

2009 SENATE APPROPRIATIONS

SB 2024

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2024

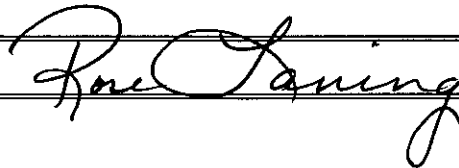
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 01-21-09

Recorder Job Number: 7457

Committee Clerk Signature



Minutes:

**Chairman Holmberg** called the committee hearing to order at 3:17 pm in regards to SB 2024 concerning the Racing Commission.

**Randy Blaseg, Director, ND Racing Commission**

(Written testimony # 1) Testified in favor of SB 2024.

5:38

**Chairman Holmberg** reported that there is another bill that will change placement of the racing commission, to put them under the attorney general's office.

**Randy Blaseg** pointed out his handout - see attached charts - #2 (2 pages)

**Senator Robinson** asked for the definition of the breakage fund.

**Randy Blaseg:** Breakage is confusing, but they are the odd cents on the dollar. If you've ever gone to a race track, the payoff is always on the 10 cent break. The amount of money wagered, there may be \$2.45, but they are only going to pay \$2.40. That's where the term breakage comes from. It's the odd cents on the payoff. The point we're aware of, the more volume in wagering, the more breakage we receive. Breakage is not a percentage. It is the odd cents on the dollar on the pay off on the money wagered. The more volume in wagering – the more breakage.

**Senator Mathern:** What is projection, we're moving more into a subsidy of industry in greater extent than we have in the past. What are you projecting in the next 5 years?

**Randy Blaseg:** It appears that we need to maintain a constant credible account wagering entity in ND because we don't have the population in ND to have enough pari-mutual wagering in the state itself to maintain the level we would like. When we have this bubble and a lot of money comes along, and then goes away, we have been attempting to stabilize and get a method which will stabilize it and keep it working for us. Our hope is this. We work with service providers and they are actually the ones that go out and recruit big betters. They are from out of state. They are not from North Dakota. By having volume in wagering, in the account wagering spectrum, we feel that the volume that's generated between the tax and the breakage will hopefully keep us afloat. We need to maintain something consistently in the neighborhood \$5M a month or more. We actually think that we can do that in the future.

**Senator Seymour:** In simulcast racing, where is the headquarters for that technology? Where does it come from or where produced?

**Randy Blaseg:** We have service producers who are in Fargo and they handle the wages. We have approx. four hubs around US right now. We are working with AMTOTE. When the wager is placed, that wager actually generates through their electronic system and then sent on the amount money on each individual wager. It goes to the racetrack through the AMTOTE system. The paper trail is extremely clear when it comes to wagering. If someone has winning wager at a San Anita racetrack that has been reported not to a provider in ND, but through the AMTOTE system and the money comes back to the betters. It's a highly technical system and from the time a wager is placed until the odds on an odds board will change, is about 90 seconds.

**Introduced Mr. Satrom** who is his assistant and aware of administrative responsibilities.

**Chairman Holmberg** Anyone else to testify?

**Heather Benson – General Manager, ND Horse Park/ Horse Race North Dakota**

(Written testimony # 3)

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2024

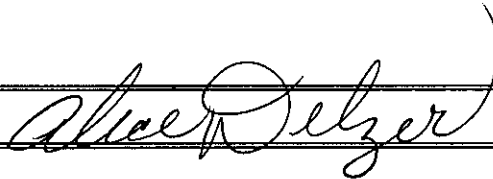
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-09-09

Recorder Job Number: 8987

Committee Clerk Signature



Minutes:

**Chairman Holmberg** opened the discussion on SB 2024 regarding the racing commission.(20.46) He said they have had testimony at the January 21<sup>st</sup> hearing, received from Heather Benson a letter of support, and there are no FTE changes in the budget. He asked Senator Seymour to talk about the bill.

**Senator Seymour** read the bill to the committee. (21.24). He said the ND Racing Commission is responsible for the regulation of pari-mutuel wagering of live, simulcast racing and account wagering. The administration of the Racing Office requires the payment of funds to ND Race Tracks, the disbursement to the recipients of Breeders' Fund Award, the licensing of all race tracks officials, approval of all simulcast and account wagering providers, hiring of racing officials for instate race meets, and the monitoring of current state and national racing activities. He discussed the Executive budget recommendation for the Racing Commission for 2009-2011, the increase from the general fund, the total request from the general fund, and stated it is consistent with the governor's recommendations. He then gave the total request from the general fund. The remaining budget for 2009-2011 is funded by money received from the collection of license and registration fees for the authorization of owners, trainers, jockeys, exercise riders, assistant starters, pari-mutuel clerks and site operators.

**V. Chair Bowman** asked why there was such a big loss in estimated income.

**Senator Seymour** stated he was not sure.

**V. Chair Grindberg** stated his guess was the absence of big betters in the state.

**Chairman Holmberg** stated one of the things we did was we transferred some of the support to the general fund in this budget because of what Senator Grindberg is talking about that the big betters are gone.

**Sandy Deis**, OMB Analyst , they are decreasing quite rapidly.

**Senator Fischer** commented about the battles this commission has. The racing commission is dysfunctional. He stated, "I intend to vote no on this budget." I think they need to get their act together.(26.68)

**Senator Seymour** moved Do Pass. **Senator Wardner** seconded.

**Chairman Holmberg** asked for the Roll on SB 2024. Roll call was taken with 7 yeas; 6 nays, 1 absent. The bill passed. Senator Seymour will carry the bill.

**Chairman Holmberg** stated it passed 7 to 6. Senator Seymour will carry the bill.

**V. Chair Grindberg:** Senator Fischer was right It should probably be looked at when it gets to the House. (27.00)

**FISCAL NOTE**  
**Requested by Legislative Council**  
05/02/2009

Amendment to: SB 2024

**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
<b>Revenues</b>	\$0	\$0	(\$262,168)	\$220,439	(\$192,418)	\$797,969
<b>Expenditures</b>	\$0	\$0	\$0	\$0	\$0	\$0
<b>Appropriations</b>	\$0	\$0	\$0	\$0	\$0	\$0

**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.

**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.*

<b>Name:</b>	Randy Blaseg	<b>Agency:</b>	Racing Commission
<b>Phone Number:</b>	328-4290	<b>Date Prepared:</b>	05/04/2009

Date: 2/9/09  
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Senate \_\_\_\_\_ Committee \_\_\_\_\_

☐ Check here for Conference Committee

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

Action Taken DP

Motion Made By Seymour Seconded By Wardner

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

Total Yes 7 No 6

Absent 1

Floor Assignment Seymour

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



**REPORT OF STANDING COMMITTEE (410)**  
February 9, 2009 2:30 p.m.

**Module No: SR-25-2170**  
**Carrier: Seymour**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2024: Appropriations Committee (Sen. Holmberg, Chairman) recommends DO PASS**  
(7 YEAS, 6 NAYS, 1 ABSENT AND NOT VOTING). SB 2024 was placed on the  
Eleventh order on the calendar.

2009 HOUSE APPROPRIATIONS

SB 2024

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2024

House Appropriations Committee  
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/27/09

Recorder Job Number: 9874

Committee Clerk Signature *Tanya Voegle*

Minutes:

Chairman Delzer opened the hearing on Senate Bill 2024. Roll was taken with all members present.

Attached Testimony

Testimony of Randy Blaseg- Attachment 2024.2.27.09A

PeopleSoft Report- Attachment 2024.2.27.09B

Randy Blaseg, Director of the State Racing Commission presented his written testimony.

**Representative Dosch:** If I understand the budget correctly, are we subsidizing the Racing Commission budget? Where are the revenues listed?

**Randy Blaseg, Director:** There is a sheet in my handout which would reflect the amount of revenue which has gone into the three special funds and the General Fund over the past several years. If you will go to page two of that handout and you go to what is the third item down on the right hand side that is the amount of money that has gone into the state General Fund since 1997. For the past several years, the only monies that have come out of the General Fund for the operation of the racing commission has been approximately \$70,000 per

year. We have been awarded about \$120,000 each biennium for the operation of the Racing Commission in the last few bienniums. Now when you look at that amount of money, that is basically the Racing Commission has been required to fund the racing at the live meets and use a large part of what has come in to the three special funds for the last several years for the operation and running it. Based on when you compare the difference in the totals that is really why the request was made in this format. The \$18million is a sizable amount of money that has gone into the General Fund which has in essence not really been used for the support of the Racing Commission office. It was based on that premise that this particular budget was requested in this method.

**Chairman Delzer:** Do you have any numbers for 2008? Are these numbers fiscal years or calendar years?

**Randy Blaseg, Director:** This is calendar years. I do not have the numbers for 2008 with me. I will get them to you.

**Chairman Delzer:** Do you have the fund levels in the funds?

**Randy Blaseg, Director:** Not on any of this I don't but I will get that to you as well.

**Chairman Delzer:** Sandy, does OMB have any comments on why you switched it to the General Fund?

**Sandy Deis, OMB:** The Governor's Office has worked with the Racing Commission. There is a new Chairman of Racing Commission and I think there was satisfaction in the role and I think we liked the direction it was going and there has been some concern about the balances in the funds. The Purse Fund as of January 16<sup>th</sup>, the fund balances are Breeders Fund has \$678,000, the Purse Fund has \$537,000 and the Promotion Fund has \$344,000 and those are declining resources. So we made the decision to make the funding sources change and fund the operations with General Fund dollars.

**Chairman Delzer:** By law what do you put out of those funds every year?

**Randy Blaseg, Director:** We are not required by law to award the granting of the Purse and the Promotion Fund. The process that has been followed is this, the race tracks annually make requests as do different organizations for funding out of the Purse and the Promotion Funds for use at the race tracks. The Racing Commission then awards them funding to conduct their meets. The Promotion Fund has been used primarily to offset the costs of running the race meets both at Belcourt and in Fargo. The Purse Fund money is used for that very purpose, for the purses of those races. The Breeders Fund is now being used to allocate breeders awards at the conclusion of each racing season. How that has been is for the last few years the Racing Commission along with the Horseman's Association several years ago agreed to allocate I believe it is 12.5% of whatever is in the Breeders Fund in awards at the conclusion of the race season.

**Chairman Delzer:** That money goes in there off of the formula that is on the bill 1514?

**Randy Blaseg, Director:** That is correct.

**Chairman Delzer:** What is that expected to produce for each of these funds for the next biennium? What are you expecting to spend out of these funds in the next biennium?

**Randy Blaseg, Director:** In the next biennium it is simply a projection anytime you look at something involving wagering. There is no other way to look at it. We anticipate being able to generate through the pari-mutuel system approximately \$600,000 which can be used for racing purposes. Our hope was by having the Racing Commission's cost of operation be funded by the General Fund that would leave all of the money that comes from pari-mutuel taxation to stay and be able to be used for the purpose of racing.

**Chairman Delzer:** \$600,000 but you have not come close to averaging \$600,000 in the past four years that you have here.

**Randy Blaseg, Director:** That is correct.

**Chairman Delzer:** How much has been given to Belcourt and Fargo every year?

**Randy Blaseg, Director:** I believe this year Fargo has been allocated \$350,000 out of the Purse Fund. I don't have the exact number but I think it is in the neighborhood of \$80,000 has been awarded to Belcourt for the Purses.

**Chairman Delzer:** That is per year or for the whole biennium?

**Randy Blaseg, Director:** That is for that race season.

**Chairman Delzer:** What are you proposing to spend in the next two years?

**Randy Blaseg, Director:** There would only be a total of approximately \$300,000 which could be allocated for the racing purposes each year if we realized \$600,000 over the course of the biennium.

**Chairman Delzer:** You have listed IT projects, are you going to buy two computers or one?

**Randy Blaseg, Director:** I believe that it is just one.

**Chairman Delzer:** How many computers do you have in your office?

**Randy Blaseg, Director:** Three.

**Chairman Delzer:** Did you build the budget or did you sit down with OMB to build the budget?

**Randy Blaseg, Director:** We worked with OMB and looked at what we may or may not need in the way of replacements for computers. We do have a laptop which we take to the race tracks and have for years to do licensing on and over time and wear and tear we are a little concerned about its life expectancy.

**Chairman Delzer:** To date you have spent \$335,000 through the end of January. All of your special funds are in a continuing appropriation so you don't have to show them. That is the reason in the bill that it goes down. You only show \$30,000 of estimated income. Sandy what is that \$30,000 for?

**Sandy Deis, OMB:** Currently yes the Purse, Breeders and Promotional fund are continuing appropriations but in order to depict their budget to give you really what their budget is we have included those funds in the budget. So the salary amount for salaries and for operating if we used any of those funds they were included in the budget. Now in the future budget we are not going to be using those funds so that is the reason it is going down.

**Chairman Delzer:** What is the \$30,000?

**Sandy Deis, OMB:** It comes from the collection of licensing fees.

**Randy Blaseg, Director:** It is an administrative fund in which the legislature I am going to say in 05 they passed a bill which allows us to use the administrative fund for the purpose of licensing staff and administrative costs.

**Chairman Delzer:** What kind of fees do you charge?

**Representative Glassheim:** 750 people are licensed.

**Sandy Deis, OMB:** In 2005 the legislature reduced the General Fund and then replaced it with \$30,000 of special funds by taking the license fees that used to go directly into the General Fund and then putting it into the Racing Commission for them to use for administration.

**Chairman Delzer:** Are those fees \$250 a piece?

**Randy Blaseg, Director:** The licensing fees vary from \$10 for a groom to \$2500 for a simulcast service provider. There is a broad variety of different individuals like a trainer can be \$50-75 a jockey can be \$50. There is a very broad spectrum in the different costs of the different licenses. You have an annual relicensing fee of \$1000 for simulcast service providers.

**Representative Dosch:** This perhaps is a question for Legislative Council but on for example the state's lottery that we have, do we use any General Fund dollars to fund the operation of that or is that all taken out of the special fund?

**Chairman Delzer:** It is all out of the lottery fund.

**Representative Dosch:** With that, by switching this and taking these dollars out of the General Fund in essence state taxpayers are funding this Racing Commission and I think if that got out to the general public it think that there could be some real issues. I have real issues with that so that might be one thing that we may want to really take a close look at.

**Representative Berg:** I kind of look at this from a different perspective. I think what we have here is an entity that has put a lot of money in the General Fund. They are in a tough spot right now and I think question from my perspective is really longer term. What do we need to do to turn this around put money back into the General Fund? I am not looking for an answer right now but I guess what I would like to do is if you could pull the information on the Belcourt track and the Fargo track for the last three years they must have a yearend cash flow. It would interesting for me to look at that and then I guess what I would like to do is have you tell us or me what needs to be done to make this self-funding in four years or six years. I would rather go along in that direction than, I guess what I am saying is I need to know where we are going to end up six years down the road. I think that would help me kind of wrestle with this is again get the projection for the Racing Commission, if we said to you that we want to make money on this as a state and over the next four or six years, what would you do to make that happen?

**Randy Blaseg, Director:** I would be more than happy to present that to the Racing Commission and we could prepare for you an opinion as to what the Commission feels would be a viable outlook for the two race tracks to hopefully be self-sufficient.

**Chairman Delzer:** That is probably not something that you can get back as quick as we need to work on the bill but the information on the tracks you can gather that by next week correct?

