVE MERLE BOUCHER

CHAIRMAN DEKREY AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE. FOR THE RECORD I AM REPRESENTATIVE MERLE BOUCHER REPRESENTING DISTRICT NINE (9).

I AM HERE TO INTRODUCE AND GIVE MY SUPPORT FOR HB1551. HB1551 RELATES TO TAXES ON PARI-MUTUAL WAGERING.

ESSENTIALLY THE INTENT OF THE BILL IS TWO FOLD:

A. FOR WAGERING ON LIVE HORSE RACING AND SIMULCAST WAGERING:

1. IN WIN, PLACE AND SHOW PARI-MUTUAL POOLS LOWER THE AMOUNT OF THE TAX GOING TO THE GENERAL FUND FROM TWO PERCENT TO ONE-HALF OF ONE PERCENT
2. IN DAILY DOUBLE,QUINELLA, EXACTA, TRIFECTA OR OTHER COMBINATION POOLS LOWER THE AMOUNT OF THE TAX GOING TO THE GENERAL FUND FROM TWO AND ONE-HALF PERCENT TO ONE-HALF OF ONE PERCENT
3. IN EACH SITUATION (1 & 2) THE TAX GOING TO THE GENERAL FUND WILL BECOME PAR WITH WHAT IS CURRENTLY GOING INTO THE PURSE FUND, THE BREEDERS FUND AND THE RACING PROMOTION FUND

B. FOR ACCOUNT WAGERING THE CURRENT TAX APPLICATIONS APPLIED TO THE FIRST \$11 MILLION DOLLARS WAGERED (CURRENTLY CAPPED) IS BEING REMOVED AND IS BEING REPLACED BY THE FOLLOWING ASSESSMENTS:

1. FOR THE WIN, PLACE, AND SHOW PARIMUTUAL POOLS
 - a. ONE-SIXTEENTH OF ONE PERCENT TO THE STATE GENERAL FUND
 - b. ONE-SIXTEENTH OF ONE PERCENT TO THE BREEDERS FUND
 - c. ONE-SIXTEENTH OF ONE PERCENT TO THE PURSE FUND
 - d. ONE-SIXTEENTH OF ONE PERCENT TO THE RACING PROMOTION FUND

2. FOR THE DAILY DOUBLE, QUINELLA, EXACTA, TRIFECTA OR OTHER COMBINATION POOLS:
 - a. ONE-SIXTEENTH OF ONE PERCENT TO THE STATE GENERAL FUND
 - b. ONE-SIXTEENTH OF ONE PERCENT TO THE BREEDERS FUND
 - c. ONE-SIXTEENTH OF ONE PERCENT TO THE PURSE FUND
 - d. ONE-SIXTEENTH OF ONE PERCENT TO THE RACING PROMOTION FUND

CHAIRMAN DEKREY AND MEMBERS OF THE HOUSE JUDICIARY COMMITTEE, I RECOMMEND YOU GIVE HB1551 A DO PASS.

House Bill No. 1551

House of Representatives Judiciary Committee, Chairman Duane DeKrey, Vice Chairman Lawrence R. Klemin

January 27, 2009, 2:00 p.m. – Prairie Room

Testimony of Winston E. Satran, Racing Commissioner, ND Racing Commission

Chairman DeKrey, Vice Chairman Klemin, and Committee Members, my name is Winston Satran and I am on the North Dakota Racing Commission. I am here in support of House Bill No. 1551.

This past summer the North Dakota Racing Commission began to explore methods to fund horse racing in North Dakota. A review of states that were conducting successful race meets was considered. The horse race industry in the states of Montana, Wyoming, and South Dakota are presently struggling financially. Minnesota and Iowa are conducting a productive and growing racing industry because they are subsidized by casinos and card rooms. North Dakota law does not permit these activities to support horse racing so we began reviewing the alternatives available to the state of North Dakota. The current law allows live racing, simulcast, and account wagering. The decision was to pursue the possibilities of gaining revenue from this source of funds.

The Racing Commission met in Fargo on August 1st and Commissioner Tom Secrest made the motion to ask the legislature to remove the eleven million dollar threshold at the higher tax rate and reduce it to a quarter of one percent. This motion was passed unanimously by the Commission.

Attachment 1A

At the December 9th meeting in Bismarck, Chairman Pat Weir, asked the account wagering providers to prepare information that would allow the Racing Commission to evaluate potential revenues from account wagering.

Attachment 2A

These actions set in motion methods to further establish the horse racing industry in North Dakota. The first major step was to request a budget to fund the Racing Commission expenses by the use of General Fund dollars. Previously these expenses had come from the Promotion, Purse, and Breeders Fund. The Governor's Office agreed to this proposal and reduced the budget request from \$257,092 from special funds and added those funds to the General Fund source.

Attachment 1B

The rationale for this request was that pari-mutuel wagering has added \$18,314,637 in pari-mutuel tax revenue to the state General Fund between 1997 and 2007.

Attachment 2B

This action would allow the \$257,000 from the three funds to be used for the horse racing industry. The second step was to draft legislation to reduce the 4% tax on the first 11 million dollars wagered. The 4% tax would be replaced by a continuous ^{2%}~~one-half of one~~ percent on live horse racing and walk-up simulcast wagering. For account wagering one sixteenth of one percent would be deposited to the General Fund and one sixteenth of one percent ^{would} be deposited into each of the three funds, Promotion, Purse and Breeders fund.

House Bill 1551 demonstrates the reduction in General Fund reductions on page 1, 2, and 3 of the bill.

This change in legislation would reduce the deposit in the general fund by \$262,168 in the 2009-2011 biennium. This is based on the projected account wagering of approximately \$5,000,000 per month.

The past wagering records indicate it took over 8 months to generate the 11 million dollar threshold due to the 4% tax charged to the players. Once the threshold is reached, account wagering increases significantly. We would expect the \$5,000,000 level of account wagering would be easily maintained. This would generate \$621,000 from account wagering

and \$145,411 from walk up wagering totaling \$766,411 for the racing industry as opposed to the \$532,000 for the present biennium.

The most significant aspect of the present legislation is that the simulcast and account wagering providers have informed the Racing Commission that they will not be able to retain the bettors after July 1st if the tax is not reduced. If that were to take place the Racing Commission would have the following revenues available for racing. These revenues would be derived from live and simulcast walk-up wagering at the two race tracks and charity sites in North Dakota. The revenues were based on the current biennium's walk-up and simulcast wagering.

Attachment 3B

General Fund	\$147,573
Purse Fund	\$39,730
Breeders' Fund	\$39,730
Promotion Fund & Breakage	\$65,951

As you can readily see, we are at a critical juncture in horse racing industry in North Dakota. The race tracks at Belcourt and Fargo will not have a source of funding if the current law is not amended and the state would have extreme difficulty in conducting horse racing if there is not adequate funding. There is a proud but quiet history of horse racing in our state. The Turtle Mountain residents have a significant tradition of raising and racing horses. There are individuals throughout the state who have hauled their horses to adjoining states and Canada to race.

With the changing of this legislation and a modest investment by the State of North Dakota we can have the present racing industry flourish and encourage growth for individuals to become involved in the noble sport of horse racing.

We encourage you to pass this legislation and stimulate this industry within our state.

2. **Approval of the ND Racing Commission's Budget**

Commissioner Satran gave a report of the proposed ND Racing Commission's budget for the 2009-11 Biennium.

A thorough review was given to the present expenditure of funds awarded to Horse Race North Dakota at Fargo and Outdoor Recreation Development Association at Belcourt.

Commissioner Secrest made the motion to develop a budget request for the Racing Commission that leaves the Breeders Fund, the Purse Fund and the Promotion Fund as in tack as they are now. That we ask the (Executive Budget Office) legislature to appropriate to the general fund of the Racing Commission the necessary monies to fund all salaries, health benefits, rent and other necessary expenses to finance the operations of the Racing Commission office. We request that these monies come from the general fund.

~~To ask the legislature remove the eleven million threshold at the higher tax and reduce it to a quarter of~~
In addition ask for the necessary monies to be appropriated as a special item by the legislature (executive budget office) to the Promotion Fund based on the present history (monitory expenses) providing for live racing in North Dakota. The deficit will be the additional monies needed to fund live racing. This special appropriation is requested so the Promotion Fund can stay in tack from the taxation it directly receives and leave the fund in tack to further promote horse racing in North Dakota. Commissioner Pladson seconded the motion.

The motion was amended by Commissioner Secrest and Pladson to replace the words of ND Horse Park and ORDA by the words live racing and to add the Executive Budget Office.

All commissioners voted aye and hearing no negative vote the motion carried.

The Commission took a five minute break.

3. **State Auditor's Approval of Simulcast Auditor's Accounting Practices**

A statement received from Kevin Scherbenske, State Auditor, was read by the Chairman explaining that the procedure being used by Roger Thompson to obtain AmTote reports is sufficient and is accomplishing the necessary level of assurance.

4. **Horse Race ND's presentation of Equine Program Proposal**

Jim Tilton reported on the development of an Equine Program Proposal and will keep the commission informed as the program progresses.

5. **ND Horsemen's Council**

No report at this time.

6. **Any other business which may PROPERLY come before the commission**

Director Blaseg reported on a two items Legal Council Peterson asked to be considered:

- Payment of Attorney' fees on the Peach/Schwartz's Major Splash Bac Jet matter. Chairman Weir referred to Mr. Peterson's letter on this matter.

Commissioner Satran made the motion to deny payment of any attorney's fees for Peach/Schwartz matter. Commissioner Secrest seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

Media, Medication Issues, Tote Compliance, Financing of Racing and Enforcing Rules. Chairman Weir asked Commissioner Satran to give this same presentation to the ND Horsemen's Council.

The commission recessed at 11:00 a.m. and reconvened at 11:15 a.m. Chairman Weir informed that the agenda would be a little out of order and that a guest from Florida was in the audience and asked Mr. Ian Meyers to address the commission.

5. Premier Turf Club – Ian Meyers

From Florida, Ian Meyers CEO of Premier Turf addressed the Racing Commission. One of the issues Mr. Meyers addressed was the Pari-Mutuel tax structure in North Dakota and stated what a tremendous burden the surcharge on the first 11 million was and was hopeful this could be address by the commission. Commissioner Secrest, Mike Cichy and John Ford were included in the discussion of the surcharge.

Chairman Weir asked John Ford and Kevin Hall of Lien Games and Ian Meyers of Premier Turf Club to provide to the Racing Commission office with history, facts, information and suggestions regarding the current tax structure and surcharge for the availability for the upcoming 2009 legislative session. It was stressed how quickly this information or proposal was needed. Commissioner Satran asked wouldn't the commission need to draft a bill to take to the legislators? Mr. Ford offered to have a proposal available to the Racing Commission by next Monday. Chairman Weir asked the Racing Commission office to provide that proposal to all the commissioners.

The item of Approval of the 2009 Licenses was moved ahead in the agenda by the Chairman.

6. Approval of 2009 Licenses

a. State Service Provider

- Lien Games Racing, LLC - Renewal
- Premier Turf Club, LLC - Renewal
- Silks Corporation – Renewal
- Las Vegas Dissemination Group - Renewal

A motion was made by Commissioner Secrest to approve the 2009 Service Provider license for Premier Turf Club. 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 approve the 2009 Service Provider license for Lien Racing Games. Commissioner Satran seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

A motion was made by Commissioner Secrest to approve the 2009 Service Provider license for Silks Corporation. Commissioner Pladson seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

Director Blaseg presented the Las Vegas Dissemination's 2009 renewal application for Service Provider which arrived yesterday and therefore not available to the commissioners prior to the meeting. Additional information was provided to the commission from John Ford regarding this applicant and he suggested that no operations until all requirements are met and complete satisfaction of meeting those requirements by the Attorney General's office. Director Blaseg reported the Las Vegas Dissemination Inc. is in the process of completing all requirements.

A motion was made by Commissioner Secrest to conditionally approve the 2009 Service Provider license for the Las Vegas Dissemination Inc. subject to complete satisfaction and approval by the Attorney General. Commissioner Satran seconded the motion. All commissioners voted aye and hearing no negative vote the motion carried.

b. Tote Provider

- Am Tote International – Renewal

REQUEST / RECOMMENDATION COMPARISON SUMMARY

670 ND HORSE RACING COMMISSION

Biennium: 2009-2011

Bill#: SB2024

Description	Expenditures Prev Biennium 2005-2007	Present Budget 2007-2009	2009-2011 Requested		Requested Budget 2009-2011	2009-2011 Recommended		Executive Recommendation 2009-2011
			Incr(Decr)	% Chg		Incr(Decr)	% Chg	
BY MAJOR PROGRAM								
HORSE RACING ADMINISTRATION	319,238	407,766	685	.2%	408,451	34,810	8.5%	442,576
TOTAL MAJOR PROGRAMS	319,238	407,766	685	.2%	408,451	34,810	8.5%	442,576
BY LINE ITEM								
RACING COMMISSION	319,238	407,766	685	.2%	408,451	34,810	8.5%	442,576
TOTAL LINE ITEMS	319,238	407,766	685	.2%	408,451	34,810	8.5%	442,576
BY FUNDING SOURCE								
GENERAL FUND	117,477	120,674	685	.6%	121,359	291,902	241.9%	412,576
FEDERAL FUNDS	0	0	0	.0%	0	0	.0%	0
SPECIAL FUNDS	201,761	287,092	0	.0%	287,092	-257,092	-89.6%	30,000
TOTAL FUNDING SOURCE	319,238	407,766	685	.2%	408,451	34,810	8.5%	442,576
TOTAL FTE								
	2.00	2.00	.00	.0%	2.00	.00	.0%	2.00

Attachment 2B

page 1

RECAP OF TOTAL HANDLE TAXABLE HANDLE, AND SPECIAL FUNDS AND BREAKAGE. FOR ND SIMULCAST SYSTEM AND LIVE PARI MUTUAL RACING

	1997	1998	1999	2000	2001	2002
TOTAL HANDLE	\$5,274,073	\$7,445,837	\$88,613,389	\$151,955,884	\$188,132,528	\$172,157,185
TAXABLE HANDLE	\$5,198,800	\$6,332,626	\$87,283,994	\$150,811,099	\$167,854,935	\$171,720,801
ND STATE TAX	\$123,150.03	\$151,306.01	\$2,053,522.19	\$3,585,389.08	\$4,010,100.42	\$4,101,388.96
<u>SPECIAL FUNDS</u>						
PURSE FUND	\$30,194.43	\$37,229.19	\$443,088.95	\$759,779.32	\$840,862.63	\$880,785.93
BREEDERS' FUND	\$30,194.43	\$37,229.19	\$443,088.95	\$759,779.32	\$840,862.63	\$880,785.93
PROMOTION FUND	\$22,587.23	\$29,115.55	\$316,088.18	\$553,885.85	\$654,041.90	\$668,767.26
TOTAL SPECIAL FUNDS	\$82,976.09	\$103,573.93	\$1,202,220.08	\$2,073,244.29	\$2,335,367.16	\$2,390,339.12
BREAKAGE	.	.	.	\$781,207.55	\$849,142.61	\$786,615.74
TOTAL STATE TAX SPECIAL FUNDS AND BREAKAGE	\$206,126.12	\$254,879.94	\$3,255,742.27	\$8,419,840.90	\$7,194,610.19	\$7,278,343.82

RECAP OF TOTAL HANDLE
TAXABLE HANDLE, AND SPECIAL FUNDS
AND BREAKAGE. FOR ND SIMULCAST
SYSTEM AND LIVE PARI MUTUAL RACING

page 2

	2003	2004	2005	2006	2007	TOTAL
TOTAL HANDLE	\$154,065,602	\$5,669,278	\$35,888,082	\$75,046,894	\$38,577,151	\$902,823,661
TAXABLE HANDLE	\$153,538,070	\$5,120,607	\$22,177,315	\$71,582,059	\$37,795,837	\$879,413,943
ND STATE TAX	\$3,700,303.45	\$120,168.87	\$280,254.56	\$44,738.79	\$184,316.63	\$18,314,636.97
<u>SPECIAL FUNDS</u>						
PURSE FUND	\$770,328.02	\$28,348.40	\$109,988.58	\$46,904.18	\$58,115.51	\$3,983,379.14
BREEDERS' FUND	\$770,328.02	\$28,348.40	\$109,988.58	\$46,904.18	\$58,115.51	\$3,983,379.14
PROMOTION FUND	\$831,885.21	\$20,020.97	\$98,892.71	\$46,904.18	\$56,115.51	\$3,096,102.35
TOTAL SPECIAL FUNDS	\$2,172,541.25	\$76,713.77	\$318,825.87	\$140,712.54	\$168,346.53	\$11,062,860.63
BREAKAGE	\$807,812.10	\$27,047.76	\$88,664.45	\$72,568.17	\$50,158.21	\$3,263,016.59
TOTAL STATE TAX SPECIAL FUNDS AND BREAKAGE	\$8,480,458.80	\$223,928.40	\$665,744.88	\$258,019.50	\$402,821.37	\$32,640,514.19

Estimated Revenues if new Taxation Bill does not pass

Purse Fund	\$ 39,730
Breeders' Fund	39,730
Promotion Fund & Breakage	65,951

Blaseg, Randy L.

From: Amy Krueger [CVBSALES@ci.williston.nd.us]
Sent: Monday, January 26, 2009 3:00 PM
To: Blaseg, Randy L.
Subject: HB 1551

Randy,

The Williston Convention and Visitor Bureau is in Favor of House Bill 1551. With the current tax structure racing is not profitable for our charity. So reducing the tax cost would make it more feasible for our charity. If you have any questions regarding our stand on this issue please don't hesitate to give me a call.