**Randy Blaseg, Director:** Certainly.

**Chairman Delzer:** Then I would work with Representative Berg on the rest of it.



**Representative Berg:** You are the board of directors for this business and you are losing money the question really should be for us and your board how do you get this thing turned around? What is your long term plan? I think that again, whoever on your board I would like them to come to us with a plan and say here is how we are going to get back to handle of \$15million or whatever that is. The other thing that I think is important for the committee to look at too is really the governance of the Commission in terms of where should it, again I am not promoting anything I am just saying has it worked in its current location? Would there be a better fit somewhere else? Again backing up on that first question just because this other bill is over in the Senate I think we need to take a look at what our taxes are, what our handle is and how we are doing it.

**Representative Meyer:** You mentioned that the simulcast providers are licensed at \$1000/ year?

**Randy Blaseg, Director:** The simulcast providers have an annual renewal fee. Their original license fee for the first time is \$2500.

**Representative Meyer:** Then it is \$1000 annually?

**Randy Blaseg, Director:** That is correct.

**Representative Glassheim:** What is your process for surety that the significant amount of money is being handled properly, that there is no fraud, not by you all but by the simulcast people who are handling the bets? Are you able to supervise this with one or two staff people? Are you able keep the thing honest?

**Randy Blaseg, Director:** It is something that you have to monitor and you have to stay on top of it weekly and monthly. The reason is a bit complicated. As you all know we had an issue here a number of years ago. You have wagering which is coming in from a multitude of different tracks nationwide. The system works like this, we get a report from the simulcast

service providers and AMTOTE telling us how much money has been wagered. Now what a person needs to do and we do is we look at how much money each race track is telling us has been wagered at their site because those numbers better start matching up immediately. What is reported to us by the service providers is blank number you then take the report that you get from all of these tracks which we get that and you add those two numbers to make certain that the numbers that you are getting are the correct numbers. This has to be done. It is not something that you can wait six months and check. It is a roll over factor, every week every month. This is something that we have stayed on top of very carefully. The gentleman that does the accounting for us, he monitors this quite well. I took it upon myself as director to be informed directly by the tote company as to the gross amount of money that is passing through the North Dakota simulcast service provider systems. So not only do we have those reports but I have an independent raw number. The number I get does not break out the taxation I want you to understand that. The number that I get has to match the numbers that are being reported. It is a situation that has to be stayed on top of.

**Representative Glassheim:** So in 07 you had a taxable handle of \$37million, how much of that money is involved with North Dakota races and how much is national?

**Randy Blaseg, Director:** It has varied over the years but at the present time if you look at what is probably going to be bet through they systems within the state of North Dakota, the number is going to be about \$8million in one season, one year at present time. Now the balance of that will be from out of state wagering. One thing that we really want to have happen and we hope this works as good as it sounds like it should. Everything is always out there in this world today. We can now get the simulcast signals over the internet. We have charities around the state that would love to get simulcast broadcasts but it has cost historically approximately \$300/month for the signal from each track to the charities because they have

what are called decoders. Those decoders would be located and that would be a cost that would go directly to the charity for part of the cost of the operation. So if you had five tracks all of a sudden that you can see monthly that your fees go up. With today's technology we are now able to get those signals over the internet. If we can keep knocking down the cost of conducting the wagering for the charities we can then be back in business again. This is something that we are trying to do. We are trying really hard to get this accomplished. It is like everything. The margin of profit goes down; these entities have got to be able to realize a profit if they are going to be in business and the only way that can happen is if we can find a way for them to make a profit. By them making a profit the racing industry turns around and benefits as well.

**Chairman Delzer:** If I remember right when there was all of that money being betted it was only one or two people doing all of the betting.

**Randy Blaseg, Director:** It was a gentleman by the name of Peter Wagner I believe.

Chairman Delzer closed the hearing on Senate Bill 2024.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2024

House Appropriations Committee  
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 04/03/09

Recorder Job Number: 11727

Committee Clerk Signature

*Jeannette Cook*

Minutes:

**Chairman Delzer** opened the discussion of amendments on Senate Bill 2024.

Rep. Kempenich: Rep. Meyer and I drafted these. This is a rewrite of the Racing Commission.

Rep. Kempenich review the changes made.

- Page 1 – The Agriculture Commissioner is taking over the fund part of it.
- The enforcement part will be under the Ag. Commissioner.
- The Attorney General will take over the enforcement of the simulcast betting.
- Section 3 – The office of the Ag. Commissioner is going to be the oversight.
- The Commission consists of the Chairman and the four members. (left alone)
- The Commission is appointed by the Ag. Commissioner.
- The International Arabian was changed to Paint Horse Association.
- Subsection 2 – We have required a disclosure of financial interest in a horse to the Ag Commissioner or Attorney General for someone to be involved (on the board?).
- Number 3 changes to Interim committee what the commission would get paid on it. (incorherent?)
- Number 4 – Is the director of racing. It is permissive language. The Ag. Commission doesn't have to appoint a director. They could hire or contract someone to do this.

- Number 5 – Defines what the Attorney General will do. The gambling side of it.
- Section 6 – Describes what the powers of the Ag. Commissioner will be. It deals with licensing.
- Subsection 4 is about receiving money. They can receive the money out of the breeder's fund, the racing promotion fund, and the purse fund. There will be rules established concerning the administration of the racing.
- Section 8 – The Attorney General's duties again.
- Section 9 – Deals with Attorney General on conduct and eligibility of racing and pari-mutuel wagering.
- Section 10 – The Ag. Commissioner and the issuance of license.
- Section 11 – The Ag. Commissioner dealing with the licensing of the horses, etc.
- Section 12 – The Attorney General's licensing of pari-mutuel and simulcast.
- Section 13 – Updates the certification rules with the Attorney General the regulator of the certification system.
- Section 14 – The same as 13.
- Section 15 – The track wagering with the Ag. Commissioner as the controlling party.
- Section 16 - Changes the Commission to Ag. Commissioner.
- Section 17 – Explains the enforcement action.
- Section 18 – The denial of a suspension revocation and changes the authority.
- Section 19 – The procedures.
- Section 20 – The penalty if they do not follow....
- Section 21 – The transition period. We will leave the members in place, and they will be replaced as their terms expire.

**Chr. Delzer:** What are we doing with the money in policy changes?

**Rep. Kempenich:** The Ag. Commissioner will collect it.

**Chr. Delzer:** Does the bill still appropriate money to the Racing Commission, including the two FTEs?

**Rep. Kempenich:** No, the two FTEs are under the Ag. Commissioner's preview.

**Chr. Delzer:** Maybe they are, but the bill still appropriates the money to the Racing Commission. There is nothing in .0105 that changes anything with the money.

What about the \$120,000 of money that is in the budget bill? Where does that go?

**Rep. Berg:** It was supposed to go to the Ag. Commissioner.

**Chr. Delzer:** It would still be appropriated to the Racing Commission. The Racing Commissioner is under the Ag. Commissioner, but it is separate. I wonder about the two FTEs? They don't really belong in the Racing Commission any more. They belong in the Ag. Commissioner's Office. So, the money should probably go to the Ag. Commissioner's Office too.

**Rep. Berg:** In Section they went to the Ag. Commissioner.

**Chr. Delzer:** This doesn't change the FTEs in the Ag. Commissioner's budget though or reduce them in the Racing Commission. Allan, is that not a problem?

**Allan:** (Not identified) If it seems that if the intent is that the Racing Commission is going to be part of the Ag. Department for the majority of their duties, then the appropriations should be changed to appropriate the money to the Ag. Commissioner for the Racing Commission. This is similar to how it used to be when the Commission was under the Attorney General, the Racing Commission was a separate line in the Attorney General's budget.

**Rep. Berg:** One of the challenges here are the two parts: The appropriation part and the policy part. These amendments drafted by Vonnelle relate to the policy. We need to have Allan or Brady put the appropriations together as well.

**Chr. Delzer:** Before we do that, we need to ask if this is going to save us any money. Should we reduce the amount for the Racing Commissioner?

**Rep. Meyer:** I believe that you could drop one and one half FTE's at a minimum. You could probably drop two. It would save a great deal of money. When you look at the projections, you can eliminate their travel. When this moves to the Ag. Commissioner's Office there would be no need for two full time FTEs. You could cut the operating substantially.

**Chr. Delzer:** I suppose Section 4 of the bill needs to be amended also. You could leave it the way that it is, but if you are going to change that so there is only one half FTE allowed, that is all that the Racing Commissioner would be is a .5 position.

**Rep. Berg:** I didn't think about the appropriation part of it. We were leaving it up to the discretion of the Ag. Commissioner to appoint one.

**Chr. Delzer:** The Attorney General has the fees that they'll (inaudible) to cover the costs of their work. The Ag. Commissioner, we have the choice of how we do that. If the idea of the committee is to totally do away with the appropriation, whatever. We need to have that incorporated in the amendment.

**Rep. Berg:** The Agriculture Department does collect some fees and stuff too.

**Chr. Delzer:** I would think that we should leave at least a half time FTE in there.

**Rep. Berg:** If there are any questions about the structure change, maybe we should those now. Then the three of us will get together with Al and the appropriations side and bring that back to the committee.

**Rep. Kaldor:** In Section 14 in the simulcast wagering on the bottom of page 8 in the amendments, please explain that.

**Rep. Berg:** There are third party vendors that may get money on account, Lean Games for example gets \$25,000. The person might potentially lose \$50,000. The question is: Who is liable? There is really mixed opinion about who is liable. This makes it clear that Lean Games would be liable for that gap and not the charity.

**Chr. Delzer** adjourned.



## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2024

House Appropriations Committee  
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 4/3/09

Recorder Job Number: 11731

Committee Clerk Signature

*Jeanette Cook*

Minutes:

**Chairman Delzer** opened the discussion on Senate Bill 2024. He explained that we had taken care of the policy, but needed to work on the appropriations.

**Representative Kempenich** moved the amendment, 98043.0106.

**Rep. Meyer** seconded the motion.

**Representative Kempenich:** We did what we talked about this morning. We did get some language in to appropriate the money to the Ag. Commissioner.

**Chairman Delzer:** We added a half time FTE to the Ag. and \$200,000 for a half time FTE?

**Representative Kempenich:** We left in the Commission in place, so it is for that also. They will have to pay their board members and contracts.

**Chairman Delzer:** We were making up \$256,000 of normal that would have come out of one of the funds. Is that where the \$256,000 came from last biennium?

**Representative Meyer:** The Governor's budget this session called for \$442, 576. We dropped that to half of that, removed 1 ½ FTEs, then moved ½ FTE into the Ag. Commissioner's.

**Chairman Delzer:** I don't know that we need \$200,000 of General Fund for that.

**Representative Kempenich:** You got their budget and expenditure report. They probably don't. We just took half of that.

**Chairman Delzer:** Are you putting it all in salaries and wages? Or are you putting it in the Ag.?

**Representative Kempenich:** We are just putting it in the Ag. Department, because we didn't know ....

**Chairman Delzer:** Brady, is it a separate line or what?

**Brady Larson, Legislative Council:** It will still be appropriated in this bill, but it will be called Racing Commission expenses. So, it could be used for anything relating to racing.

**Chairman Delzer:** I would have a much better feeling about doing this if we also added the language that any money not expended by the Ag. Dept. on the Racing Commission line is returned to the General Fund. It may be a separate line that might happen anyway, but do we know for sure that the Ag. Commissioner's budget doesn't allow them to move money between lines?

**Representative Kempenich:** When you look at the budget and expenditures of the Racing Commission at \$442,000 that included professional fees, operating fees, and professional development. ....

**Chairman Delzer:** If it is a separate line item, under normal circumstances, they would not have the authority to move that around?

**Brady Larson, Legislative Council:** That is correct.

**Chairman Delzer:** We can adopt these amendments, but Brady, I want you to double check that for us.

**Brady Larson, Legislative Council:** I will do that.

**Representative Kempenich:** We just pulled a number out... there was no science behind it.

When you look at their operating... outside of what the Commission costs, it looks like they would probably need about \$63-\$70 thousand.

**Chairman Delzer:** That is fine, as long as it doesn't go to enhance the Ag. Commissioner's budget, if they don't use it.

**A voice vote was taken on .0106 for SB 2024. The motion carried and .0106 was adopted.**

**Representative Kempenich moved a Do Pass on SB 2024 as amended.**

**Representative Meyer seconded the motion.**

**A roll call vote was taken. Aye 8 Nay 0 Absent 0**

**Representative Meyer will carry SB 2024.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

SB 2024

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: April 8, 2009

Recorder Job Number: 11789 & 11790

Committee Clerk Signature

*Nancy L. Gerhardt*

Minutes:

Chm. Svedjan called the House Appropriations Committee back to order.

Pat Wier, Attorney from Medora - Chairman Racing Commission approached the podium.

Mr. Wier: I have serious reservations to the bill in its current form. I'm hoping we can get this bill delayed until 2011. In the meantime we will work with members of this Committee to satisfy some of the legal issues of this bill. The bill takes too much authority from the Racing Commission. I would like to see the bill killed. I know that is perhaps not feasible.

Chm. Svedjan: We are talking about the budget here. You don't want the budget killed.

Mr. Wier: SB 2024 – We would like to see it at least delayed.

Chm. Svedjan: We will not be able to delay the bill. We can hear what the Section has to say. I have to have all the bills out of Committee by tomorrow.

Rep. Kempenich: Some of the language sections in the amendment would have delayed effective dates, not the budget.

Chm. Svedjan: Let's get into a discussion on the bill.

Mr. Wier concluded his remarks.

Amendment .0106 (Attachment A) was distributed.

Rep. Meyer: We did get into policy just a bit. Our intent is to keep racing alive in ND. It is the only stand alone agency in state government. Take the simulcast and the account wagering

provisions of horse racing and return it to the Attorney General. Put the authority underneath the Agriculture Commissioner. If these amendments do not do that, I will accept that. If we can pass these out and get them to Conference Committee we could work on it there.

Rep. Meyer explained amendment .0106. there has always been a point of contention that no one that has any knowledge or interest in this industry has ever been allowed to serve on the racing commission. #2, Subsection 3 – we feel like that if you have an interest in a racehorse, you could be allowed to serve on the Commission. Basically, if you own a horse, you can't determine how a race will turn out. Section 5 outlines the duties of the Attorney General. He would have the simulcast and wagering. He would supervise and check all the making of the pari-mutuel pools. This is one of the places where the most supervision needs to take place. The Racing Commission had concerns of charities. We have addressed that in this bill.

We were planning on removing 1.5 FTE. We transitioned to the Agriculture Commission one ½ time FTE authorization, and that is to handle the implementation on how the new provisions would work. I would move these amendments 0106.

Rep. Berg: 2<sup>nd</sup>.

Chm. Svedjan: 2<sup>nd</sup> by Rep. Berg. Is there any discussion?

Rep. Berg: (10:48) At one time the Racing Commission was in the office of the Attorney General and it was moved out. We had a problem with big money wagering. I've had a personal concern that there is no elected official over the Commission. The second issue relates to the General Fund money. This biennium the Governor proposed \$412 of GF money. It's a struggling industry. Our Racing Commission has done a yeoman's job to get this figured out. The concern of the Committee relates to staffing. It would seem to make sense to locate this in an area where there is day to day supervision. The Racing Commission disburses three funds. The Racing Commission has a pari-mutuel. The idea is to take the simulcast and turn it

over to the Attorney General. The Racing Commission would focus on the live racing. The amendments would move that block under the Agriculture Commissioner. What I would like to do is change the effective date to defer that for two years beyond the next legislative session. That will give time to see if the Racing Commission is sustainable, and figure out a way to be more efficient with our general fund dollars in leveraging staff and people already in a state agency.