Thank you,

Amy Krueger
Executive Director
Williston Convention and Visitors Bureau
212 Airport RD
Williston, ND 58801-6017
800-615-9041
Fax 701-774-0411
www.visitwilliston.com

***Please update your records and note our new address and website change!

1/26/2009

Blaseg, Randy L.

From: Leslie Stastny [lstastny@ndad.org]
Sent: Tuesday, January 27, 2009 9:13 AM
To: Blaseg, Randy L.
Subject: HB 1551

Randy,

I am writing on behalf of NDAD to support HB 1551. As you know, horse racing in North Dakota has been marginally profitable for charitable organizations. This can be supported by the fact that nearly all organizations have dropped sponsorship of horse wagering as a fund raising activity. This bill would help rejuvenate the interest of organizations to sponsor these activities.

Thank you.

Ron Gibbens, President/CEO

1/27/2009

Testimony of Mike Cichy

House Bill No. 1551

Judiciary Committee and Chairman Duane DeKrey
January 27, 2009, 2pm

Chairman DeKrey and members of the Committee,

My name is Mike Cichy and I am with Premier Turf Club (PTC), a simulcast provider in Fargo and offer this testimony in support of HB1551.

HB 1551 allows to continue the existing tax rate that is now in place by eliminating, on advanced deposit wagering, the requirement that the first eleven million dollars of handle each biennium be taxed at the higher rate. For walk-up handle a higher rate remains on the first eleven million. This is not an expansion of gaming.

The following is the pari-mutuel handle for each of the past five years:

2004	\$5,669,278
2005	\$35,886,062
2006	\$75,046,694
2007	\$38,577,151
2007 2008	\$49,595,312

In 2004 the higher tax rates were reinstated and players left North Dakota. The 2004 number is the handle for walkup business. In 2005 betting picked up after August 1 because the tax rates went down. In 2006 it remained as in the latter part of 2005 and you can see the increase in handle. In 2007 the tax rates went back to where the first \$11,000,000 is taxed at a higher rate and players left rather than pay the higher tax rate through the first \$11,000,000. Some of those players went down to South Dakota where they remain today. In 2008 after the \$11,000,000 was cracked in March the betting increased as it can be seen by the changing numbers.

Once these players leave it is difficult to get them back. What we want to do by this legislation is keep the player that we have here betting in North Dakota and to encourage other simulcast service providers to locate their business in North Dakota. It is clear that the tax rate drives the handle and if this change is not made we will get no new players and the present players will leave if the tax rate remains as it is, beginning on July 1, 2009 the first \$11,000,000 of advance deposit wagers will be taxed at the higher rate and based upon history players will leave and the handle numbers crash.

As you can see by the handle, the higher tax on the first \$11,000,000 has a chilling affect on players' participation. In July 2007, with the \$11,000,000 still in play, PTC's handle was only \$460,000. In July of 2008, after the \$11,000,000 threshold had been met, PTC's handle was \$2,114,000. The benefit to racing with the larger handle is that the Racing Commission's promotion fund receives all the breakage. That amounts to approximately \$.003/dollar. Thus, on the July 2007 handle, the breakage was only approximately \$1,380 while in 2008 the breakage was approximately \$6,342.

This bill supports racing's viability and is necessary to keep it healthy. I ask for your support and vote yes on HB 1551.

Premier Turf Club, LLC monthly handle summary Nov-08

PP
501

	handle	break	
1-Nov	\$ 183,633.40	\$851.96	\$ (341.32)
2-Nov	\$ 93,313.40	\$222.78	\$ (224.34)
3-Nov	\$ 104,905.20	\$320.26	\$ (148.18)
4-Nov	\$ 90,662.90	\$358.37	\$ (42.78)
5-Nov	\$ 57,836.00	\$187.32	\$ (37.77)
6-Nov	\$ 102,688.90	\$372.47	\$ (71.05)
7-Nov	\$ 140,866.30	\$299.62	\$ (211.88)
8-Nov	\$ 116,296.20	\$476.52	\$ (93.94)
9-Nov	\$ 59,913.50	\$137.78	\$ (239.00)
10-Nov	\$ 80,505.50	\$441.39	\$ (12.26)
11-Nov	\$ 96,115.00	\$324.45	\$ (71.66)
12-Nov	\$ 51,932.40	\$199.25	\$ (25.31)
13-Nov	\$ 85,057.70	\$187.66	\$ (88.18)
14-Nov	\$ 139,286.20	\$715.44	\$ (30.32)
15-Nov	\$ 123,594.80	\$318.30	\$ (134.48)
16-Nov	\$ 41,846.70	\$123.39	\$ (15.39)
17-Nov	\$ 75,237.20	\$129.20	\$ (42.55)
18-Nov	\$ 76,796.40	\$250.82	\$ (33.03)
19-Nov	\$ 45,615.60	\$127.05	\$ (34.44)
20-Nov	\$ 84,602.00	\$344.69	\$ (25.78)
21-Nov	\$ 139,689.00	\$432.77	\$ (99.85)
22-Nov	\$ 119,163.20	\$441.90	\$ (44.44)
23-Nov	\$ 58,362.40	\$4.37	\$ (136.41)
24-Nov	\$ 69,572.10	\$141.84	\$ (49.75)
25-Nov	\$ 57,061.40	\$228.13	\$ (51.51)
26-Nov	\$ 58,779.90	\$215.67	\$ (10.51)
27-Nov	\$ 3,351.20	-\$56.48	\$ (64.23)
28-Nov	\$ 95,032.30	\$311.76	\$ (86.36)
29-Nov	\$ 68,839.30	\$162.41	\$ (134.28)
30-Nov	\$ 30,700.10	\$143.89	\$ (41.52)
	\$ 2,551,256.20	\$8,414.98	-\$2,642.52

HRND
commission

0.25%
\$ 6,378.14

amtote
\$ 7,653.77

State Tax	\$284.32	wps
	\$1,310.22	exotics
State Total	\$1,594.54	

Breed Fund	\$1,594.54
Purse	\$1,594.54

Total Tax
\$14,793.12

Promo Breaks	\$8,414.98
Promo Tax	\$1,594.54
Promo	\$10,009.52

In Support of House Bill No. 1551, Taxes on Pari-Mutuel Wagering

Lien Games Racing LLC Statement in Support
Submitted January 27, 2009
House Judiciary Committee

Eliminating the \$11 Million threshold penalty on account wagering handle is critical for the continued operation of account wagering in North Dakota.

Under current North Dakota law, all wagering on horse racing, whether placed at a North Dakota walk-up charitable gaming location, or by phone or online using account wagering, is subject to a pari-mutuel tax of either 3 ½% or 4 %. Only after \$11 Million is wagered in a biennium does the ¼% account wagering tax apply. The pending legislation eliminates the \$11 million threshold for account wagering and imposes the ¼% on all account wagering.

To maintain viable account wagering operations in North Dakota, which contributes to and supports live racing in North Dakota, the \$11 Million threshold penalty must be removed. In the competitive business of account wagering, which consists of more than \$4 Billion in wagering on North America racing, low pari-mutuel taxes creates higher volumes of account wagering, which results in higher total pari-mutuel tax collections.

When North Dakota law was changed in 2007, and the first \$11 million in wagering was taxed at the higher 4% rate, whether from walk-up or account wagering, the Lien Games account wagering business evaporated overnight. While Lien Games' account wagering totaled over 28 million in the first six months of 2007, in the second half of 2007, after the \$11 million threshold penalty became effective, total account wagering crashed to a total of less than \$2 million. It prevented Lien Games from effectively competing in the account wagering market, when compared to other states with dramatically lower tax and cost structures.

For example, Oregon starts with a tax rate of 1/8% on account wagering and gives 45% of breakage to the account wagering operator. The Oregon lower tax and cost structure can be passed on to customers in order to attract and reward account wagering customers.

If we are able to retain the ¼% tax on account wagering from dollar one, North Dakota will still have a higher tax and cost structure than competing states, but not so disparate that we can't compete. We could entice customers to play by accepting lower margins for North Dakota operators and being able to offer the best tracks in the U.S. based on the simulcast relationships which we enjoy.

With the higher tax rate in effect for the first \$11 Million threshold, we just can't be competitive. Our account wagering was about \$40 million in the first half of 2007, but dropped to practically nothing when the 4% tax came into affect in July 2007. We are trying to once again grow our business back, and having some success, but will be crushed again if we face the same 4% tax come July 2009.

And by eliminating the \$11 Million penalty threshold for account wagering, the racing industry in North Dakota will actually receive more money. Based on handle for the current year from walk-up OTB wagering, total handle without account wagering is projected to be about \$7,700,000, resulting in the following payments to the North Dakota racing industry:

Breed Fund	\$ 38,500
Purse Fund	\$ 38,500
Promotion Fund	<u>\$ 65,460</u> (includes breakage at .35%)
Total	\$ 142,450

It is undisputed that with walk-up wagering alone, there are insufficient pari-mutuel tax collections to support live racing in North Dakota. In calendar year 2009, live racing received grants of \$674,250 from the Purse and Promotion Funds, which funds had been accumulated from previous record levels of account wagering. Live racing needs account wagering to thrive, and account wagering needs to be taxed appropriately to be competitive.