Rep. Berg: I've got an amendment that's just in hard copy, but I'd like to further amend, in sect. 21, changing the effective date from 2009 to 2011, for sects 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 18, 19 and 20. This act would become effective on July 1, 2011.

Rep. Glassheim: 2<sup>nd</sup>.

Rep. Berg: What we are doing with this amendment, if we adopt it, we are taking the pari-mutual and turning that over to the Attorney General. The Racing Commission would operate as it is for the next 2 years. Positioning itself to move under the Ag. Commissioner.

Rep. Skarphol: (15:58) Are you putting the money back in for the Racing Commission to have to operate?

Rep. Berg: The money would be in the details of the amendments. \$442,576.

Rep. Skarphol: Is your intention to put that money back in?

Rep. Berg: That is a question we need to decide. I think the amendments put a .5 FTE

Rep. Meyer: (17:01) We didn't identify specific things other than a .5 FTE and associated operating costs up to \$

Brady Larson, Legislative Council: There was no specification for salaries and wages. \$230,000 coming from the General Fund.

Chm. Svedjan: that's shown on p. 1 of the Statement of Purpose.

Rep. Berg: If there are any questions on the delayed implementation amendment, maybe the next thing we can cover is funding.

Rep. Hawken: (18:04) If there is a delayed implementation would the portion of who can be on the Commission also be delayed or would that be something that could happen sooner?

Rep. Berg: That would be delayed as well.

Rep. Wald: (18:30) We are cutting the appropriation substantially, essentially you're gutting the whole Racing Commission. How are they going to function? If we're going to have a commission let's fund it or just lock up shop and forget about it.

Rep. Nelson: (18:47) The Commission has operated on Special Funds. They have not been in for General Funds. What Rep. Wald is talking about is what the Executive Branch put in. I don't think we can ignore the fact that the current Racing Director has ignored legislative action in the last session. I have a hard time putting general fund money into his salary the way he has ignored what the legislature has passed. I don't think that's going to change. Until that changes, I'm not going to support the Racing Commission in any way!

Rep. Berg: (20:01) This removes the liability of running the pari-mutuel on the simulcast race tracks that are out with 3<sup>rd</sup> party vendors. It allows the Racing Commissioner to do its core things. It doesn't gut it. Part of the reason for reducing the appropriation is that within the Ag. Department they could find some efficiencies and they will be able to provide the same service at a lower salary and operating cost. If the amendment is adopted to delay we could take up the compensation as we move forward.

Chm. Svedjan: (20:47). Any further discussion on the motion. The motion before us is to amend the proposed amendment 0106 changing the effective date from 2009 to 2011.

Rep. Wald: Did we vote on adopting?

Chm. Svedjan: This would further amend amendment the proposed .0106. Any further discussion?

Rep. Skarphol: Is the intent that by delaying the effective date there would be ongoing discussions during the interim?

Rep. Berg: I think the motivation would be to allow some time to see how they would position within the Agriculture Department. They need to figure out how to cash flow. If they don't we may not have a Racing Commission. With a two year implementation date it gives them the authority as Commissioners and at the same time relieve them of the staffing matters and the enforcement of the pari-mutuel.

Rep. Wald: If this is moved to the Agriculture Commissioner, who is an elected official, the relationship between the commission, which is currently appointed by the Governor, as I understand it, the Racing Commission will remain intact, even if it is transferred to the Ag Dept. I'm wondering what's the roll of the commission going to be and who has final say?

Rep. Meyer: (24:00) It was a standalone agency. The Governor had the authority to appoint the commission members. However, it just wasn't a good idea. It became problematic. The intent of these amendments is to move the Racing Commission under the Agriculture Commissioner. Who will have the power to appoint them, and also to hire and fire a racing director. We feel like this is something that should happen. The Racing Commission will determine all of its duties it has always handled. They would retain everything they are doing now. When there are problems, you can go to the Agriculture Commissioner and he can address them. There aren't enough checks and balances.

Rep. Wald: Have you talked to the new Ag. Commissioner? Does he want this responsibility?

Rep. Meyer: The Governor did not let me in on this until Monday who would be Agriculture Commissioner. I haven't had a chance to visit with him (new Agriculture Commissioner).



Rep. Wald: (26:26) They are going to be glorified clerks.

Rep. Berg: (26:38) I wish everyone would read through .0101. Everything the Sub Committee has done has been in the spirit of keeping the power for the commissioners as they have now. We passed a bill on the House to put it in the AGs. The Attorney General has agreed to take the high risk part of it. This moves us in the direction to think through this and hopefully end up with something focused on the promotion and expansion and cash flow of our racing industry and not the politics of it.

Rep. Nelson: (28:00) I can understand how problematic this could be for this racing season. Is there any magic to delaying it for two years? The strategy is that if you put it off for two years and you come back and kill the idea two years from now. A stronger message needs to be sent to the commission that we do not agree with the operations of the current Racing Commission and I could support delaying it 1 year. Something has to be done this biennium or we've missed a golden opportunity.

Rep. Meyer: Things are changing. We have Commissioners now who have put in a great deal of work. We also have a new Director of the Horse Park, who is amazing. We have to get around bumps in the road. It takes a little bit of time. It takes almost a year of serving on this commission before you even understand the problems involved.

Rep. Nelson: (29:53) The Racing Commissioner is still employed. The Racing Commissioner is still employed, the same commissioner isn't he?

Rep. Meyer: Yes, the Director is still employed. That is problematic for the legislature and I've been open and frank about that with the commissioners.

Rep. Nelson: That is the biggest problem that the Racing Commission has.

Chm. Svedjan: Any further discussion? We just had circulated amendment .0107.

Rep. Berg: My verbal amendment to delay the effective date for 2 years is encompassed in .0107. I think we have that motion on the table to amend .0106. If we pass my verbal amendment that does become .0107.

Chm. Svedjan: Any further discussion on the motion?

Rep. Delzer: Can you tell me again what the motion is?

Chm. Svedjan: The motion was verbal to amend the proposed amendments .0106 by changing the effective date from 2009 to 2011.

Rep. Delzer: We're not adopting .0107 we're adopting .0106 with the change.

Chm. Svedjan: With the passage of the verbal amendment we would then have that reflected in front of us in .0107.

Rep. Delzer: I don't see a money change in .0107.

Chm. Svedjan: The language would have changed in .0107. That's a problem. We don't have the rest of the information in this set of .0107, so we can work from .0106.

Rep. Skarphol: (32:27) If it is the intent to delay this for two years, I don't know how you can do it without having some money available to the commission. If that is the intent of the committee, then I think .0107 is correct because it doesn't reduce the budget. I don't know how they envision the capability to operate without dollars.

Rep. Delzer: (32:58) The whole issue is that we need to move something forward to Conference Committee, part of the rules is there is supposed to be a difference between the two. If there is no change that issue should not be up. Is the proper amount \$230,000? I have no clue. We need to have a difference in the money.

Rep. Glassheim: (33:51) Vote on the verbal amendment. If it passes, I suppose there will be a motion to deal with the money.

Chm. Svedjan: If we can address this amendment, we will go back to what is in .0106 and discuss the financial. I will try this on a voice vote – all in favor of that motion say Yea – opposed Nay. That motion carries. That amendment is adopted.

Rep. Berg: (35:08) It was reduced down to \$230,000.

Rep. Wald: (35:50) If we don't implement this two year scenario, there must be a reason for the \$412,576 of general fund money, there must have been a reason for doing that. If we are going to have a viable commission, and we don't implement this 2 year scenario, there has to be a reason for that appropriation. I would hope we would go back to the original bill - .0100 – and reinstate those funds. I would do that as a substitute motion.

Chm. Svedjan: (36:25) Before I accept that motion, let me ask this question. The remainder of the amendments transfers the simulcast to the Attorney General. There would be some associated cost with that?

Rep. Berg: (36:38) the simulcast is self-funding. All we're talking about is just the Racing Commission.

Rep. Meyer: I would offer a substitute amendment, just removing \$10,000 from their travel line.

Chm. Svedjan: I had a motion over hear that I would accept first. That motion was to restore the funding as is noted in the original bill 2024. Is there a 2<sup>nd</sup> to that motion? OK that motion dies for lack of a 2<sup>nd</sup>.

Rep. Meyer: I would offer a substitute amendment, just removing \$10,000 from their travel line.

Chm. Svedjan: This would be a motion to amend the proposed amendments .0106 to remove \$10,000 from their travel line. Which would be within their operating fund.

Rep. Meyer: That would be correct.

Chm. Svedjan: Is there a 2<sup>nd</sup> to that motion?

Rep. Nelson: 2<sup>nd</sup>.

Chm. Svedjan: 2<sup>nd</sup> by Rep. Nelson. Is there any discussion?

Rep. Delzer: (38:16) Amendment .0106 takes all the money away from the Racing Commission. It leaves \$200,000 in the Racing Commission? It moves \$200,000 to the Department of Agriculture. If you're not doing the switch till afterward you don't need to have the money for the Dep. Of Ag. If you want the difference to go into Conference Committee I would say you just delete the Dept. of Ag to this amendment.

Chm. Svedjan: The motion we have before us right now is to remove \$10,000 from the Racing Commission portion of the budget.

Chm. Svedjan: I'm trying to reconcile the motion with what Rep. Delzer was saying?

Rep. Delzer: (39:45) In the original bill it's basically a one-line budget. In .0106 we changed the one line from 412 down to 230. Then we added to the Ag Dept. \$200,000 and ½ FTE. We don't need to do that if we are going to not move for 2 years. I offer a substitute motion to remove the appropriation to the Dept. of Ag and the ½ time FTE in .0106.

Rep. Skarphol: 2<sup>nd</sup>.

Chm. Svedjan: We have a substitute motion to remove the funding and the FTE designated in proposed .0106 to the Dept. of Agriculture - \$200,000 and the ½ FTE. 2<sup>nd</sup> by Rep. Skarphol. Is there any discussion.

Rep. Berg: This is the right thing to do and then decide what the dollar amount is.

Brady Larson: The current amendment removes all funding from the Racing Commission. The \$412,576 from the General Fund and \$30,000 of special funds. The current amendment removes all funding from the Racing Commission and then only appropriates \$230,000 to the Agriculture Dept., by removing the Agriculture Dept. budget your are left at -0-.

Rep. Berg: We need to take this motion and then take this up.

Chm. Svedjan: .0106 removes all funding from the Racing Commission. This amendment would remove all funding and .5 FTE going to the Ag. Dept. Is there any further discussion on the motion? Seeing none I'll take a voice vote – all in favor say Yea – opposed Nay. That motion carries. We now have a bill with no money in it.

Rep. Delzer: I move we put the 2 FTE's and \$325,000 back in on the racing, \$30,000 as special funds.

Rep. Berg: 2<sup>nd</sup>.

Chm. Svedjan: The motion is we put the 2 FTE's and \$325,000 back in on the racing, \$295,000 from the general fund and \$30,000 as special funds. Any further discussion? Seeing none on the motion to amend all in favor of that say Yea – opposed say Nay. That amendment is adopted. We have amendments to the proposed .0106.

Rep. Meyer: I move we adopt .0106 as amended.

Rep. Berg: 2<sup>nd</sup>.

Chm. Svedjan: 2<sup>nd</sup> by Rep. Berg. Is there any discussion? Seeing none I'll take a voice vote – all in favor say Yea – opposed Nay – that motion carries, those amendments are adopted.

Rep. Meyer: I move SB 2024 as amended.

Rep. Kempenich: 2<sup>nd</sup>.

Chm. Svedjan: Rep. Meyer moved a Do Pass As Amended for SB 2024, 2<sup>nd</sup> by Rep. Kempenich. Is there any discussion?

Rep. Glassheim: (46:02) Simulcast is taken out immediately and given to the Attorney General?

Chm. Svedjan: Yes. Any further discussion? Seeing none we will take a roll call vote on a Do Pass As Amended on SB 2024.

Vote: 19 Yes      5 No      1 Absent      Carrier: Rep. Meyer      Motion carries.

**Recording # 11790**

Chm. Svedjan: I have difficulty when policy committees send bills down to do the work they should do. I also have a problem with budgeting the way we just did. This is, in my view, shooting from the hip, and I'm not sure it does the bill justice. I don't know if we should rely anymore on conference committees than policy committees rely on us. That's behind us now.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after "commission" insert "; 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 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-09, 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; and to provide for transition"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-01. Definitions.** As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the ~~commission~~ agriculture commissioner, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
- 2- 4. "Certificate system" means the system of betting described in section 53-06.2-10.
- 3- 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
- 4- 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
- 5- ~~"Commission" means the North Dakota racing commission.~~
- 6- 7. "Director" means the director of the ~~commission~~ racing.
- 7- 8. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.

- 8- 9. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
- 9- 10. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
- 10- 11. "Purse fund" means a fund, administered by the ~~commission~~ agriculture commissioner, established to supplement and improve purses offered at racetracks within the state.
- 11- 12. "Racing" means live ~~or simulate~~ horse racing ~~under the certificate system or simulate dog racing under the certificate system.~~
- 12- 13. "Racing promotion fund" means a fund administered by the ~~commission~~ agriculture commissioner established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the ~~commission~~ agriculture commissioner.
- 13- 14. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
- 14- 15. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

**SECTION 3. AMENDMENT.** Section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A ~~North Dakota~~ racing advisory commission is established ~~consisting in the office of the agriculture commissioner.~~ The racing advisory 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 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~~ members of the advisory commission 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 advisory commission, the ~~governor~~ agriculture commissioner shall appoint a new member to the advisory commission.
2. ~~A person~~ An individual is ineligible for appointment to the advisory 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 advisory commission ~~and cannot be employed by the commission~~. Failure to maintain compliance with this subsection is grounds for removal from the advisory 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 The racing advisory commission shall advise the director and the agriculture commissioner on policy and general operation of racing and on the administration of the breeders' fund, the purse fund, and the racing promotion fund.
4. The racing advisory commission shall meet at least twice per year and any additional meetings as the chairman deems necessary.
5. Racing advisory 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 4. 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 5. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of ~~commission~~ agriculture commissioner and attorney general.**

1. The ~~commission~~ agriculture commissioner shall:
  - 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. ~~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. ~~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 6. AMENDMENT.** Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04.1. North Dakota-bred registry - Contract requirements.** The ~~commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The ~~commission~~ agriculture commissioner may contract ~~with a private person~~ to maintain the registry. Through a competitive bidding process, the ~~commission~~ agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

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

**Powers of agriculture commissioner.** The agriculture commissioner 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 agriculture commissioner determines necessary from license applicants. The agriculture commissioner 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 8. 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 deems~~ License all participants in the racing and simulcast pari-mutuel wagering industry and require and obtain information the attorney general determines necessary from license applicants. Licensure of service providers, totalizator 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 9. 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 ~~simuleast~~ 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 ~~simuleast~~ pari-mutuel wagering as authorized by this chapter.

**SECTION 10. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-07. Issuance of licenses - Applications.**

1. On compliance by an applicant with this chapter ~~and the approval of, the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the ~~commission~~ agriculture commissioner. The application must contain at least the following:
  - a. The name and post-office address of the applicant.
  - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
  - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
  - d. The time, place, and number of days the racing meet is proposed to be conducted.
  - e. The type of racing to be conducted.
  - f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license

or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

**SECTION 11. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system to conduct racing~~ must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers,~~ employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure 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~~ agriculture commissioner. License fees are as established by the commission agriculture commissioner.
- 5- 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
- 6- The ~~commission~~ shall deposit all fees collected under this section in the ~~racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs of the ~~commission~~ under this chapter.

**SECTION 12.** 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 13. AMENDMENT.** Section 53-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-09. Allotment of racing days.** If an applicant is eligible to receive a license to conduct racing under this chapter, the ~~commissioner~~ agriculture commissioner shall fix the racing days that are allotted to that applicant and issue a license for the holding of racing meets.

**SECTION 14. 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 ~~commissioner~~ 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 ~~commissioner~~ attorney general may adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

**SECTION 15. 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 ~~commissioner~~ 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 ~~commissioner~~ 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. ~~Licensure 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 commissioner.~~ Notwithstanding any other provision of this chapter, the ~~commissioner~~ 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.~~ 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 16. 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 percent to the state treasurer to be deposited in the general fund.
  - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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 percent to the state treasurer to be deposited in the general fund.
  - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.

- (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
- (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
- (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
- (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.

- (2) After 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
- (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
- (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
- (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After eleven million dollars is wagered in all pari-mutuel wagering 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
  - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- 3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.
- 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~~ agriculture commissioner 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~~ agriculture commissioner 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~~ agriculture commissioner. The ~~commission~~ agriculture commissioner may not transfer money among the funds. The ~~commission~~ agriculture commissioner shall distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The ~~commission~~ agriculture commissioner 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~~ agriculture commissioner, 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~~ agriculture commissioner's operating expenses.

**SECTION 17. 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~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~ agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

**SECTION 18. 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~~ agriculture commissioner. 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 19. 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~~ agriculture commissioner 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~~ agriculture commissioner 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 agriculture commissioner, or to the ~~commission~~ attorney general.
6. Willful disobedience of ~~a commission~~ an order of the agriculture commissioner 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 20. 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~~ agriculture commissioner 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 agriculture commissioner 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~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission~~. ~~The decision must be signed by the chairman, attested by the director, and dated~~ agriculture commissioner or attorney general.

**SECTION 21. 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~~ agriculture commissioner 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 22. TRANSITION.** All unexpired terms of members of the North Dakota racing commission are deemed expired as of June 30, 2009. The agriculture commissioner may reappoint a member of the North Dakota racing commission to the racing advisory commission."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after "commission" insert "; 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 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 53-06.2-09, 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; and to provide for transition"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-01. Definitions.** As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the ~~commission~~ agriculture commissioner, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
- 2- 4. "Certificate system" means the system of betting described in section 53-06.2-10.
- 3- 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
- 4- 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
- 5- ~~"Commission" means the North Dakota racing commission.~~
- 6- 7. "Director" means the director of the ~~commission~~ racing.
- 7- 8. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.

- 8- 9. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
- 9- 10. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
- 10- 11. "Purse fund" means a fund, administered by the ~~commission~~ agriculture commissioner, established to supplement and improve purses offered at racetracks within the state.
- 11- 12. "Racing" means live ~~or simulate~~ horse racing ~~under the certificate system or simulate dog racing under the certificate system.~~
- 12- 13. "Racing promotion fund" means a fund administered by the ~~commission~~ agriculture commissioner established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the ~~commission~~ agriculture commissioner.
- 13- 14. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
- 14- 15. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

**SECTION 3. AMENDMENT.** Section 53-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A ~~North Dakota~~ racing advisory commission is established ~~consisting in the office of the agriculture commissioner. The racing advisory 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 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~~ members of the advisory commission 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 advisory commission, the ~~governor~~ agriculture commissioner shall appoint a new member to the advisory commission.
2. ~~A person~~ An individual is ineligible for appointment to the advisory 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 advisory commission ~~and cannot be employed by the commission~~. Failure to maintain compliance with this subsection is grounds for removal from the advisory 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~~ The racing advisory commission shall advise the director and the agriculture commissioner on policy and general operation of racing and on the administration of the breeders' fund, the purse fund, and the racing promotion fund.
4. The racing advisory commission shall meet at least twice per year and any additional meetings as the chairman deems necessary.
5. Racing advisory 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 4. 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 5. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of ~~commission~~ agriculture commissioner and attorney general.**

1. The ~~commission~~ agriculture commissioner shall:
  4. ~~a.~~ 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. ~~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. ~~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 6. AMENDMENT.** Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04.1. North Dakota-bred registry - Contract requirements.** The ~~commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The ~~commission shall~~ agriculture commissioner may contract ~~with a private person to~~ maintain the registry. Through a competitive bidding process, the ~~commission shall~~ agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

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

**Powers of agriculture commissioner.** The agriculture commissioner 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 agriculture commissioner determines necessary from license applicants. The agriculture commissioner 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 8. 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 simulate pari-mutuel wagering industry and require and obtain information the ~~commission deems~~ attorney general determines necessary from license applicants. ~~Licensure 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 9. 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.

**SECTION 10. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-07. Issuance of licenses - Applications.**

1. On compliance by an applicant with this chapter ~~and the approval of the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the ~~commission~~ agriculture commissioner. The application must contain at least the following:
  - a. The name and post-office address of the applicant.
  - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
  - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
  - d. The time, place, and number of days the racing meet is proposed to be conducted.
  - e. The type of racing to be conducted.
  - f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license

or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

**SECTION 11. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system~~ to conduct racing must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers,~~ employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure 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~~ agriculture commissioner. License fees are as established by the ~~commission~~ agriculture commissioner.
5. 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
6. ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs ~~of the commission under this chapter~~.

**SECTION 12.** 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 13. AMENDMENT.** Section 53-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-09. Allotment of racing days.** If an applicant is eligible to receive a license to conduct racing under this chapter, the ~~commissioner~~ agriculture commissioner shall fix the racing days that are allotted to that applicant and issue a license for the holding of racing meets.

**SECTION 14. 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 ~~commissioner~~ 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 ~~commissioner~~ attorney general may adopt rules for place, show, quinella, combination, or other types of betting usually connected with racing.

**SECTION 15. 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 ~~commissioner~~ 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 ~~commissioner~~ 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. ~~Licensure 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 commissioner.~~ Notwithstanding any other provision of this chapter, the ~~commissioner~~ 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 16. 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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 percent to the state treasurer to be deposited in the general fund.

- (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
- (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
- (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
- (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
- (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.

(2) After 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
- (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
- (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
- (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After eleven million dollars is wagered in all pari-mutuel wagering 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
  - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- 3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.
- 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~~ agriculture commissioner 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~~ agriculture commissioner 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~~ agriculture commissioner. The ~~commission~~ agriculture commissioner may not transfer money among the funds. The ~~commission~~ agriculture commissioner shall

distribute awards and payment supplements from the breeders' fund in the same calendar year the money was earned by the recipient. The ~~commission~~ agriculture commissioner 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~~ agriculture commissioner, 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~~ agriculture commissioner's operating expenses.

**SECTION 17. 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~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~ agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

**SECTION 18. 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~~ agriculture commissioner. 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 19. 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~~ agriculture commissioner 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~~ agriculture commissioner 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 agriculture commissioner, or to the ~~commission~~ attorney general.
6. Willful disobedience of ~~a commission~~ an order of the agriculture commissioner 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 20. 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~~ agriculture commissioner 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 agriculture commissioner 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~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission.~~ The decision must be signed by the chairman, attested by the director, and dated agriculture commissioner or attorney general.

**SECTION 21. 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~~ agriculture commissioner 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 22. TRANSITION.** All unexpired terms of members of the North Dakota racing commission are deemed expired as of June 30, 2009. The agriculture commissioner may reappoint a member of the North Dakota racing commission to the racing advisory commission."

Renumber accordingly

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after "commission" insert "; 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; and to amend and reenact sections 53-06.2-04, 53-06.2-05, 53-06.2-06, 53-06.2-08, 53-06.2-09, 53-06.2-10, 53-06.2-10.1, subsections 3 and 4 of section 53-06.2-11, sections 53-06.2-12, 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"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission 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- ~~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. ~~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 3.** 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 agriculture commissioner 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 4. 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 deems attorney general determines necessary from license applicants. ~~Licensure of service providers, totalizator 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~~ attorney general's operating fund. Subject to legislative appropriation, the ~~commission attorney general~~ attorney general may spend the fees for operating costs of the ~~commission~~ under this chapter.

**SECTION 5. 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.

**SECTION 6. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system to conduct racing~~ must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the commission and within the hours permitted by state law.
2. The commission may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment~~

period or, in the case of new or altered conditions, based on the projected revenues.

4. The commission may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers~~, employees of racing associations, and such other persons as determined by the commission. ~~Licensure of service providers, totalizator 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.~~ License fees are as established by the commission.
5. ~~4.~~ The commission may establish the period of time for which licenses issued under this chapter are valid.
6. ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the commission may spend the fees for operating costs of the commission.

**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 53-06.2-09 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-09. Allotment of racing days.** If an applicant is eligible to receive a license to conduct racing under this chapter, the commission shall fix the racing days that are allotted to that applicant and issue a license for the holding of racing meets.

**SECTION 9. 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 10. 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. ~~Licensure 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 11. AMENDMENT.** Subsections 3 and 4 of section 53-06.2-11 of the North Dakota Century Code are amended and reenacted as follows:

3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.

**SECTION 12. 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 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."

Renumber accordingly



PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 1, after "appropriation" insert "to the agriculture commissioner"

Page 1, line 2, after "commission" insert "; 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 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 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; and to provide for transition"

Page 1, line 7, replace "racing commission" with "agriculture commissioner" and replace "that agency" with "activities of the racing commission"

Page 1, line 11, after "commission" insert "activities" and replace "\$35,286" with "(\$177,290)" and replace "442,576" with "230,000"

Page 1, line 13, replace "\$291,984" with "(\$79,408)" and replace "412,576" with "200,000"

Page 1, line 14, replace "0.00" with "(1.50)" and replace "2.00" with "0.50"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-01. Definitions.** As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
- 2- 4. "Certificate system" means the system of betting described in section 53-06.2-10.
- 3- 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
- 4- 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the

organization conducts its principal activities, and which has existed in this state for at least two years.

- 5- 7. "Commission" means the North Dakota racing commission.
- 6- 8. "Director" means the director of the commission.
- 7- 9. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.
- 8- 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
- 9- 11. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
- 10- 12. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.
- 11- 13. "Racing" means live or simulcast horse racing ~~under the certificate system or simulcast dog racing under the certificate system.~~
- 12- 14. "Racing promotion fund" means a fund administered by the commission established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the commission.
- 13- 15. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
- 14- 16. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

**SECTION 3. 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 4. 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 5. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission and attorney general.**

1. The commission shall:
  - 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. ~~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. ~~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 6. AMENDMENT.** Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04.1. North Dakota-bred registry - Contract requirements.** The ~~commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The ~~commission shall~~ agriculture commissioner may contract with a private person to maintain the registry. Through a competitive bidding process, the ~~commission shall~~ agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

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

**Powers of agriculture commissioner.** The agriculture commissioner 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 agriculture commissioner determines necessary from license applicants. The agriculture commissioner 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 8. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure 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 9. 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 ~~simuleast~~ 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 ~~simuleast~~ pari-mutuel wagering as authorized by this chapter.

**SECTION 10. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-07. Issuance of licenses - Applications.**

1. On compliance by an applicant with this chapter ~~and the approval of, the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the ~~commission~~ agriculture commissioner. The application must contain at least the following:
  - a. The name and post-office address of the applicant.
  - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
  - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
  - d. The time, place, and number of days the racing meet is proposed to be conducted.
  - e. The type of racing to be conducted.
  - f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license

or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

**SECTION 11. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system~~ to conduct racing must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers,~~ employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure 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~~ agriculture commissioner. License fees are as established by the ~~commission~~ agriculture commissioner.
5. 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
6. ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs ~~of the commission under this chapter~~.

**SECTION 12.** 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 13. 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 14. 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 15. 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.

(c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.

(d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.

(2) After 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.

(b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.

(c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.

(d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.

(c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.

- (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After eleven million dollars is wagered in all pari-mutuel wagering 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
  - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- 3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.
- 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~~ agriculture commissioner 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~~ agriculture commissioner. 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 16. 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~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~ agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

**SECTION 17. 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 ~~commission~~ agriculture commissioner. 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 18. 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~~ agriculture commissioner 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~~ agriculture commissioner 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 agriculture commissioner, or to the ~~commission~~ attorney general.
6. Willful disobedience of a ~~commission~~ an order of the agriculture commissioner 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 19. 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~~ agriculture commissioner 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 agriculture commissioner 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~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission~~. ~~The decision must be signed by the chairman, attested by the director, and dated~~ agriculture commissioner or attorney general.

**SECTION 20. 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~~ agriculture commissioner 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 21. 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

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0106 FN 1**

A copy of the statement of purpose of amendment is attached.

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2024 - Summary of House Action**

	Executive Budget	Senate Version	House Changes	House Version
Department of Agriculture				
Total all funds	\$0	\$0	\$230,000	\$230,000
Less estimated income	0	0	30,000	30,000
General fund	\$0	\$0	\$200,000	\$200,000
Racing Commission				
Total all funds	\$442,576	\$442,576	(\$442,576)	\$0
Less estimated income	30,000	30,000	(30,000)	0
General fund	\$412,576	\$412,576	(\$412,576)	\$0
Bill total				
Total all funds	\$442,576	\$442,576	(\$212,576)	\$230,000
Less estimated income	30,000	30,000	0	30,000
General fund	\$412,576	\$412,576	(\$212,576)	\$200,000

**Senate Bill No. 2024 - Department of Agriculture - House Action**

	Executive Budget	Senate Version	House Changes	House Version
Racing commission activities			\$230,000	\$230,000
Total all funds	\$0	\$0	\$230,000	\$230,000
Less estimated income	0	0	30,000	30,000
General fund	\$0	\$0	\$200,000	\$200,000
FTE	0.00	0.00	0.50	0.50

**Department No. 602 - Department of Agriculture - Detail of House Changes**

	Adds Funding for Racing Commission Activities <sup>1</sup>	Total House Changes
Racing commission activities	\$230,000	\$230,000
Total all funds	\$230,000	\$230,000
Less estimated income	30,000	30,000
General fund	\$200,000	\$200,000
FTE	0.50	0.50

<sup>1</sup> Funding is provided to the Agriculture Commissioner for defraying the expenses of Racing Commission activities. The Agriculture Commissioner is also authorized a .5 FTE position.

**Senate Bill No. 2024 - Racing Commission - House Action**

	<b>Executive Budget</b>	<b>Senate Version</b>	<b>House Changes</b>	<b>House Version</b>
Racing Commission	\$442,576	\$442,576	(\$442,576)	
Total all funds	\$442,576	\$442,576	(\$442,576)	\$0
Less estimated income	30,000	30,000	(30,000)	0
General fund	\$412,576	\$412,576	(\$412,576)	\$0
FTE	2.00	2.00	(2.00)	0.00

**Department No. 670 - Racing Commission - Detail of House Changes**

	<b>Removes Funding for Racing Commission<sup>1</sup></b>	<b>Total House Changes</b>
Racing Commission	(\$442,576)	(\$442,576)
Total all funds	(\$442,576)	(\$442,576)
Less estimated income	(30,000)	(30,000)
General fund	(\$412,576)	(\$412,576)
FTE	(2.00)	(2.00)

<sup>1</sup> This amendment removes funding and FTE positions of the Racing Commission.

This amendment also adds sections:

- Establishing the Racing Commission in the office of the Agriculture Commissioner.
- Changing the method of appointing the racing commissioner.
- Providing for racing-related duties to be administered by the Attorney General.
- Changing various sections relating to the regulation of racing and pari-mutual wagering.