In preserving account wagering by eliminating the \$11 Million threshold penalty, the following additional payments could be realized for the North Dakota racing industry in the next biennium:

Breed Fund	\$ 158,750
Purse Fund	\$ 158,750
Promotion Fund	<u>\$ 1,047,750</u> (includes breakage at .35%)
Total	\$ 1,365,250

These pari-mutuel tax payments are based on the following projections: \$72 Million in account wagering handle for Premier and Lien Games, \$50 Million for Silks, and \$60 Million from out-of-state BAM in a BOX locations. These are reasonable assumptions, as Premier is currently operating at this projected level and Lien Games had far exceed the projected level prior to the \$11 Million threshold being imposed.

With these benefits, how can we not eliminate the \$11 Million threshold penalty on account wagering?

Respectfully Submitted,

John J. Ford
President
BAM Software and Services LLC
Technology Partner to Lien Games Racing LLC
1646 North California Boulevard
Suite 510
Walnut Creek, California 94596

HB 1551

Information Provided by John Ford

ALLOCATION OF THE 20% "TAKE OUT"	
Host Fee – the race track where the bet was made	Varies from 3-11%, but usually around 7%
Tote Fee	Under 1%
Charity	.25%
Tax	Varies from .25% to 4%
The " Balance " or remainder go to (1) the better and (2) the service provider	Approximately 11.5%

SENATE JUDICIARY COMMITTEE

HB 1551

REPRESENTATIVE MERLE BOUCHER

CHAIRMAN NETHING AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE.
FOR THE RECORD I AM REPRESENTATIVE MERLE BOUCHER REPRESENTING
DISTRICT NINE (9).

I AM HERE TO INTRODUCE AND GIVE MY SUPPORT FOR HB1551. HB1551
RELATES TO TAXES ON PARI-MUTUAL WAGERING.

ESSENTIALLY THE INTENT OF THE BILL IS TWO FOLD:

A. FOR WAGERING ON LIVE HORSE RACING AND SIMULCAST WAGERING:

1. IN WIN, PLACE AND SHOW PARI-MUTUAL POOLS LOWER THE AMOUNT OF THE TAX GOING TO THE GENERAL FUND FROM TWO PERCENT TO ONE-HALF OF ONE PERCENT
2. IN DAILY DOUBLE, QUINELLA, EXACTA, TRIFECTA OR OTHER COMBINATION POOLS LOWER THE AMOUNT OF THE TAX GOING TO THE GENERAL FUND FROM TWO AND ONE-HALF PERCENT TO ONE-HALF OF ONE PERCENT
3. IN EACH SITUATION (1 & 2) THE TAX GOING TO THE GENERAL FUND WILL BECOME PAR WITH WHAT IS CURRENTLY GOING INTO THE PURSE FUND, THE BREEDERS FUND AND THE RACING PROMOTION FUND

B. FOR ACCOUNT WAGERING THE CURRENT TAX APPLICATIONS APPLIED TO THE FIRST \$11 MILLION DOLLARS WAGERED (CURRENTLY CAPPED) IS BEING REMOVED AND IS BEING REPLACED BY THE FOLLOWING ASSESSMENTS:

1. FOR THE WIN, PLACE, AND SHOW PARIMUTUAL POOLS
 - a. ONE-SIXTEENTH OF ONE PERCENT TO THE STATE GENERAL FUND
 - b. ONE-SIXTEENTH OF ONE PERCENT TO THE BREEDERS FUND
 - c. ONE-SIXTEENTH OF ONE PERCENT TO THE PURSE FUND
 - d. ONE-SIXTEENTH OF ONE PERCENT TO THE RACING PROMOTION FUND

2. FOR THE DAILY DOUBLE, QUINELLA, EXACTA, TRIFECTA OR OTHER COMBINATION POOLS:
 - a. ONE-SIXTEENTH OF ONE PERCENT TO THE STATE GENERAL FUND
 - b. ONE-SIXTEENTH OF ONE PERCENT TO THE BREEDERS FUND
 - c. ONE-SIXTEENTH OF ONE PERCENT TO THE PURSE FUND
 - d. ONE-SIXTEENTH OF ONE PERCENT TO THE RACING PROMOTION FUND

TODAY I AM OFFERING AMENDMENTS THAT I HAVE JUST HANDED OUT TO YOU. THE AMENDMENTS WILL REDEFINE HOW BREAKAGE COLLECTIONS WILL BE DISTRIBUTED AMONGST THE PROMOTION FUND, THE PURSE FUND AND THE BREED FUND. CURRENTLY ALL THE BREAKAGE COLLECTIONS GO TO THE PROMOTION FUND.

CHAIRMAN NETHING AND MEMBERS OF THE SENATE JUDICIARY COMMITTEE, I RECOMMEND YOU GIVE HB1551 A DO PASS.

Attachment 2
HB 1551

House Bill No. 1551

Senate Judiciary Committee, Chairman Dave Nething

March 9, 2009, 10:30 a.m. – Fort Lincoln Room

Testimony of Randy Blaseg, Director of Racing, ND Racing Commission

Senate
a. Attachments
given to
House + Senate
See
testimony of
Winston
1-27-09

Chairman Nething and Committee Members, my name is Randy Blaseg and I am Director of Racing for the North Dakota Racing Commission. I am here in support of House Bill No. 1551.

This past summer the North Dakota Racing Commission began to explore methods to fund horse racing in North Dakota. A review of states that were conducting successful race meets was considered. The horse race industry in the states of Montana, Wyoming, and South Dakota are presently struggling financially. Minnesota and Iowa are conducting a productive and growing racing industry because they are subsidized by casinos and card rooms. North Dakota law does not permit these activities to support horse racing so we began reviewing the alternatives available to the state of North Dakota. The current law allows live racing, simulcast, and account wagering. The decision was to pursue the possibilities of gaining revenue from this source of funds.

The Racing Commission met in Fargo on August 1st and Commissioner Tom Secrest made the motion to ask the legislature to remove the eleven million dollar threshold at the higher tax rate and reduce it to a quarter of one percent. This motion was passed unanimously by the Commission.

Attachment 1A

At the December 9th meeting in Bismarck, Chairman Pat Weir, asked the account wagering providers to prepare information that would allow the Racing Commission to evaluate potential revenues from account wagering.

Attachment 2A

These actions set in motion methods to further establish the horse racing industry in North Dakota. The first major step was to request a budget to fund the Racing Commission expenses by the use of General Fund dollars. Previously these expenses had come from the Promotion, Purse, and Breeders Fund. The Governor's Office agreed to this proposal and reduced the budget request from \$257,092 from special funds and added those funds to the General Fund source.

Attachment 1B

The rationale for this request was that pari-mutuel wagering has added \$18,314,637 in pari-mutuel tax revenue to the state General Fund between 1997 and 2007.

Attachment 2B

This action would allow the \$257,000 from the three funds to be used for the horse racing industry. The second step was to draft legislation to reduce the 4% tax on the first 11 million dollars wagered. The 4% tax would be replaced by a continuous two percent on live horse racing and walk-up simulcast wagering. For account wagering one sixteenth of one percent would be deposited to the General Fund and one sixteenth of one percent be deposited into each of the three funds, Promotion, Purse and Breeders fund.

House Bill 1551 demonstrates the reduction in General Fund reductions on page 1, 2, and 3 of the bill.

This change in legislation would reduce the deposit in the general fund by \$262,168 in the 2009-2011 biennium. This is based on the projected account wagering of approximately \$5,000,000 per month.

The past wagering records indicate it took over 8 months to generate the 11 million dollar threshold due to the 4% tax charged to the players. Once the threshold is reached account wagering increases significantly. We would expect the \$5,000,000 level of account wagering would be easily maintained. This would generate \$621,000 from account wagering

and \$145,411 from walk up wagering totaling \$766,411 for the racing industry as opposed to the \$532,000 for the present biennium.

The most significant aspect of the present legislation is that the simulcast and account wagering providers have informed the Racing Commission that they will not be able to retain the bettors after July 1st if the tax is not reduced. If that were to take place the Racing Commission would have the following revenues available for racing. These revenues would be derived from live and simulcast walk-up wagering at the two race tracks and charity sites in North Dakota. The revenues were based on the current biennium's walk-up and simulcast wagering.

Attachment 3B

General Fund	\$147,573
Purse Fund	\$39,730
Breeders' Fund	\$39,730
Promotion Fund & Breakage	\$65,951

As you can readily see, we are at a critical juncture in horse racing industry in North Dakota. The race tracks at Belcourt and Fargo will not have a source of funding if the current law is not amended and the state would have extreme difficulty in conducting horse racing if there is not adequate funding. There is a proud but quiet history of horse racing in our state. The Turtle Mountain residents have a significant tradition of raising and racing horses. There are individuals throughout the state who have hauled their horses to adjoining states and Canada to race.