**2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2024**

House House Appropriations- Government Operations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 98043.0106

Action Taken Do Pass, As Amended

☐ Voice Vote

☒ Roll Call Vote

Motion Made By Representative Kempenich: Seconded By Representative Meyer:

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Representative Glassheim	X	
Vice Chairman Thoreson	X		Representative Meyer	X	
Representative Kempenich	X		Representative Kaldor	X	
Representative Berg	X				
Representative Dosch	X				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Representative Meyer:

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

*No #1 found*



Date: 4/8/09  
Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number .0106

Action Taken Adopt Amendment - 0106

Motion Made By Meyer 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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after "commission" insert "; 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 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 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 for transition; and to provide an effective date."

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-01. Definitions.** As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
2. 4. "Certificate system" means the system of betting described in section 53-06.2-10.
3. 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
4. 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
5. 7. "Commission" means the North Dakota racing commission.
6. 8. "Director" means the director of the commission.
7. 9. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members,

and has so existed in this state for two years. The term does not include a college or high school fraternity.

- 8- 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
- 9- 11. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
- 10- 12. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.
- 11- 13. "Racing" means live or simulcast horse racing under the certificate system or simulcast dog racing under the certificate system.
- 12- 14. "Racing promotion fund" means a fund administered by the commission established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the commission.
- 13- 15. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
- 14- 16. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

**SECTION 3. 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 ~~existing 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 4. 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 5. 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. ~~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. ~~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 6. AMENDMENT.** Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04.1. North Dakota-bred registry - Contract requirements.** The ~~commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The ~~commission shall~~ agriculture commissioner may contract with a private person to maintain the registry. Through a competitive bidding process, the ~~commission shall~~ agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

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

**Powers of agriculture commissloner.** The agriculture commissioner 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 agriculture commissioner determines necessary from license applicants. The agriculture commissioner 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 8. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure of service providers, totalizator 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 9. 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 ~~simul~~ 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 ~~simul~~ at least pari-mutuel wagering as authorized by this chapter.

**SECTION 10. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-07. Issuance of licenses - Applications.**

1. On compliance by an applicant with this chapter ~~and the approval of, the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the ~~commission~~ agriculture commissioner. The application must contain at least the following:
  - a. The name and post-office address of the applicant.
  - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
  - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
  - d. The time, place, and number of days the racing meet is proposed to be conducted.
  - e. The type of racing to be conducted.
  - f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

**SECTION 11. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system~~ to conduct racing must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers~~, employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure of service providers, totalizator 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~~ agriculture commissioner. License fees are as established by the commission agriculture commissioner.
5. 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
6. ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs ~~of the commission~~ under this chapter.

**SECTION 12.** 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 13. 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 14. 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. ~~Licensure 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 15. 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
  - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- (2) After eleven million dollars is wagered in all pari-mutuel wagering 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
  - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.
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~~ agriculture commissioner 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~~ agriculture commissioner. 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 16. 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~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~ agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

**SECTION 17. 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~~ agriculture commissioner. 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 18. 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~~ agriculture commissioner 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~~ agriculture commissioner 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 agriculture commissioner, or to the ~~commission~~ attorney general.

6. Willful disobedience of ~~a commission~~ an order of the agriculture commissioner 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 19. 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~~ agriculture commissioner 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 ~~agriculture commissioner 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~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission~~. ~~The decision must be signed by the chairman, attested by the director, and dated~~ agriculture commissioner or attorney general.

**SECTION 20. 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~~ agriculture commissioner 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 21. TRANSITION.** Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

**SECTION 22. EFFECTIVE DATE.** Sections 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 18, 19, and 20 of this Act become effective on July 1, 2011."

Renumber accordingly

Date: 4/8/09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number TBD

*Further Amend.* Action Taken Change off date from 2009 to 2011.  
Motion Made By Berg Seconded By Glassheim

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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Voice Vote - advisory

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

Date: 4/8/09  
Roll Call Vote #: 3

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

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

Action Taken restore funding as noted in 2024.

Motion Made By Wald Seconded By \_\_\_\_\_

*no second*

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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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



Date: 4/8/09  
Roll Call Vote #: 4

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number TBD

Action Taken Remove \$10,000 from travel line

Motion Made By Meyer Seconded By Nelson

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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 4/8/09  
Roll Call Vote #: 5

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

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

Action Taken remove funding and SFE in .0106

Motion Made By Delzer Seconded By Skarphol

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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Voice Vote - carries

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

Date: 4/8/09  
Roll Call Vote #: 6

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number TBD

Action Taken add 2 FTEs and \$325,000 (\$295,000 GF, \$30,000 SF)

Motion Made By Delger 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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Voice Vote - carries

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

Date: 4/8/09  
Roll Call Vote #: 7

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number TBD

Action Taken Adopt . 0106 as amended

Motion Made By Meyer 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) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment Voice Vote - Carried

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

VR  
4/10/09  
1814

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

Page 1, line 2, after "commission" insert "; 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 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 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 for transition; and to provide an effective date"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-01. Definitions.** As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
- ~~2-~~ 4. "Certificate system" means the system of betting described in section 53-06.2-10.
- ~~3-~~ 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
- ~~4-~~ 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
- ~~5-~~ 7. "Commission" means the North Dakota racing commission.
- ~~6-~~ 8. "Director" means the director of the commission.

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- 7- 9. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.
  - 8- 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
  - 9- 11. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
  - 10- 12. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.
  - 11- 13. "Racing" means live ~~or simulcast~~ horse racing ~~under the certificate system or simulcast dog racing under the certificate system.~~
  - 12- 14. "Racing promotion fund" means a fund administered by the commission established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the commission.
  - 13- 15. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
  - 14- 16. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

**SECTION 3. 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 4. 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 5. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission and attorney general.**

1. The commission shall:
  1. ~~a.~~ a. Provide for racing ~~under the certificate system.~~
  2. ~~b.~~ b. Set racing dates.
  3. ~~c.~~ 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. ~~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. ~~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 6. AMENDMENT.** Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04.1. North Dakota-bred registry - Contract requirements.** The ~~commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. ~~The commission shall~~ agriculture commissioner may contract with a private person to maintain the registry. Through a competitive bidding process, the ~~commission shall~~ agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

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

**Powers of agriculture commissioner.** The agriculture commissioner 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 agriculture commissioner determines necessary from license applicants. The agriculture commissioner 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 8. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure 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.

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- 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~~ 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 9. 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.

**SECTION 10. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-07. Issuance of licenses - Applications.**

1. On compliance by an applicant with this chapter ~~and the approval of, the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the ~~commission~~ agriculture commissioner. The application must contain at least the following:
  - a. The name and post-office address of the applicant.
  - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
  - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
  - d. The time, place, and number of days the racing meet is proposed to be conducted.
  - e. The type of racing to be conducted.
  - f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

7814

**SECTION 11. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system~~ to conduct racing must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers,~~ employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure of service providers, totalizator 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~~ agriculture commissioner. License fees are as established by the ~~commission~~ agriculture commissioner.
- 5- 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
- 6- ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs ~~of the commission~~ under this chapter.

**SECTION 12.** 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 13. 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 14. 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. ~~Licensure 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 15. 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
    - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
  - (2) After 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
    - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
    - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.

- (2) After eleven million dollars is wagered in all pari-mutuel wagering 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
  - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.
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~~ agriculture commissioner 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~~ agriculture commissioner. 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 16. 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~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~

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agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

**SECTION 17. 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~~ agriculture commissioner. 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 18. 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~~ agriculture commissioner 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~~ agriculture commissioner 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 agriculture commissioner, or to the ~~commission~~ attorney general.
6. Willful disobedience of a ~~commission~~ an order of the agriculture commissioner 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 19. 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~~ agriculture commissioner 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 agriculture commissioner 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~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission~~. ~~The decision must be signed by the chairman, attested by the director, and dated~~ agriculture commissioner or attorney general.

**SECTION 20. 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~~ agriculture commissioner 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 21. TRANSITION.** Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

**SECTION 22. EFFECTIVE DATE.** Sections 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 18, 19, and 20 of this Act become effective on July 1, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0108 FN 2**

A copy of the statement of purpose of amendment is attached.

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2024 - Racing Commission - House Action**

	<b>Executive Budget</b>	<b>Senate Version</b>	<b>House Changes</b>	<b>House Version</b>
Racing Commission	\$442,576	\$442,576	(\$117,576)	\$325,000
Total all funds	\$442,576	\$442,576	(\$117,576)	\$325,000
Less estimated income	30,000	30,000	0	30,000
General fund	\$412,576	\$412,576	(\$117,576)	\$295,000
FTE	2.00	2.00	0.00	2.00

**Department No. 670 - Racing Commission - Detail of House Changes**

	<b>Reduces Funding for Racing Commission<sup>1</sup></b>	<b>Total House Changes</b>
Racing Commission	(\$117,576)	(\$117,576)
Total all funds	(\$117,576)	(\$117,576)
Less estimated income	0	0
General fund	(\$117,576)	(\$117,576)
FTE	0.00	0.00

<sup>1</sup> Funding from the general fund for operating costs of the Racing Commission is reduced by \$117,576.

This amendment also adds sections:

- Establishing the Racing Commission in the office of the Agriculture Commissioner on July 1, 2011.
- Changing the method of appointing the Racing Commissioner beginning July 1, 2011.
- Providing for racing-related duties to be administered by the Attorney General.
- Changing various sections relating to the regulation of racing and pari-mutuel wagering.

Date: 4/8/09  
Roll Call Vote #: 8

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2024

Full House Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number TBD

Action Taken DP AA

Motion Made By Meers Seconded By Kempenich

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) 9 No 5

Absent 1

Floor Assignment Meers

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

**REPORT OF STANDING COMMITTEE**

**SB 2024: Appropriations Committee (Rep. Svedjan, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). SB 2024 was placed on the Sixth order on the calendar.

Page 1, line 2, after "commission" insert "; 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 53-06.2-01, 53-06.2-02, 53-06.2-03, 53-06.2-04, 53-06.2-04.1, 53-06.2-05, 53-06.2-06, 53-06.2-07, 53-06.2-08, 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 for transition; and to provide an effective date"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

**"SECTION 2. AMENDMENT.** Section 53-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-01. Definitions.** As used in this chapter:

1. "Agriculture commissioner" means the agriculture commissioner or the agriculture commissioner's designee.
2. "Attorney general" means the attorney general or the attorney general's designee.
3. "Breeders' fund" means a fund, administered by the commission, established to financially reward breeders or owners of North Dakota-bred horses to be paid in accordance with rules as approved by the ~~commission~~ agriculture commissioner.
- 2- 4. "Certificate system" means the system of betting described in section 53-06.2-10.
- 3- 5. "Charitable organization" means a nonprofit organization operated for the relief of poverty, distress, or other conditions of public concern in this state and has been so engaged in this state for at least two years.
- 4- 6. "Civic and service club" means a branch, lodge, or chapter of a nonprofit national or state organization that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose in this state and has so existed in this state for at least two years. The term includes a similar local nonprofit organization, not affiliated with a state or national organization, which is so recognized by a resolution adopted by the governing body of the local jurisdiction in which the organization conducts its principal activities, and which has existed in this state for at least two years.
- 5- 7. "Commission" means the North Dakota racing commission.
- 6- 8. "Director" means the director of the commission.

- 7- 9. "Fraternal organization" means a nonprofit organization in this state, which is a branch, lodge, or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members, and has so existed in this state for two years. The term does not include a college or high school fraternity.
- 8- 10. "Local jurisdiction" means, with respect to a site inside the city limits of a city, that city, and with respect to a site not inside the city limits of a city, the county in which the site is located.
- 9- 11. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of the appropriate local jurisdiction by resolution as public-spirited and eligible under this chapter.
- 10- 12. "Purse fund" means a fund, administered by the commission, established to supplement and improve purses offered at racetracks within the state.
- 11- 13. "Racing" means live ~~or simulcast~~ horse racing ~~under the certificate system or simulcast dog racing under the certificate system.~~
- 12- 14. "Racing promotion fund" means a fund administered by the commission established to assist in improving and upgrading racetracks in the state, promoting horse racing in the state, and developing new racetracks in the state as necessary and approved by the commission.
- 13- 15. "Religious organization" means a nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances, and which has been so gathered or united in this state for at least two years.
- 14- 16. "Veterans' organization" means a congressionally chartered organization in this state, or a branch, lodge, or chapter of a nonprofit national or state organization in this state, the membership of which consists of individuals who were members of the armed services or forces of the United States, and which has so been in existence in this state for at least two years.

**SECTION 3. 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 4. 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~~ agriculture commissioner prescribes.
3. The director may employ other ~~persons~~ individuals as authorized by the ~~commission~~ agriculture commissioner.

**SECTION 5. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission and attorney general.**

1. The commission shall:
  4. 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. ~~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. ~~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 6. AMENDMENT.** Section 53-06.2-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04.1. North Dakota-bred registry - Contract requirements.** The ~~commission~~ agriculture commissioner shall provide for registration of a North Dakota-bred horse for qualification for breeders' fund awards or purse supplements. The ~~commission shall~~ agriculture commissioner may contract with a private person to maintain the registry. Through a competitive bidding process, the ~~commission shall~~

agriculture commissioner may award the contract to the lowest responsible bidder. The cost of the contract must be paid from the breeders' fund.

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

**Powers of agriculture commilssioner.** The agriculture commissioner 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 agriculture commissioner determines necessary from license applicants. The agriculture commissioner 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 8. AMENDMENT.** Section 53-06.2-05 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-05. Powers of ~~ecommission~~ attorney general.** The ~~ecommission~~ 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 ~~ecommission deems~~ attorney general determines necessary from license applicants. ~~Licensure~~



~~of service providers, totalizator 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.~~

- ~~6. 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 raciing 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 9. 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 ~~simuleast~~ 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 ~~simuleast~~ pari-mutuel wagering as authorized by this chapter.

**SECTION 10. AMENDMENT.** Section 53-06.2-07 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-07. Issuance of licenses - Applications.**

1. On compliance by an applicant with this chapter ~~and the approval of, the attorney general, the commission~~ agriculture commissioner may issue a license to conduct races. ~~The attorney general may not grant a license denied by the commission.~~
2. An application for a license to conduct a racing meet must be signed under oath and filed with the commission agriculture commissioner. The application must contain at least the following:
  - a. The name and post-office address of the applicant.
  - b. The location of the racetrack and whether it is owned or leased. If the racetrack is leased, a copy of the lease must be included.
  - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
  - d. The time, place, and number of days the racing meet is proposed to be conducted.
  - e. The type of racing to be conducted.

- f. Other information the ~~commission~~ agriculture commissioner requires.
3. At least thirty days before the ~~commission~~ agriculture commissioner issues or renews a license to conduct races, the applicant shall deliver a complete copy of the application to the local jurisdiction governing body. The application to the ~~commission~~ agriculture commissioner must include a certificate verified by a representative of the applicant, indicating delivery of the application copy to the governing body. If the governing body of the local jurisdiction adopts a resolution disapproving the application for license or renewal and so informs the ~~director~~ agriculture commissioner within thirty days of receiving a copy of the application, the license to conduct races may not be issued or renewed.