With the changing of this legislation and a modest investment by the State of North Dakota we can have the present racing industry flourish and encourage growth for individuals to become involved in the noble sport of horse racing.

We encourage you to pass this legislation and stimulate this industry within our state.

#1

SENATE APPROPRIATIONS COMMITTEE

HB 1551

REPRESENTATIVE MERLE BOUCHER

CHAIRMAN HOLMBERG AND MEMBERS OF THE SENATE APPROPRIATIONS COMMITTEE. FOR THE RECORD I AM REPRESENTATIVE MERLE BOUCHER REPRESENTING DISTRICT NINE (9).

I AM HERE TO GIVE MY SUPPORT FOR HB1551. HB1551 RELATES TO TAXES ON PARI-MUTUAL WAGERING.

ESSENTIALLY THE INTENT OF THE BILL IS TWO FOLD:

- A. FOR WAGERING ON LIVE HORSE RACING AND SIMULCAST WAGERING:
 - 1. IN WIN, PLACE AND SHOW PARI-MUTUAL POOLS LOWER THE AMOUNT OF THE TAX GOING TO THE GENERAL FUND FROM TWO PERCENT TO ONE-HALF OF ONE PERCENT
 - 2. IN DAILY DOUBLE,QUINELLA, EXACTA, TRIFECTA OR OTHER COMBINATION POOLS LOWER THE AMOUNT OF THE TAX GOING TO THE GENERAL FUND FROM TWO AND ONE-HALF PERCENT TO ONE-HALF OF ONE PERCENT
 - 3. IN EACH SITUATION (1 & 2) THE TAX GOING TO THE GENERAL FUND WILL BECOME PAR WITH WHAT IS CURRENTLY GOING INTO THE PURSE FUND, THE BREEDERS FUND AND THE RACING PROMOTION FUND
- B. FOR ACCOUNT WAGERING THE CURRENT TAX APPLICATIONS APPLIED TO THE FIRST \$11 MILLION DOLLARS WAGERED (CURRENTLY CAPPED) IS BEING REMOVED AND IS BEING REPLACED BY THE FOLLOWING ASSESSMENTS:
 - 1. FOR THE WIN, PLACE, AND SHOW PARIMUTUAL POOLS
 - a. ONE-SIXTEENTH OF ONE PERCENT TO THE STATE GENERAL FUND
 - b. ONE-SIXTEENTH OF ONE PERCENT TO THE BREEDERS FUND
 - c. ONE-SIXTEENTH OF ONE PERCENT TO THE PURSE FUND
 - d. ONE-SIXTEENTH OF ONE PERCENT TO THE RACING PROMOTION FUND

2. FOR THE DAILY DOUBLE, QUINELLA, EXACTA, TRIFECTA OR OTHER COMBINATION POOLS:
 - a. ONE-SIXTEENTH OF ONE PERCENT TO THE STATE GENERAL FUND
 - b. ONE-SIXTEENTH OF ONE PERCENT TO THE BREEDERS FUND
 - c. ONE-SIXTEENTH OF ONE PERCENT TO THE PURSE FUND
 - d. ONE-SIXTEENTH OF ONE PERCENT TO THE RACING PROMOTION FUND

AMENDMENTS WERE PRESENTED TO THE SENATE JUDICIARY COMMITTEE WHEN THEY HEARD THE BILL.

CHAIRMAN HOLMBERG AND MEMBERS OF THE SENATE APPROPRIATIONS COMMITTEE, I RECOMMEND YOU GIVE HB1551 A DO PASS.

HB1551 2

Meeting of the North Dakota Horsemen's Advisory Council

March 4, 2009

3:00 pm at the Bismarck Country Inn and Suites

Attendees-Council Members: Randy Schwartz (NDQHRA), Curt Rohweder (NDTA), Heather Benson (HRND), Dale Lagerquist (ND Trotting Assn.), Pete Davis (ORDA-Substituting for Doug DeMontigny)

Attendees-Other: Wayne Slater, Angie Cameron, Randy Blaseg, Scott Horst, Leigh Backhaus, Lee Harsche, Devron Leingang, Leon Glasser, Rep. Merle Bouchard and Rep. Shirley Meyer.

Minutes:

♦ Welcome and Council Overview-Randy Schwartz

♦ Report of Last Meeting

No minutes were available from the prior meeting, as stated by Randy Schwartz.

♦ Election of Officers

Randy Schwartz noted that as the former chairman was no longer a part of the group (Les Schmidt from HRND was replaced by Heather Benson at the February 19 Racing Commission meeting), it was time to formally elect new officers of the Horsemen's Council.

Randy Schwartz was nominated for Chairman. No other nominations were put forward and Randy Schwartz was unanimously elected Chairman.

Curt Rohweder was nominated for Vice-Chairman. No other nominations were put forward and Curt Rohweder was unanimously elected Vice-Chairman.

Heather Benson was nominated for Secretary. No other nominations were put forward and Heather Benson was unanimously elected Secretary.

♦ Report of ND Racing Commission Meeting on 2/19/2009-Heather Benson

- ORDA was granted an additional \$39,950 in order to bring their overnight purses to a minimum of \$2000.00. This was granted by a 4 to 1 vote of the commission members.
- Discussion of HRND's 2009 Harness meet dates. Still undecided as HRND waits for contact from harness horsemen on availability during June and July.
- Report on Legislative issues (see below)
- Payment of \$2409 to Thompson Financial Services for calculation and payment of Breeder's Fund awards for 2008.
- Discussion of creating a grant system from the Promotion Fund for charities to purchase "BAM in a box" for OTB use. Each box costs \$5000 (payable to Lien Games) and is estimated to generate \$1,000,000 in yearly account wagering revenue. **Total estimated tax paid each year back to Promotion Fund: \$625.00.** Further input and information is being sought on this item.
- Discussion on transfer of ownership papers for ND-bred horses. Consensus was to have track make photo static copies rather than have owners send original papers to Racing Commission in an effort to reduce the chance of human error.
- Appointment of Heather Benson as Horsemen's Council representative for HRND.

♦ Legislative Update-Heather Benson

HB 1551- ADW Tax Bill: Passed both House committees and the full House by wide margins. This bill is now in the Senate.

HB 1316-Breed Fund Bill: Passed House committee and full House with considerable amendments. Please see attached. I am working closely with the legislators involved with this bill to remove language that could be damaging to the Horse Park in the near-term

SB 2024-RC Budget Bill: Passed full Senate, has been through first committee of House.

SB 2043-RC/AG Bill: Failed both House committee and House floor although much of the original language of this bill has been added to HB 1316.

◆ **New Business—Voting Items**

- **Proposed Amendment to HB 1551:** The current statute takes all monies produced from the breakage (approximately \$5000-\$10,000 per month) and places it in the Promotion Fund only. The proposed amendment to HB 1551 would take the sum of money produced by breakage and split it either 2 ways (between Purse and Promotion) or 3 ways (between Purse, Promotion and Breed) in order to grow the funds at an equal pace.

Discussion was then held. Chairman Randy Schwartz put forward the option of breaking it down to a 40/30/30 split between Purse, Promotion and Breed. The idea being that good purses are essential to there being a reason to have breed fund money. Randy Blaseg discussed how the 2007 legislation changed the statute from having the money go to the Simulcast Site, the Service Provider and the Racing Commission to going to the Promotion Fund only. Heather Benson discussed the aspect that 30-40% more dollars are used each year from the Purse Fund rather than the Promotion Fund and that she would like to see the dollars be made available equally. Scott Horst expressed concerns that changing HB1551 could potentially lead legislators to think the horsemen of ND were not united and felt that there could be negative consequences. Curt Rohweder stated that he felt that if the horsemen could agree upon a split of the breakage and move forward together that any negative consequences could be avoided. Heather Benson concurred with that statement.

Rep. Bouchard stated that he felt that the state must have 2 racetracks and that he did not want to see the horsemen split on this issue. If an amendment was made, the House Judiciary committee has the option to go back with the amendment and either pass it along or send it to conference committee.

Dale Lagerquist stated that good purses were required to have horses other than ND-bred come to the track and that most of the horses that fill the races of any of the breeds were foaled out of state and so he would like to see the Purse Fund keep growing. Leigh Backhaus stated that if was to continue raising ND-bred horses, he needed both a solid breed fund and good purses. Leon Glasser and Lee Harsche were both in favor of at least a 1/3, 1/3, 1/3 split similar to the tax structure. Rep. Shirley Meyer pointed out that if SB 2024 does pass, more dollars will be available in the Promotion Fund than before.

Chairman Schwartz called a question and Pete Davis proposed a motion to amend House Bill 1551 so that the breakage would henceforth be split 50% to the Purse Fund, 30% to the Breed Fund and 20% to the Promotion Fund. Heather Benson seconded. The motion carried unanimously.

- **Age Requirements for ND-Bred Horses:** The current rule states that certified ND-bred horses that are 7 years of age or older are no longer eligible for restricted ND-bred races nor breed point year-end awards. A proposed rule change would remove the age limitation.

Scott Horst spoke as to why he brought this item to the February 19th Racing Commission meeting. He feels that the current rule essentially punishes older ND-bred horses and keeps horses that could still be racing from continuing their careers. Horses such as Maddies Blues, which are crowd favorites, are denied the right to race due to their age.

Heather Benson spoke that from a track marketing standpoint, the more horses that can come back year after year, the better it is for the fans as a "following" can then be created.

Leon Glasser spoke that the history of the rule dates back to when there was little money in the Breed Fund and that as a way to protect it and encourage more young horses to be bred, they capped the limit. Leon stated that at this point in time, he would not be opposed to such a rule change.

Concerns were brought forth by Lee Harsche and Leigh Backhaus regarding the possibility of people running horses on consecutive days, especially older horses, in an effort to collect more breed points. Leigh would like to see a 5 day minimum between races for collecting breed points. Dale Lagerquist discussed the fact that ND-bred Standardbreds are only allotted 3 days of racing, so in order to get more than 1 race in, they do sometimes race each day.

A motion was put forth and seconded to remove the age restriction from ND-Bred horses and to revisit the issue of repetitive racing in the next meeting. The motion passed unanimously.

- **Breed Fund Payment Amounts and Distribution:** Proposed by horseman Scott Horst of Mandan, ND, the proposed rule change would distribute half of each year's breed fund payment to Thoroughbreds and Standardbreds and the other half to Quarter Horses. Alternatively, Mr. Horst has proposed the creation of a breed fund for each breed that would directly distribute the amount of Breed Fund dollars generated by wagering on each respective breed (see attached cumulative report from January 2009).

Scott Horst spoke on behalf of his proposal stating that he had researched what other states were currently doing with breed fund disbursements and that South Dakota did a 50/50 split and let the tracks disburse the funds. Oklahoma did a 45/45/10 split (TB/QH/Appaloosa) at the tracks. He would like to see a more fair dispersion of the Breed Fund monies. In 2006, \$90,000 went to Quarter Horses, \$61,000 went to Thoroughbreds and \$5600 went to Standardbreds. He stated that if the disbursements were more fair, there would be more TB's to compete in North Dakota as more people would breed their mares in ND rather than foal in MN.

Leon Glasser spoke that Thoroughbred racing has alternative option of where to race, whereas Quarter Horse do not. In 2007, he stated that only 45% of the races were written for Quarter Horses in North Dakota and that those races were full each time. He also stated that other states, like New Mexico, treat a "horse as a horse" as North Dakota currently does...paying on each win that is accomplished. He also stated that there are currently there are 256 Quarter Horses, 110 Thoroughbreds and 25 Standardbreds and so that the breed fund ratio was spread over the horses that were actually in the state.

Heather Benson referred to a breakdown of Premier Turf Club's January 2009 handle wherein 55% of the monies wagered came from Standardbred racing, 40% from Thoroughbreds and the remaining dollars from dog racing and Quarter Horse racing. She questioned whether the extra \$30,000 that a 50/50 split would bring would be enough to encourage Thoroughbred breeders to raise the amount of horses that Quarter Horse breeders produce each year.

Devron Leingang pointed out that Thoroughbreds cost more to produce with higher stud fees, lack of AI breeding and higher registration costs and that perhaps this should be considered with the Breed Fund disbursements as well.

Heather Benson noted that as heated as this issue appeared to be, perhaps bringing it forward in the midst of a legislative session was unwise, as Scott Horst had pointed out earlier: We don't want to appear once more divided as horsemen. As the breed fund is not disbursed until the fall of each year, we all have time to carefully consider the issue before then. She proposed a motion to table the issue until the fall of 2009. Curt Rohweder seconded and the motion passed unanimously.

◆ **New Business—Discussion Items**

- **Service Provider/Simulcast Site Rule Change:** The current statute provides that in order to operate an off track betting site in North Dakota, a charity must employ the services of a third party service provider for such services as signal contracts, track reconciliation accounting and Am Tote contracts. With ever declining margins for OTB's, there is little money to made by charities when another party (the Service Provider) must take its share as well. In fact, most charities are currently losing money in each month of operation under the current statute. The proposed rule change would allow charities to act as both Service Provider and Simulcast Site for walk-up OTB sites, this allowing for a greater profit margin and keeping all the dollars available from OTB's in the charity, rather than in private enterprise. For horse racing, if the North Dakota Horse Park or ORDA could realize the total profit of current OTB betting in North Dakota, the profit available based off of 2008 numbers is in excess of \$400,000.

Heather Benson discussed the effect that third party service providers currently have on the OTB business in North Dakota. The OTB in Fargo has essentially been a money losing proposition for many months, as has Grand Forks, due to the lack of dollars available. She would like to see a rule change to allow the charities to become both their own Simulcast Site as well as Simulcast Service Provider, to essentially "cut out the middle man". Heather Benson used the state of Nebraska as a model where only charities actively involved in live racing were allowed to have an OTB and that model has been vastly successful for 75+years. Overnight purses in Nebraska are at \$4000+ with over 100 days of racing because all the dollars in racing are kept in racing. Randy Blaseg stated that he too has seen the success of Nebraska's model and feels that it works well for the horsemen.

Rep. Meyer questioned as to why the current model was created. Heather Benson stated that in her opinion, it was likely created as such to allow private enterprise to enter into the wagering arena (i.e. Susan Bala) and that requiring a "Service Provider" was the only way to allow for those entities to make money in North Dakota and so it was slipped in. IN the past, with a wide profit margin, it may have worked, but in today's marketplace, it no longer does.

Randy Schwartz asked if a motion should be made to support this rule change and Heather Benson stated that would be a great assist in moving the idea forward. Randy Schwartz asked if Heather Benson would like to make it a motion. Heather Benson then moved to enact an Administrative Rule change that would allow charities to become both the Simulcast Site as well as the Simulcast Service Provider for walk-up off track betting. The motion was seconded by Curt Rohweder and was passed unanimously.

- **HB 1316 and the Future of the ND Racing Commission:** HB 1316 currently contains provisions to place the ND Racing Commission under the direct control of the Attorney General's office (see attached). Should this bill pass through the Senate, it would give the Attorney General the authority to hire the Executive Director as well as appoint the individual members of the Racing Commission.

Rep. Meyer spoke on behalf of HB 1316. She stated that history has shown that a stand alone agency does not work and that the Racing Commission needs to be under an elected official. Issues such as meeting minutes, hearing the recommendations of the Horsemen's Council, administrative rules issues all have not been done appropriately in the past and that the Racing Commission needs to be made accountable and that HB 1316 is currently written to support that plan.

Rep. Bouchard stated that the Racing Commission is reminiscent of WSI. WSI had too much autonomy for a government agency, resulting in issues that affected a lot of people negatively.

Heather Benson asked Rep. Meyer if the language regarding taking money from the purse for the breed fund would be change or removed and Rep. Meyer felt that there was room to still work on that aspect as no one in the legislature wants live racing to be hurt by this bill but that this bill was an effort to bring accountability to the Racing Commission office.

Discussion was made on whether or not language should be changed to be more representative of the current horsemen's groups. The consensus was that the language in place allowed for all active groups to be heard.

A motion was made by Pete Davis to support HB 1316, seconded by Dale Lagerquist and passed unanimously.

- **Future of Live Racing in ND—Where do we go from here? Presented by Heather Benson:** As everyone by now knows, the funds through which live racing in North Dakota has been operated on are declining at a rapid pace. Although currently legislation is in place to assist in bringing further simulcast business to North Dakota, it is unknown at this time if the business will grow at such a rate to stabilize the respective Racing Commission funds in order to continue live racing at each track. It is up to the horsemen and women of the state of North Dakota to closely examine the issue and creatively approach the problem so that we are prepared for all eventualities. The North Dakota Horse Park is creating a 5 year plan and it is up to the industry as a whole to create one for the whole state.