**SECTION 11. AMENDMENT.** Section 53-06.2-08 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-08. License authorization and fees.**

1. Each license issued ~~under the certificate system to conduct racing~~ must describe the place, track, or racecourse at which the licensee may hold races. Every license must specify the number of days the licensed races may continue, the hours during which racing may be conducted, and the number of races that may be held each day. Races authorized under this chapter may be held during the hours approved by the ~~commission~~ agriculture commissioner and within the hours permitted by state law.
2. The ~~commission~~ agriculture commissioner may charge a license fee for racing commensurate with the size and attendance of the race meet.
3. ~~Each applicant for a license under this chapter shall give bond payable to this state with good security as approved by the commission. The bond must be in the amount the commission determines will adequately protect the amount normally due and owing to this state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.~~
4. The ~~commission~~ agriculture commissioner may grant licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise workers, veterinarians, valets, concessionaires, ~~service providers,~~ employees of racing associations, and such other persons as determined by the ~~commission~~. ~~Licensure 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~~ agriculture commissioner. License fees are as established by the ~~commission~~ agriculture commissioner.
5. 4. The ~~commission~~ agriculture commissioner may establish the period of time for which licenses issued under this chapter are valid.
6. ~~The commission shall deposit all fees collected under this section in the racing commission operating fund.~~
5. Subject to legislative appropriation, the ~~commission~~ agriculture commissioner may spend the fees for operating costs ~~of the commission under this chapter~~.

**SECTION 12.** 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 13. 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 14. 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. ~~Licensure 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 15. 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 percent to the state treasurer to be deposited in the general fund.
    - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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 percent to the state treasurer to be deposited in the general fund.
  - (2) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
  - (3) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
  - (4) One-half of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
      - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
      - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
    - (2) After 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
      - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
      - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.

- (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner 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~~ agriculture commissioner to be deposited in the breeders' fund.
    - (c) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (d) One-half of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
  - (2) After eleven million dollars is wagered in all pari-mutuel wagering 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) One-sixteenth of one percent to the state treasurer to be deposited in the general fund.
    - (b) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the breeders' fund.
    - (c) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the purse fund.
    - (d) One-sixteenth of one percent to the ~~commission~~ agriculture commissioner to be deposited in the racing promotion fund.
- 3. For all pari-mutuel wagering the licensee shall pay to the ~~commission~~ attorney general 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~~ attorney general.
- 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~~ agriculture commissioner 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~~ agriculture commissioner. 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 16. 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~~ agriculture commissioner or attorney general, the state auditor shall conduct audits and investigate the operations of any licensee. The ~~commission~~ agriculture commissioner or attorney general shall reimburse the state auditor for all services rendered.

**SECTION 17. 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~~ agriculture commissioner. 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:
  - (+) 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 18. 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~~ agriculture commissioner 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~~ agriculture commissioner 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 agriculture commissioner, or to the ~~commission~~ attorney general.
6. Willful disobedience of ~~a commission~~ an order of the agriculture commissioner 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 19. 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~~ agriculture commissioner 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 agriculture commissioner 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~~ agriculture commissioner or attorney general must be made in writing and filed ~~with the director~~ for preservation as a permanent record of the ~~commission~~. ~~The decision must be signed by the chairman, attested by the director, and dated~~ agriculture commissioner or attorney general.

**SECTION 20. 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~~ agriculture commissioner 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 21. TRANSITION.** Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

**SECTION 22. EFFECTIVE DATE.** Sections 2, 3, 4, 6, 7, 10, 11, 15, 16, 17, 18, 19, and 20 of this Act become effective on July 1, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0108 FN 2**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

2009 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2024

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2024 conference committee

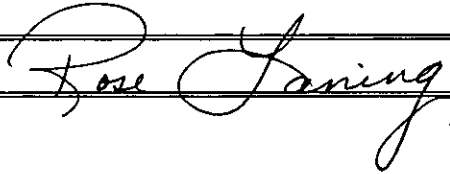
Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: April 20, 2009

Recorder Job Number: 11997

Committee Clerk Signature



Minutes:

**Senator Fischer** called the conference committee hearing to order on SB 2024 on the Racing Commission.

Conference committee members present were: **Senator Fischer, Senator Grindberg, Senator Seymour, Rep. Berg, Rep. Kempenich and Rep. Shirley Meyer.**

**Senator Fischer:** Would you like to explain the House amendments?

**Rep. Kempenich:** As you go through amendment .0108, we were trying to split up the Racing Commission into two different entities. In the past we've only been granting \$120,000 in a grant process and this time the bill came in as a full fledged appropriation. They have been depleting their three funds. This would take the Racing Commission out of the regulatory part of it to a certain extent. They probably went a little farther than intended. On the House side, we didn't want to fund their operation without having a say in it. The amendments split the gambling part to the Attorney General and the horse racing to the Ag Commissioner. With the amendment, the Racing Commission would be in charge of the funds, the promotional part of horse racing. This came about because of the change in funding the last few bienniums.

**Senator Seymour:** The governor's office said they did a vetting of this organization, there were a few loose ends, they worked with them a few months and felt this appropriation was appropriate to get them back on track.

**Senator Grindberg:** Embedded in these various philosophies and proposed changes, is the loss of the big bettors. The income has declined. There is a loss of wagering.

**Rep. Berg:** About 6-7 years ago, we had some very big bettors coming in betting upwards of \$100,000,000 over the course of the year. Our tax brought in quite a bit of revenue to state government. All horse racing was in the Attorney General's office. There were taxes that were owed the state. There were federal charges. The long and short of it is we lost all our big bettors through that whole mess. After that, the Attorney General came to legislature and said he didn't want to have anything to do with the Racing Commission anymore. We ended up with a Racing Commission that is a standalone entity much the same as WSI was until this fall. The governor appoints directors and the directors hire staff, manage the staff, and carry out the functions of the statute for the Racing Commission. We're asking a lot of volunteer appointees to step into a Racing Commission position and be responsible for managing the staff, responsible for para-mutual betting, and be responsible for the live horse racing. The House passed a bill to move it all back to the Attorney General last session and it was defeated in the Senate. The House passed another bill to do that again this session and it was also defeated in the Senate. My number one concern is we have a governance issue within state government. We have an entity with no elected official having direct control. The Racing Commission needs a home. I don't care where that home is whether it was back with the Attorney General, the governor's office, the Ag Department, the Secretary of State. I agree the current Racing Commission has done a yeomen's job in the last 2 years. A lot of the issues and concerns we had from an operations standpoint, they have put checks and balances together and that is very positive. We're putting \$420,000 of general fund money into horse racing. If someone came to the legislature and asked for \$420,000 to start horse racing in the state, that bill would not make it very far. How can racing become self-sustainable? We have

gone from \$120,000 to \$420,000. That is how the House viewed the problem. I don't want to speak for anyone else because things always change. There is level of acceptance for taking para-mutual out of the live horse racing and put it with the Attorney General. It fits with their work with the lottery and gaming. The second part of the bill is what to do with live racing. If there should be an elected official associated with it, who should it be? There is the promotion of racing and the regulatory portion. If the Attorney General takes the regulatory part then the promotion of horse races makes sense in the Ag Department. Earlier I proposed an amendment to committee to leave the Racing Commission as is, give para-mutual to the Attorney General and it evolved into putting live racing into Ag Department. This is beneficial because the staffing is done by the Ag Commissioner. The Racing Commission members don't have to deal with employees and would have full authority over the dispersal of the three funds. There was resistance to that. We would have two years for them to figure out how to long term cash flow the Racing Commission. If we can't cash flow the Racing Commission, we need to figure out how we can most economically disperse those funds. That is some history and that brings us where I am today in this conference committee.

**Senator Grindberg:** Thank you for the summary. It's like a slippery slope, a downward trend. We ended up passing a bill and it was all to keep the big bettors. We have had that bill every session. We just passed another one, Representative Boucher introduced, we defeated it then brought it back and passed it, all in the quest to keep the big bettors. We have the governance issue to resolve. If we want this industry to survive why don't we quit taxing them? Give them a four year sunset, whatever they generate goes into the commission. We are collecting and we are giving general funds back. We hamstringing this entity to flourish in the state. We have the big bettors and a governance issue. It's all mumbled up.

**Rep. Berg:** The revenue from the fees from gambling is going into these different purses which are dispersed to owners and winners. The actual Racing Commission only has \$30,000 income from licensing. The general fund is receiving no money. The Racing Commission receives \$30,000 from the licensing of jockeys. The proposed executive budget was \$412,000 of general fund money. All of the revenue from gambling is flowing into the purse funds; none is being used for operations. The industry is saying you made millions of dollars off us in the hay day; you can't say it is costing you money. The next biennium will cost us \$412,000 in general fund money to fund the Racing Commission for two years. In the House we reduced that but it is still up from \$120,000 last biennium. Part of what you're suggesting is not unreasonable. Most organizations have to fund operations out of fees.

**Sandy Dies, Fiscal Analyst, OMB:** A certain amount of the tax goes into the general fund, \$184,000 in 2007 and an estimate of \$216,000 will go into the general fund for those two years as part of the tax. There is the disbursement between the purse fund, the breeder's fund and the promotion fund.

**Senator Grindberg:** That totals about \$400,000. If they are asking for \$400,000, we're taking it and appropriating it.

**Rep. Kempenich:** They started running into trouble about 6 years ago. Four years ago, the \$120,000 was kicking in money to start with. Before that they weren't getting any general fund money. When they switched and went separate from the Attorney General that was the idea behind kicking in some money. The policy part of this is driving it more that the budget part of this.

**Senator Fischer:** I've been in this a short time. HB 1551 addresses the tax. The tax is reduce, the Racing Commission takes the? of the tax and in the bill it defines the funds and how the tax is split out. Is there a piece for operations of the Racing Commission?

**Rep. Meyer:** Twenty five percent of the promotion fund can be used for the operation of the Racing Commission. The bill that you acted had the breakage amounts; they were split into different percentages.

**Senator Fischer:** So there is funding in HB 1551 for the operations of the racing commission?

**Rep. Meyer:** They can use 25% of the promotion fund that is in statute. The updated amendment that we have does have that formula. (Handed out amendment 98043.0110 – see attached # 1). When the amendment passed the House, it was problematic. With the length of the amendment, there were a few mistakes. They want to clarify they intend for the Racing Commission to retain all of its powers. Dealing with the staff would be in the Ag Commissioner's office (found on page 8 of amendment - #3) (Read from bill 20:00) Twenty five percent of the monies in the racing promotion fund goes to the operating budget of the Racing Commission.

**Senator Grindberg:** The origins and percentages of various funds, was that set up to minimize battles turf battles between horsemen or is it modeled after racing in other states?

**Rep. Meyers:** There were three different funds set up, the purse fund, the promotion fund and the breeders' fund. They were set up for three different purposes to address all of the industry's needs. You hear a great deal about turf battles but I don't think that's the case other than a lack of communication. I think it's a piece in progress.

**Senator Grindberg:** It seems like we have a convoluted make-up. If we're collecting a tax and then appropriating general fund and we have an industry that is basically on the bottom, we should clean the slate and give the commission the authority to try to grow this industry. If they can't then four years from now, take them off the books. Nickling and diming over \$100,000 will not behoove anyone. The governance issue is a separate issue. Give them the freedom to make this work and report back. If it doesn't work take them off the books.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2024 Conference Committee

Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-24-09

Recorder Job Number: 12241

Committee Clerk Signature

*Alice Deiber* *dome upstair*

Minutes:

**Chairman Fischer** called the conference committee hearing to order in reference to SB 2024.

Let the record show all conferees are present. They are as follows: Senators Grindberg, Seymour; Representatives: Berg, Kempenich, Meyer. Brady Larson, Legislative council and Sandy Deis, OMB were present.

**Chairman Fischer:** What do we have to talk about? Do you have any ideas or motions?

**Representative Kempenich:** Did you get this piece?

**Chairman Fischer:** I have the one from Sandy.

**Senator Grindberg:** We had some discussion about percents and dollars that went to (inaudible) promotion fund, then the bill that appropriates \$442,000 and in this scenario we do collect tax into the general fund and then we give it back to them. We can see of what the estimates are as I understand this e-mail from Sandy we would expect to collect \$115,000 in general fund taxes and then the (inaudible) promotion would correct that amount and then we in a way will be (inaudible) in appropriation of the tax collected to appropriate (inaudible). Do I have that right?

**Sandy Deis:** You have that right.

**Senator Grindberg:** Is this based on that bill that passed to reduce the tax?



**Sandy Deis:** Yes it is. This is just an estimate from the racing commission. This is based on 1551 under the new tax structure. The tax is based on betting. (Written testimony # 1)

**Representative Berg:** So we are saying that for the next biennium we are expecting to generate \$115 for the general fund and \$115 for the breeder's fund?

**Representative Kempenich:** What they have done this last year with changing the tax, there is more going into the breeder's purse.

**Representative Berg:** Which fund can they tap into?

**Representative Meyer:** The promotion fund up to 25%.

**Discussion:** A discussion occurred among the committee members regarding amendments that were drawn up and whether or not they would work for everyone.

**Brady Larson:** I am just reviewing the version of the bill that the House passed its amendment .0108. It does have the (inaudible) for certain sections that relate to agriculture commissioners duties.

**Representative Kempenich:** Those amendments took the racing commission made the ag commissioner more of the regulator of that. This other set is basically the same thing only it keeps the racing commission setting up the races, and it gives the ag commissioner permission to hire a director.

**Representative Meyer:** If I am wrong with this and I am referencing the last version (.0109), in .0108 was problematic because of how we presented it, that this would go under the ag commissioner and the commission would remain intact and (inaudible) did not do that. So we worked after this passed the House to clarify the language in .0109 so that we clarified the language so it actually did do what we were saying it did. Which was to totally keep the commission intact, operate exactly how it does now with the ag commissioner getting a half time FTE, and having the ability to hire and fire the racing director. In version .0108, the

language didn't state that. So I just want everyone to be clear on what happened there. When I was reading it afterwards I noticed that and then corrected it last Friday with .0109.

**Representative Kempenich:** This would give some comfort for the ag commissioner. He did not want to get directly involved in the (inaudible); set up more like the board of animal health is where right now the commissioner has, he would have the ability to hire the director and the commission would have the authority for the races. I think that would work better.

**Chairman Fischer:** So, it would still be under the ag department?

**Representative Kempenich:** The only other way is to put some money in here and just let them with those amendments that you had where the (inaudible) part of it goes with the Attorney General; he over watches it. I am not going to vote to put 300 grand into their budget.

**Representative Berg:** I guess I appreciate the motion. It would simplify things. Having said that, if you want to accept that motion there are some things we need to do to improve the amendments that came over. There are other options we can go with. If you want to build from that, I would suggest we tweak it with the changes because they are more workable.

**Chairman Fischer:** I think if we are going to amend this tomorrow, then we are right back where we started as far as going to the floor.

**Representative Berg:** You have to vote on the floor but we would not have to vote on it again. I am not concerned about us having to vote on whatever comes out of this committee.

**Chairman Fischer:** How do you like those other amendments?

**Representative Kempenich:** That is one option that would be easier and we could do that. It would take some of the gambling part of it and put it into the Attorney General and have the racing permission run itself. The problem is how the budget is distributed. What we have done in the past, like the \$115,000 left in general fund, I am uncomfortable sticking more money in the general fund. We get much higher into this and we start funding this, if we go to

the full amount of funding, they can set salaries and we don't do that for any other commission that we have that we put direct general fund money into.

**Chairman Fischer:** If we let the commissioner run it and report to Attorney General, don't we have the pieces in place to keep an eye on what is going on?

11.55 **Representative Kempenich:** We do to a certain extend. There is still the issue of managing their offices the way they probably should be run. I don't have a problem putting some money into it, but they can access, if we stick \$120 or \$200 into it and then they can take some out of the promotion fund.