A motion to adjourn made, seconded and passed unanimously.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1551

That the Senate recede from its amendments as printed on page 1451 of the House Journal and page 740 and pages 1287 and 1288 of the Senate Journal and that House Bill No. 1551 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact two new sections to chapter 53-06.2 of the North Dakota Century Code, relating to the regulation of live racing and pari-mutuel wagering; to amend and reenact sections 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-10, 53-06.2-10.1, 53-06.2-11, 53-06.2-12, 53-06.2-13, 53-06.2-14, 53-06.2-15, and 53-06.2-16 of the North Dakota Century Code, relating to the regulation of live racing and pari-mutuel wagering; to provide an appropriation; to provide an effective date; and to provide for transition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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 agriculture commissioner.~~ The commission consists of the chairman and four other members appointed by the governor agriculture commissioner. 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 paint 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~~ agriculture commissioner shall appoint a new member to the commission.
2. ~~A person~~ An individual is ineligible for appointment to the commission if that ~~person~~ individual has not been a resident of this state for at least two years before the date of appointment. ~~A person~~ An individual is also ineligible if that ~~person~~ individual is not of such character and reputation as to promote public confidence in the administration of racing in this state. ~~A person~~ An individual who has a financial interest in racing cannot be a member of the commission ~~and cannot be employed by the commission without full disclosure of the financial interest to the agriculture commissioner, the attorney general, and 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~~ an individual has a financial interest in racing if that ~~person~~ individual 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~~ agriculture commissioner, is required to be licensed under this chapter or the rules of the ~~commission~~ agriculture commissioner or attorney general, 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~~ agriculture commissioner or attorney general.

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 shall~~ agriculture commissioner may appoint a director of racing. The ~~commission shall~~ agriculture commissioner may establish the director's qualifications and salary.
2. The director shall devote such time to the duties of the office as the ~~commission~~ agriculture commissioner 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 the commission~~ agriculture commissioner prescribes.
3. The director may employ other ~~persons~~ individuals as authorized by the ~~commission~~ agriculture commissioner.

SECTION 3. AMENDMENT. Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-04. Duties of ~~commisslon~~ and attorney general.

1. The commission shall:
 - ~~1.~~ a. Provide for racing ~~under the certificate system.~~
 - ~~2.~~ b. Set racing dates.
 - ~~3.~~ c. Adopt rules for effectively preventing the use of any unauthorized substance, compound items, or combinations of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racehorse; ~~unless specifically authorized by the commission.~~
 - ~~4.~~ Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and equipment at all races held under the certificate system.
 - ~~5.~~ d. Adopt rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.
 - ~~6.~~ e. Consider all proposed extensions, additions, or improvements to the buildings, stables, or tracks on property owned or leased by a licensee.

7. f. Exclude from racetracks or simulcast pari-mutuel wagering facilities any person who violates any rule of the commission adopted to implement this chapter or any law.
 8. g. Determine the cost of inspections performed under subsection 3 of section 53-06.2-05 and require the licensee to pay that cost.
 9. h. Report biennially to the legislative council regarding the operation of the commission racing under this chapter.
 10. i. Provide notice to the North Dakota horsemen's council of meetings held by the commission and permit the North Dakota horsemen's council to participate in the meetings through placement of items on the agenda.
 11. j. Complete, distribute, and post on the commission's web site the minutes of each commission meeting within thirty days of that meeting or before the next meeting of the commission, whichever occurs first.
2. The attorney general shall:
- a. Provide for pari-mutuel wagering on racing, simulcast, and account wagering.
 - b. Supervise and check the making of pari-mutuel pools, pari-mutuel machines, and equipment at all races held under the certificate system.
 - c. Exclude from simulcast or account wagering facilities any person who violates any rule adopted to implement this chapter or any law.

SECTION 4. A new section to chapter 53-06.2 of the North Dakota Century Code is created and enacted as follows:

Powers of commission. The commission may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which the financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter and to discover and seize any evidence of noncompliance.
3. License all participants in racing and require and obtain information the commission determines necessary from license applicants. The commission may obtain a statewide and nationwide criminal history record check from the bureau of criminal investigation for the purpose of determining suitability or fitness for a license. The nationwide check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant for a license.
4. Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, the breeders' fund, or the racing promotion fund in accordance with subsection 6 of section 53-06.2-11.

5. Adopt rules to implement the laws concerning racing and the administration of racing.

SECTION 5. AMENDMENT. Section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-05. Powers of ~~commission~~ attorney general. The ~~commission~~ attorney general may:

1. Compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records are to be kept.
2. Investigate the operations of any licensee and enter any vehicle or place of business, residence, storage, or racing of any licensee on the grounds of a licensed association to determine whether there has been compliance with the provisions of this chapter and rules adopted under this chapter, and to discover and seize any evidence of noncompliance.
3. ~~Request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and horses that are lawfully on a racetrack.~~
4. License all participants in the ~~racing and simulcast~~ pari-mutuel wagering industry and require and obtain information the ~~commission~~ attorney general determines necessary from license applicants. ~~Licensee of service providers, totalizer companies, site operators, and organizations applying to conduct or conducting pari-mutuel wagering must be approved by the attorney general. The attorney general may not grant a license denied by the commission. The commission may obtain a statewide and nationwide criminal history record check from the bureau of criminal investigation for the purpose of determining suitability or fitness for a license. The nationwide check must be conducted in the manner provided in section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant for a license.~~
5. ~~Receive moneys from the North Dakota horse racing foundation for deposit in the purse fund, breeders' fund, or racing promotion fund in accordance with subsection 6 of section 53-06.2-11.~~
- 6: 4. Adopt additional rules for the administration, implementation, and regulation of pari-mutuel wagering activities conducted pursuant to this chapter. The ~~commission~~ attorney general shall deposit any fees collected under authority of this subsection in the ~~racing commission~~ attorney general's operating fund. Subject to legislative appropriation, the ~~commission~~ attorney general may spend the fees for operating costs of the ~~commission~~ under this chapter.

SECTION 6. AMENDMENT. Section 53-06.2-06 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-06. Organizations eligible to conduct racing and simulcast pari-mutuel wagering. Civic and service clubs; charitable, fraternal, religious, and veterans' organizations; and other public-spirited organizations may be licensed to conduct racing and simulcast pari-mutuel wagering as authorized by this chapter. A charitable organization may not be responsible for the receipt and disbursement of any moneys handled through any form of account wagering. The receipt and disbursement of moneys involved in account wagering are the legal obligation of the licensed simulcast service providers.

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

License and fees.

1. Each license issued to conduct pari-mutuel wagering must describe the place, track, or racecourse at which the pari-mutuel wagering is to be conducted. Pari-mutuel wagering authorized under this chapter may be held during the hours approved by the attorney general and within the hours permitted by state law.
2. The attorney general may charge a license fee to conduct pari-mutuel wagering.
3. Each applicant for a license to conduct pari-mutuel wagering shall give bond payable to this state with good security as approved by the attorney general. The bond must be in the amount the attorney general determines will adequately protect the amount normally due and owing to this state.
4. The attorney general may grant licenses to service providers, totalizator companies, site operators, other organizations conducting pari-mutuel wagering, employees of service providers, totalizator companies, site operators, and other organizations conducting pari-mutuel wagering, and other persons as determined by the attorney general.
5. The attorney general may establish the period of time for which licenses issued under this chapter are valid.
6. Subject to legislative appropriation, the attorney general may spend the fees for operating costs of the attorney general.

SECTION 8. AMENDMENT. Section 53-06.2-10 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10. Certificate system - Rules. The certificate system allows a licensee to receive money from any ~~person~~ individual present at a live horse race, simulcast horse race, ~~or simulcast dog race, or account wagering facility~~ who desires to bet on any entry in that race. ~~A person~~ An individual betting on an entry to win acquires an interest in the total money bet on all entries in the race, in proportion to the amount of money bet by that ~~person~~ individual, under rules adopted by the ~~commission~~ attorney general. The licensee shall receive the bets and for each bet shall issue a certificate to the bettor on which is at least shown the number of the race, the amount bet, and the number or name of the entry selected by the bettor. The ~~commission~~ attorney general may adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

SECTION 9. AMENDMENT. Section 53-06.2-10.1 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-10.1. Simulcast wagering. In addition to racing under the certificate system, as authorized by this chapter, and conducted upon the premises of a racetrack, simulcast pari-mutuel wagering may be conducted in accordance with this chapter or rules adopted by the ~~commission~~ attorney general to implement this chapter ~~in accordance with chapter 28-32.~~ Any organization qualified under section 53-06.2-06 ~~to conduct racing~~ may make written application to the ~~commission~~ attorney general for the conduct of simulcast pari-mutuel wagering on races held at licensed racetracks inside the state or racetracks outside the state, or both. ~~Licensee of service~~ Service providers, totalizator companies, site operators, or organizations applying to conduct or conducting simulcast or account wagering must ~~be approved~~ obtain a license approved by the attorney general. ~~The attorney general may not grant a license denied by the~~

~~commission~~. Notwithstanding any other provision of this chapter, the ~~commission~~ attorney general may authorize any licensee to participate in interstate or international combined wagering pools with one or more other racing jurisdictions. Anytime that a licensee participates in an interstate or international combined pool, the licensee, as prescribed by the ~~commission~~ attorney general, may adopt the take-out of the host jurisdiction or facility. The ~~commission~~ attorney general may permit a licensee to use one or more of its races or simulcast programs for an interstate or international combined wagering pool at locations outside its jurisdiction and may allow pari-mutuel pools in other states to be combined with pari-mutuel pools in its jurisdiction for the purpose of establishing an interstate or international combined wagering pool. The participation by a licensee in a combined interstate or international wagering pool does not cause that licensee to be considered to be doing business in any jurisdiction other than the jurisdiction in which the licensee is physically located. Pari-mutuel taxes or commissions may not be imposed on any amounts wagered in an interstate or international combined wagering pool other than amounts wagered within this jurisdiction. The certificate system also permits pari-mutuel wagering to be conducted through account wagering. As used in this section, "account wagering" means a form of pari-mutuel wagering in which an individual deposits money in an account and uses the account balance to pay for pari-mutuel wagers. An account wager made on an account established in this state may only be made through the licensed simulcast service provider approved by the attorney general ~~and authorized by the commission~~ to operate the simulcast pari-mutuel wagering system under the certificate system. ~~The attorney general may not grant a license denied by the commission.~~ A charitable organization may not be responsible for the receipt and disbursement of moneys handled through account wagering. An account wager may be made in person, by direct telephone communication, or through other electronic communication in accordance with rules adopted by the ~~commission~~ attorney general. Breakage for interstate or international combined wagering pools must be calculated in accordance with the statutes or rules of the host jurisdiction and must be distributed among the participating jurisdictions in a manner agreed to among the jurisdictions.

SECTION 10. AMENDMENT. Section 53-06.2-11 of the North Dakota Century Code is amended and reenacted as follows:

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

1. For wagering on live horse racing and simulcast wagering:

- a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered. Of the amount wagered, the licensee shall pay:
 - (1) ~~Two~~ One-half of one percent to the state treasurer to be deposited in the general fund.
 - (2) One-half of one percent to the commission to be deposited in the breeders' fund.
 - (3) One-half of one percent to the commission to be deposited in the purse fund.
 - (4) One-half of one percent to the commission to be deposited in the racing promotion fund.
- b. In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered. Of the amount wagered, the licensee shall pay:

- (1) ~~Two and one-half~~ One-half of one percent to the state treasurer to be deposited in the general fund.
- (2) One-half of one percent to the commission to be deposited in the breeders' fund.
- (3) One-half of one percent to the commission to be deposited in the purse fund.
- (4) One-half of one percent to the commission to be deposited in the racing promotion fund.

2. For account wagering:

- a. In win, place, and show pari-mutuel pools, the licensee may deduct no more than twenty percent of the amount wagered.

~~(1) Before eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:~~

- ~~(a) Two percent to the state treasurer to be deposited in the general fund.~~
- ~~(b) One-half of one percent to the commission to be deposited in the breeders' fund.~~
- ~~(c) One-half of one percent to the commission to be deposited in the purse fund.~~
- ~~(d) One-half of one percent to the commission to be deposited in the racing promotion fund.~~

~~(2) After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of~~ Of the amount wagered by account wagering in win, place, and show pari-mutuel pools, the licensee shall pay:

- ~~(a)~~ (1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
- ~~(b)~~ (2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.
- ~~(c)~~ (3) One-sixteenth of one percent to the commission to be deposited in the purse fund.
- ~~(d)~~ (4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.

- b. ~~In daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee may deduct no more than twenty-five percent of the amount wagered.~~

~~(1) Before eleven million dollars is wagered in each biennium, of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:~~

- (a) ~~Two and one-half percent to the state treasurer to be deposited in the general fund.~~
 - (b) ~~One-half of one percent to the commission to be deposited in the breeders' fund.~~
 - (c) ~~One-half of one percent to the commission to be deposited in the purse fund.~~
 - (d) ~~One-half of one percent to the commission to be deposited in the racing promotion fund.~~
- (2) ~~After eleven million dollars is wagered in all pari-mutuel wagering in each biennium, of~~ Of the amount wagered by account wagering in daily double, quinella, exacta, trifecta, or other combination pari-mutuel pools, the licensee shall pay:
- (a) (1) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
 - (b) (2) One-sixteenth of one percent to the commission to be deposited in the breeders' fund.
 - (c) (3) One-sixteenth of one percent to the commission to be deposited in the purse fund.
 - (d) (4) One-sixteenth of one percent to the commission to be deposited in the racing promotion fund.
3. For all pari-mutuel wagering the licensee shall pay to the commission the amount due for all unclaimed tickets and all breakage to be deposited in the racing promotion fund.
4. The licensee conducting wagering on live racing, simulcast wagering, or account wagering shall retain all other money in the pari-mutuel pool and pay it to bettors holding winning tickets as provided by rules adopted by the commission.
5. A licensee may not use any of the portion deducted for expenses under subsections 1 and 2 for expenses not directly incurred by the licensee in conducting pari-mutuel racing under the certificate system. After paying qualifying expenses, the licensee shall use the remainder of the amount so withheld only for eligible uses allowed to charitable gambling organizations under section 53-06.1-11.1.
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, may receive no more than twenty-five percent of the racing promotion fund for the payment of the commission's operating expenses.

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

53-06.2-12. Audits and investigations by state auditor. On request of the commission or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The commission or attorney general shall reimburse the state auditor for all services rendered.

SECTION 12. AMENDMENT. Section 53-06.2-13 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-13. Duty of attorney general to participate in certain hearings and to conduct investigations ~~Employment of private counsel by commission.~~

1. The attorney general shall represent the state in all hearings ~~before the commission~~ and shall prosecute all criminal proceedings arising from violations of this chapter. The attorney general may require payment for any services rendered to the racing commission. Payment for the services must be deposited in the attorney general's operating fund. ~~The commission may employ private counsel for adoption of rules and to ensure that its hearings are conducted fairly. All hearings under this chapter must be conducted by the office of administrative hearings under chapter 28-32.~~
2.
 - a. The attorney general may audit and investigate service providers, totalizator companies, site operators, or organizations applying to conduct or conducting pari-mutuel wagering. The attorney general may:
 - (1) a. Inspect all sites in which pari-mutuel wagering is conducted.
 - (2) b. Inspect all pari-mutuel wagering equipment and supplies.
 - (3) c. Seize, remove, or impound any pari-mutuel equipment, supplies, or books and records for the purpose of examination and inspection.
 - (4) d. Inspect, examine, photocopy, and audit all books and records.
 - b. ~~The commission shall reimburse the attorney general for auditing and investigation. Payment for auditing and investigation must be deposited in the attorney general's operating fund.~~

SECTION 13. AMENDMENT. Section 53-06.2-14 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-14. Denial, suspension, and revocation of licenses - Reasons. The commission or attorney general may deny, suspend, or revoke licenses ~~under the certificate system and privileges granted by it, and it may terminate racing privileges~~ issued by each respective official for just cause. Actions constituting just cause include:

1. Any action or attempted action by a person contrary to any law.
2. Corrupt practices, which include:
 - a. Prearranging or attempting to prearrange the order of finish of a race.

- b. Failing to properly pay winnings to a bettor or to properly return change to a bettor purchasing a ticket.
- c. Falsifying or manipulating the odds on any entrant in a race.
3. Any violation of the rules of racing adopted by the commission or attorney general under this chapter.
4. Willful falsification or misstatement of fact in an application for racing or pari-mutuel privileges.
5. Material false statement to a racing official, the attorney general, or to the commission.
6. Willful disobedience of ~~a commission~~ an order of the commission or attorney general or of a lawful order of a racing official other than a commission member.
7. Continued failure or inability to meet financial obligations ~~connected with racing meets~~.
8. Failure or inability to properly maintain a racetrack.

SECTION 14. AMENDMENT. Section 53-06.2-15 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-15. Revocation, suspension, fine - Procedure. The commission or attorney general, on proof of violation by a licensee, its agents or employees, of this chapter or any rule adopted by the commission ~~may or attorney general to implement this chapter~~, on reasonable notice to the licensee and after giving the licensee an opportunity to be heard, may fine the licensee or revoke or suspend the license. If the license is revoked, the licensee is not eligible to receive another license within twelve months from the date of revocation. Every decision or order of the commission or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the commission or attorney general. ~~The decision must be signed by the chairman, attested by the director, and dated.~~

SECTION 15. AMENDMENT. Section 53-06.2-16 of the North Dakota Century Code is amended and reenacted as follows:

53-06.2-16. Prohibited acts - Penalties.

1. No person may conduct a pari-mutuel ~~horse race~~ wagering or racing unless that person is licensed by the commission or attorney general. Violation of this subsection is a class A misdemeanor.
2. No person may prearrange or attempt to prearrange the order of finish of a race. Violation of this subsection is a class C felony.

SECTION 16. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$120,592, or so much of the sum as may be necessary, to the racing commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2009, and ending June 30, 2011. The racing commission is authorized a .5 full-time equivalent position.

SECTION 17. EFFECTIVE DATE. Section 10 of this Act is effective for taxable events occurring after June 30, 2009.

SECTION 18. TRANSITION. Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2009, and whose term expires after July 1, 2009, may serve the remainder of that member's unexpired term."

Renumber accordingly