**Chairman Fischer:** Maybe we need to go back and think about it.

**Representative Berg:** We have all struggled with this thing.

**Chairman Fischer:** I have a problem with the ag dept.

**Representative Meyer:** I do want to mention, so that going forward, on Senator Fischer's amendment of .0109, it is very problematic on the line that says the charitable organization may not be responsible for the receipt and disbursement of any monies handled through any form of account wagering.

**Chairman Fischer:** That is not a problem. The Attorney General said it was unconstitutional.

**Representative Berg:** Every time you get a good idea and you go down that rabbit trail, there is some barrier to it. I know Representative Kempenich would not mind receding from the House amendments and putting \$120 grand in there and calling it a day.

**Chairman Fischer:** What we want to do is make it whole and not get the state involved in it any more than it is. I don't have a problem with the racing commissioner running it. I don't have a problem with the prize stuff. I think that Representative Meyer has finally got that across to people that your (inaudible) is lost. I just like to see if there a possibility for it to work without getting it all muddled up in all kinds of other organizations. If there is a piece over

there that gives some comfort to accountability by having them report to the Attorney General, I don't think that the Attorney General would have a problem with that.

**Representative Berg:** I think the House amendments probably accomplish what you want in terms of giving this commission two years to get their stuff together. I think it from an appropriations standpoint, they are generating \$400,000 in fees to the state or to them and they are spending \$400,000. I think this is destined from an appropriations stand point; our problem is that it is costing us \$400,000 in general fund and they are only bringing in \$115,000 to the general fund. I think the taxpayers will question why they are supporting gambling.

**Senator Grindberg:** That is what I was trying to do last meeting was the numbers don't add up. One way to look at this, I know 1551 passed, let the commission decide what each fund gets and (inaudible). And then take the general fund out of it and then they are really on their own. Then they will really have to come together on their own to agree. It is their job to figure it out. Not us nickel and diming and getting into the middle of the politics of the group that wants the breeders fund covered and the group that want promotion. They have been here arguing about it before.

**Representative Meyer:** To weigh in on that, there has to be some language to clarify with this, that you cannot touch the breeders fund and you cannot touch the purse fund for operations, currently you can only do 25% of the promotion fund and that is fine.

**Senator Grindberg:** They don't need the state statute to protect them.

**Representative Meyer:** They are entirely different than your promotion fund. It perhaps maybe the lack of understanding and how this works. When we were coming off of a lot of money being approved through taxes and then it hit a rough spot so to speak, then we have these 3 separate funds that are set up for a reason. The mindset of the commission is that they are going to go broke anyway, so all three of these funds need to go broke at the same time. The

problem with that is that the breeders fund is set up for an entirely different purpose, it is not set up to run a two person office. It is set up and established for years before we had any of this other stuff to encourage horse producers to raise horses. The same with the purse fund and the promotion fund. Why it became problematic, and it wasn't turf protection. The commission went in and they started robbing money out of the breeders fund to run the office.

**Senator Seymour:** Back to where they met with the Governor and he put \$400,000 into this. At least they were analyzing it and they had their ideas.

**Representative Berg:** I am thinking that two years from now we will have better information. Part of me thinks we should will move the par mutual and do whatever you are doing for two years. We are kind of saying to come up with better alternative. I am not sure if that is better for the racing commission to come up with better structure, place, etc. and get the horse people to agree to that and if they can come to the legislature united on keeping it separate or moving it someplace else. I think we can support that two years from now. Maybe if we just add intent language that the 2011 session is open to other alternatives, however this is the plan. I like that it would get it off of our shoulders.

**Representative Kempenich:** (inaudible)

**Representative Berg:** They will have to come with a plan. Quite frankly this is the first time that I have understood the cash flow. It needs to be communicated to the legislature.

**Chairman Fischer:** From my limited experience in this realm (inaudible) I don't want to let it go of it here, (inaudible) and in talking to people who are raising horses, we should be putting something together that at least sustains them over the next two years. If everyone is comfortable with that, I am comfortable with it. The fact is that there are a lot of people out there raising horses. I am comfortable with any part of it that will work for two years. I am also comfortable with a limited amount of cash that is a reasonable amount that will adequately

fund them so that they have a chance to be successful. I think we need to go back and put that back. I don't think we have the paperwork here to accomplish that unless – I think we need to put these things together.

**Discussion:** The committee discussed what they needed to finish up.

**Chairman Fischer:** Adjourns to finish up the next time.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2024 Conference Committee

Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-27-09

Recorder Job Number: 12315

Committee Clerk Signature
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Minutes:

**Chairman Fischer** called the conference committee to order on 2024. Let the record show that all conferees are present except Representative Kempenich. **Senators: Fischer, Grindberg, Seymour; Representatives: Berg, Meyer. Brady Larson** of Legislative Council is also present.

**Representative Berg** This bill does two things in the current biennium. (His amendment .0111) The first is number 7, section 7, which I believe provides more protection to the charitable organizations. So if there is someone that has money that they are gambling with in par mutual and then with a third party. If for some reason that money is lost, the liability does not go back to that charity. Then the other section would be section 11, which is the change in the wagering. Those two sections would take effect July 1, and the rest of the bill would be differed for two years. If you read in the last section, section 18, it talks about the effective dates. What this does, the other difference between these amendments and the ones that the House adopted, I think they are much clearer in retaining the authority that the racing commission has. It separates two years from now, the par mutual part, which would go to the Attorney General, and it keeps the duties of the racing commission for live racing and control of the funds more clearly with the racing commission. It would have the staff being the responsibility of the ag commissioner. The dollars would remain the same as the House

version. As we kind of look through these numbers, quite frankly the next two years are a really a challenge period for the horse racing industry in North Dakota. We as a legislature expect them to come back to the session, if there is another solution that is better for them or if it comes with a broad level of support that can be done. They will have to demonstrate sustainability of live racing and the management of it by the racing commission as they come to the next session.

**Representative Berg:** Moved amendments .0111.

**Senator Grindberg:** Seconded.

**Chairman Fischer:** Discussion?

**Senator Seymour:** How did you come up with this figure? Why that number?

**Representative Berg:** I think there was a lot of discussion on what amount should be funded all the way from about \$120,000 general fund to \$410,000. I think the ten is about 2/3 of what the proposed funding was.

**Representative Meyer:** That is correct. I do think you meant to take section 7 out, correct? As of our discussion when we met last time if you leave this amendment with this wording, you don't allow the Fargo horse park to operate. I mentioned that to you at our last meeting and the second sentence is also unconstitutional. With section 7 removed it is a great amendment. We tried to work for language on that. We cannot statutorily remove an entities liability?

**Representative Berg:** Thanks for saving me from myself then.

**Senator Grindberg:** So are you saying what they collect plus what we appropriate is what they need?

**Representative Berg:** No, I think this underfunds them by 1/3 in the next two years. I believe that \$30,000 is a jockey licensing and that sort of thing. They could access up to 25% of the promotion fund.



**Senator Grindberg:** Questions regarding the amount.

**Representative Meyer:** I think that is the message being sent out. We have a two person office that is costing \$442,576 to operate. Now, comparing this to South Dakota that has 13 races and no money in a commission whatsoever, we have 26 days of racing and it is costing us \$442,000. If we leave the commission with their authority, they have to look at this and maybe make adjustments to management. I think that just kind of gives them the tool that they have to adjust this.

**Representative Berg:** No comment. There are others that are not as generous on the House side. It needs to be shook up and it needs some creativity. This is a reduction but I don't think it destroys it by any imagination.

**Senator Grindberg:** Do we need another set of amendments before us?

**Representative Berg:** I would suggest we move these amendments without section 7. I guess I withdraw my motion.

**Senator Fischer:** Should we have our amendments drafted before we approve them. Brady will prepare the amendments.

**Senator Fischer:** Adjourned.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2024 conference committee

Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: April 29, 2009

Recorder Job Number: 12394

Committee Clerk Signature



Minutes:

**Chairman Fischer:** called the conference committee to order on SB 2024 in regards the Racing Commission. Let the record show that all conferees are present, Senators: Fischer, Grindberg, Seymour; Representatives: Berg, Kempenich, Meyer. Brady Larson of Legislative Council and Sandy Deis of OMB were also present.

**Chairman Fischer:** Is this a new amendment?

**Representative Berg:** Before I go through the detail, only it is delayed to 2011. We would leave the racing commission as is for two years. In July 2011 it would move the pari-mutuel part of racing into the Attorney General's Office. It would move the Racing Commission under the "umbrella" of the Agriculture Commissioner. The only change is the difference to previous amendments retains the authority of the racing commission. Then in section 16 it related to the issue of charities and because of some constitutionality concerns, we added this section 16, that they would present it at that time. The final page, the statement of purpose, what this bill does from a funding standpoint is it would provide \$325K to the Racing Commission for the biennium. Part of the concern I have is the revenue coming in, and if we are long term with this, it needs to break even. So by adjusting it down from the executive budget, they need to figure out a way to staff the racing commission at a much lower cost. The other is they have the ability to draw down up to 25% from the promotion fund and that could be worth about

another \$50K. The important thing for me we got wrapped up in this deal, it is important that we have consensus long term. I see it like this: Here is Plan a; if within the next 2 years somebody has a better idea and there is consensus, I assume the legislature would adopt a Plan B at such appropriate time.

**Representative Berg:** Move the amendment

**Senator Grindberg:** Seconded

**Chairman Fischer:** Discussion

**Representative Kempenich:** (6.01) get your house in order; they are not general funded agencies. We don't general fund commissions in the state. Get them down the road; look at what they have done the last two years. They are going to have to find? That is the reason that got started in the first place. Budgeted from their special funds, not the general funds, the number came from that.

**Chairman Fischer:** call the roll. 6 yes. Motion carried. Senator Grindberg will carry the bill. We are adjourned.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

That the House recede from its amendments as printed on pages 1339-1350 of the Senate Journal and pages 1402-1413 of the House Journal and that Senate Bill No. 2024 be amended as follows:

Page 1, line 2, after "commission" insert "; 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; and to provide for transition"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

**"SECTION 2. 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 3. 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 4. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission 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 5.** 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 6. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure of service providers, totalizator 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 7. 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 8.** 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 9. 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 10. 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. ~~Licensure 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 11. 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 of which twenty percent is to be deposited in the racing promotion fund, thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. 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

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0110 FN 1**

A copy of the statement of purpose of amendment is attached.

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2024 - Racing Commission - Conference Committee Action**

	<b>Executive Budget</b>	<b>Senate Version</b>	<b>Conference Committee Changes</b>	<b>Conference Committee Version</b>	<b>House Version</b>	<b>Comparison to House</b>
Racing Commission	\$442,576	\$442,576	(\$117,576)	\$325,000	\$325,000	
Total all funds	\$442,576	\$442,576	(\$117,576)	\$325,000	\$325,000	\$0
Less estimated income	30,000	30,000	0	30,000	30,000	0
General fund	\$412,576	\$412,576	(\$117,576)	\$295,000	\$295,000	\$0
FTE	2.00	2.00	0.00	2.00	2.00	0.00

**Department No. 670 - Racing Commission - Detail of Conference Committee Changes**

	<b>Reduces Funding for Racing Commission<sup>1</sup></b>	<b>Total Conference Committee Changes</b>
Racing Commission	(\$117,576)	(\$117,576)
Total all funds	(\$117,576)	(\$117,576)
Less estimated income	0	0
General fund	(\$117,576)	(\$117,576)
FTE	0.00	0.00

<sup>1</sup> Funding from the general fund for operating costs of the Racing Commission is reduced by \$117,576, the same as the House version.

This amendment also adds sections:

- Relating to Racing Commission duties and responsibilities.
- Providing that the director of racing be appointed by the Agriculture Commissioner beginning July 1, 2009.
- Providing for racing-related duties to be administered by the Attorney General.
- Changing various sections relating to the regulation of racing and pari-mutuel wagering.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

That the House recede from its amendments as printed on pages 1339-1350 of the Senate Journal and pages 1402-1413 of the House Journal and that Senate Bill No. 2024 be amended as follows:

Page 1, line 2, after "commission" insert "; 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 for transition; and to provide an effective date"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

**"SECTION 2. 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 3. 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~~ agriculture commissioner prescribes.
3. The director may employ other ~~persons~~ individuals as authorized by the ~~commission~~ agriculture commissioner.

**SECTION 4. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission 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 5.** 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 6. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure 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 7. 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 8.** 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 9. 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 10. 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. ~~Licensure 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 11. 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 of which twenty percent is to be deposited in the racing promotion fund, thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse 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 12. 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 13. 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 14. 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 15. 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 16. 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 17. TRANSITION.** Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

**SECTION 18. EFFECTIVE DATE.** Sections 2, 3, 4, 5, 6, 8, 9, 10, 12, 13, 14, 15, and 16 of this Act become effective on July 1, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0111 FN 1**

**A copy of the statement of purpose of amendment is attached.**

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2024 - Racing Commission - Conference Committee Action**

	<b>Executive Budget</b>	<b>Senate Version</b>	<b>Conference Committee Changes</b>	<b>Conference Committee Version</b>	<b>House Version</b>	<b>Comparison to House</b>
Racing Commission	\$442,576	\$442,576	(\$117,576)	\$325,000	\$325,000	
Total all funds	\$442,576	\$442,576	(\$117,576)	\$325,000	\$325,000	\$0
Less estimated income	30,000	30,000	0	30,000	30,000	0
General fund	\$412,576	\$412,576	(\$117,576)	\$295,000	\$295,000	\$0
FTE	2.00	2.00	0.00	2.00	2.00	0.00

**Department No. 670 - Racing Commission - Detail of Conference Committee Changes**

	<b>Reduces Funding for Racing Commission<sup>1</sup></b>	<b>Total Conference Committee Changes</b>
Racing Commission	(\$117,576)	(\$117,576)
Total all funds	(\$117,576)	(\$117,576)
Less estimated income	0	0
General fund	(\$117,576)	(\$117,576)
FTE	0.00	0.00

<sup>1</sup> Funding from the general fund for operating costs of the Racing Commission is reduced by \$117,576, the same as the House version.

This amendment also adds sections:

- Relating to Racing Commission duties and responsibilities.
- Providing that the director of racing be appointed by the Agriculture Commissioner beginning July 1, 2011.
- Providing for racing-related duties to be administered by the Attorney General beginning July 1, 2011.
- Changing various sections relating to the regulation of racing and pari-mutuel wagering.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2024

That the House recede from its amendments as printed on pages 1339-1350 of the Senate Journal and pages 1402-1413 of the House Journal and that Senate Bill No. 2024 be amended as follows:

Page 1, line 2, after "commission" insert "; 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, 53-06.2-10, 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 for a report to the legislative council; to provide for transition; and to provide an effective date"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

**"SECTION 2. 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 3. 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 4. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission 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-~~ d. ~~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 5.** 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 6. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure of service providers, totalizator 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 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 under~~ 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. ~~Licensure 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.~~ 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 of which twenty percent is to be deposited in the racing promotion fund, thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse 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. REPORT TO LEGISLATIVE COUNCIL.** The racing commission, in its biennial report to the legislative council under section 53-06.2-04, shall include information and recommendations for legislation which address the issue of the liability of charitable organizations that receive and disburse moneys handled through account wagering.

**SECTION 17. TRANSITION.** Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

**SECTION 18. EFFECTIVE DATE.** Sections 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, and 15 of this Act become effective on July 1, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0113 FN 2**

A copy of the statement of purpose of amendment is attached.

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2024 - Racing Commission - Conference Committee Action**

	<b>Executive Budget</b>	<b>Senate Version</b>	<b>Conference Committee Changes</b>	<b>Conference Committee Version</b>	<b>House Version</b>	<b>Comparison to House</b>
Racing Commission	\$442,576	\$442,576	(\$117,576)	\$325,000	\$325,000	
Total all funds	\$442,576	\$442,576	(\$117,576)	\$325,000	\$325,000	\$0
Less estimated income	30,000	30,000	0	30,000	30,000	0
General fund	\$412,576	\$412,576	(\$117,576)	\$295,000	\$295,000	\$0
FTE	2.00	2.00	0.00	2.00	2.00	0.00

**Department No. 670 - Racing Commission - Detail of Conference Committee Changes**

	<b>Reduces Funding for Racing Commission<sup>1</sup></b>	<b>Total Conference Committee Changes</b>
Racing Commission	(\$117,576)	(\$117,576)
Total all funds	(\$117,576)	(\$117,576)
Less estimated income	0	0
General fund	(\$117,576)	(\$117,576)
FTE	0.00	0.00

<sup>1</sup> Funding from the general fund for operating costs of the Racing Commission is reduced by \$117,576, the same as the House version.

This amendment also adds sections:

- Relating to Racing Commission duties and responsibilities.
- Providing that the director of racing be appointed by the Agriculture Commissioner beginning July 1, 2011.
- Providing for racing-related duties to be administered by the Attorney General beginning July 1, 2011.
- Changing various sections relating to the regulation of racing and pari-mutuel wagering.

# REPORT OF CONFERENCE COMMITTEE (ACCEDE/RECEDE)

Bill Number 2024 (, as (re)engrossed):

Date: 4/29

Your Conference Committee Senate Appropriations

For the Senate:

For the House:

<u>4/29</u>		YES / NO		<u>4/29</u>	YES / NO
✓	Fischer	✓		✓	✓
✓	Brundberg	✓		✓	✓
✓	Seymour	✓		✓	✓

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

the (Senate/House) amendments on (SI/MS) page(s) 1339 - 1350

and place on the Seventh order.

✓, adopt (further) amendments as follows, and place 2024 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: 4/29/09

CARRIER: Brundberg / + Meyer - House Side

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

MOTION MADE BY: Berg

SECONDED BY: Brundberg

VOTE COUNT YES NO ABSENT

**REPORT OF CONFERENCE COMMITTEE**

**SB 2024:** Your conference committee (Sens. Fischer, Grindberg, Seymour and Reps. Berg, Kempenich, S. Meyer) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1339-1350, adopt amendments as follows, and place SB 2024 on the Seventh order:

That the House recede from its amendments as printed on pages 1339-1350 of the Senate Journal and pages 1402-1413 of the House Journal and that Senate Bill No. 2024 be amended as follows:

Page 1, line 2, after "commission" insert "; 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, 53-06.2-10, 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 for a report to the legislative council; to provide for transition; and to provide an effective date"

Page 1, line 11, replace "\$35,286" with "(\$82,290)" and replace "442,576" with "325,000"

Page 1, line 13, replace "291,984" with "174,408" and replace "412,576" with "295,000"

Page 1, after line 14, insert:

**"SECTION 2. 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 3. 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 4. AMENDMENT.** Section 53-06.2-04 of the North Dakota Century Code is amended and reenacted as follows:

**53-06.2-04. Duties of commission 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 5.** 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 6. 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 deems~~ attorney general determines necessary from license applicants. ~~Licensure 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 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~~ under 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. ~~Licensure 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.~~ 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 of which twenty percent is to be deposited in the racing promotion fund, thirty percent is to be deposited in the breeders' fund, and fifty percent is to be deposited in the purse 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. REPORT TO LEGISLATIVE COUNCIL.** The racing commission, in its biennial report to the legislative council under section 53-06.2-04, shall include information and recommendations for legislation which address the issue of the liability of charitable organizations that receive and disburse moneys handled through account wagering.

**SECTION 17. TRANSITION.** Any member of the North Dakota racing commission who is a member of the commission as of June 30, 2011, and whose term expires after July 1, 2011, may serve the remainder of that member's unexpired term.

**SECTION 18. EFFECTIVE DATE.** Sections 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, and 15 of this Act become effective on July 1, 2011."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT - LC 98043.0113 FN 2**

A copy of the statement of purpose of amendment is on file in the Legislative Council Office.

SB 2024 was placed on the Seventh order of business on the calendar.

2009 TESTIMONY

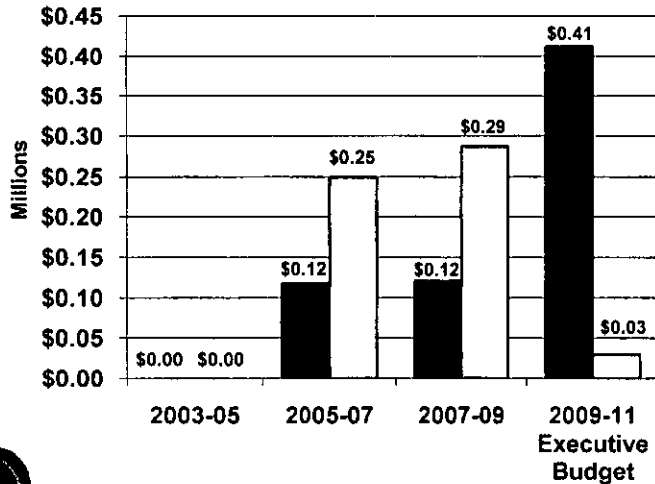
SB 2024

**Department 670 - Racing Commission**  
**Senate Bill No. 2024**

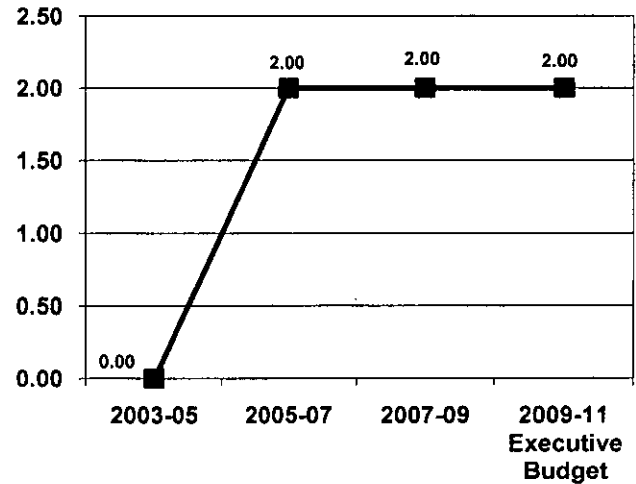
	FTE Positions	General Fund	Other Funds	Total
2009-11 Executive Budget	2.00	\$412,576	\$30,000	\$442,576
2007-09 Legislative Appropriations	2.00	120,674	287,092	407,766 <sup>1</sup>
Increase (Decrease)	0.00	\$291,902	(\$257,092)	\$34,810

<sup>1</sup>The 2007-09 appropriation amounts include \$476, \$82 of which is from the general fund, for the agency's share of the \$10 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for classified employees. The 2007-09 appropriation amounts do not include \$76,089 of additional special funds authority resulting from Emergency Commission action during the 2007-09 biennium.

**Agency Funding**



**FTE Positions**



■ General Fund □ Other Funds

**NOTE:** Prior to the 2005-07 biennium, the Racing Commission was a division of the Attorney General's office.

**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2009-11 Executive Budget	\$412,576	\$0	\$412,576
2007-09 Legislative Appropriations	120,674	0	120,674
Increase (Decrease)	\$291,902	\$0	\$291,902

**First House Action**

The Senate did not change the executive budget recommendation for the Racing Commission. Attached is a summary of first house changes.

**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Changes funding for salaries from the breeders' fund (\$85,697), promotion fund (\$85,698), and purse fund (\$85,697) to the general fund. This amount does not include salary increases for the 2009-11 biennium.	\$257,092	(\$257,092)	\$0

**Continuing Appropriations**

**Breeders' fund** - North Dakota Century Code (NDCC) Section 53-06.2-11 - To financially reward breeders or owners of North Dakota-bred horses.

**Promotion fund** - NDCC Section 53-06.2-11 - To promote horse racing in North Dakota.

**Purse fund** - NDCC Section 53-06.2-11 - To increase the amount of purses at North Dakota racetracks.

### **Major Related Legislation**

**House Bill No. 1316** - This bill places the Racing Commission under the supervision and direction of the Attorney General and provides for transfers of certain funds from the purse fund to the breeders' fund.

ATTACH:1

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2024 - Funding Summary**

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Racing Commission			
Racing Commission	<u>\$442,576</u>	<u></u>	<u>\$442,576</u>
Total all funds	\$442,576	\$0	\$442,576
Less estimated income	<u>30,000</u>	<u>0</u>	<u>30,000</u>
General fund	<u>\$412,576</u>	<u>\$0</u>	<u>\$412,576</u>
FTE	2.00	0.00	2.00
Bill Total			
Total all funds	\$442,576	\$0	\$442,576
Less estimated income	<u>30,000</u>	<u>0</u>	<u>30,000</u>
General fund	<u>\$412,576</u>	<u>\$0</u>	<u>\$412,576</u>
FTE	2.00	0.00	2.00

**Senate Bill No. 2024 - Racing Commission - Senate Action**

The Senate did not change the executive recommendation for the Racing Commission.

Senate Bill No. 2024  
Senate Appropriations Committee and Chairman Holmberg  
January 21, 2009, 3:00 p.m.  
Testimony of Randy Blaseg, Director of Racing, ND Racing Commission  
2009-11 Budget Presentation

*Same  
given to  
H. Blaseg  
approves 2-27-09*

Chairman Senator Holmberg and members of the Senate Appropriations Committee:

My name is Randy Blaseg, I am the Director of Racing for the North Dakota Racing Commission. I am here to testify in support of Senate Bill No. 2024, recommended appropriation of \$442,576 for the 2009-2011 biennium.

#### **DEPARTMENT SUPERVISORY AUTHORITY**

The ND Racing Commission is responsible for the regulation of pari-mutuel wagering of live, simulcast racing and account wagering. The administration of the Racing Office requires the payment of funds to North Dakota Race Tracks, the disbursement to the recipients of Breeders' Fund Awards, the licensing of all race tracks officials, approval of all simulcast and account wagering providers, hiring of racing officials for in state race meets, and the monitoring of current state and national racing activities.

The Racing Commission consists of two (2) full-time employees including the Director and Administrative Staff Officer. The budget request for 2009-2011 is consistent with Executive Budget recommendation. The recommended general fund increases are \$2,767 for computer replacement, a funding source change of \$257,092, and for salary adjustments which are 5% for each year in the biennium.

The Executive budget recommendation for the Racing Commission for 2009-2011 is \$442,576. The increase from the general fund is \$291,902. The Governor approved the request by the Racing Commission to use general fund monies to support the operation of the Racing Commission and to leave intact the dollars from the Promotion, Purse, and Breeders' Funds to support horse racing in North Dakota.

Therefore the total request from the general fund is \$412,576. The remaining budget for 2009-2011 is funded by \$30,000 received from the collection of license and registration fees for the authorization of owners, trainers, jockeys, exercise riders, assistant starters, pari-mutuel clerks and site operators. The commission currently licenses 750 individuals annually.

The Racing Commission is responsible for the collection of the pari-mutuel taxes from pari-mutuel providers and live race meets for deposit in the Breeders, Purse, Promotion and General Funds. Presently in North Dakota there are three licensed simulcast providers.

Horse racing in North Dakota is experiencing continued growth. Currently there are 3,751 horses registered in the North Dakota Breeders Fund.

**MAJOR FUNCTIONS AND DUTIES:**

- License and regulate pari-mutuel racing at live tracks, simulcast racing and accounting wagering sites.
- Investigate and license all race participants and employees of live and simulcast racing.
- Allocate grants to the two race tracks in North Dakota for conducting live racing.
- Collect pari-mutuel taxes for deposit in the general fund.
- Collect and administer monies from the industry into the Breeders', Purse, and Promotion Funds.

**SIGNIFICANT ACCOMPLISHMENT DURING THE 2007-09 BIENNIUM:**

- Due to the 2005 legislative action the commission became a stand-alone state agency.
- Increased the number of North Dakota bred racehorses in the Breeders' Fund program.
- Funded and regulated the operation of the race meets at Belcourt and Fargo, benefiting the owners of ND Thoroughbred, Quarter Horses and Standard Breds.

**FUTURE DIRECTION:**



- Continue to support live and simulcast racing in North Dakota and continued development of national simulcast and account wagering.
- Continue an affiliation with the national regulating authority to assure the integrity of horseracing.
- It is our constant goal to ensure the integrity of the racing industry in North Dakota. It is with eager anticipation that the Commission looks to the future of racing in North Dakota. The Commission requests a do pass recommendation from the Senate Appropriations Committee.

Run Date: 02/11/09

67000 - ND Horse Racing Commission

Oper. Unit: 670 - ND Racing Commission

**Appropriation Status Report**  
For the Month Ending 01/31/09

NDS4310AA\_2009B  
Biennium 07-09

	Original Appropriation	Current Appropriation	Expenditures	Remaining		Percent Remaining
				Appropriation	Encumbrances	
<b>Expenditures by Line Item</b>						
67070 Racing Commission	407,290.00	483,855.00	335,895.20	147,959.80	0.00	31%
<b>Total Expenditures</b>	<b>407,290.00</b>	<b>483,855.00</b>	<b>335,895.20</b>	<b>147,959.80</b>	<b>0.00</b>	<b>31%</b>
<b>Expenditures by Funding Source</b>						
General Fund	120,592.00	120,674.00	77,889.82	42,784.18	0.00	35%
Federal Funds	0.00	0.00	0.00	0.00	0.00	
Special Funds	286,698.00	363,181.00	258,005.38	105,175.62	0.00	29%
<b>Total Expenditures by Source</b>	<b>407,290.00</b>	<b>483,855.00</b>	<b>335,895.20</b>	<b>147,959.80</b>	<b>0.00</b>	<b>31%</b>

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	\$151,955,864	\$168,132,528	\$172,157,185
TAXABLE HANDLE	\$5,198,600	\$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	\$3,565,389.08	\$4,010,100.42	\$4,101,388.86
<del>SPECIAL FUNDS</del>						
PURSE FUND	\$30,194.43	\$37,229.19	\$443,066.95	\$759,779.32	\$840,662.63	\$860,765.93
BREEDERS' FUND	\$30,194.43	\$37,229.19	\$443,066.95	\$759,779.32	\$840,662.63	\$860,765.93
PROMOTION FUND	\$22,587.23	\$29,115.55	\$316,086.18	\$553,685.65	\$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	\$208,126.12	\$254,879.94	\$3,255,742.27	\$6,419,840.90	\$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

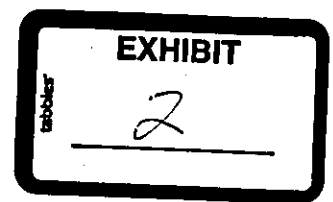
	2003	2004	2005	2006	2007	TOTAL
TOTAL HANDLE	\$154,065,602	\$5,669,278	\$35,886,082	\$75,046,694	\$38,577,151	\$902,823,661
TAXABLE HANDLE	\$153,536,070	\$5,120,607	\$22,177,315	\$71,582,059	\$37,795,837	\$879,413,943
ND STATE TAX	\$3,700,303.45	\$120,186.87	\$260,254.56	\$44,738.79	\$184,316.63	\$18,314,838.97
<u>SPECIAL FUNDS</u>						
PURSE FUND	\$770,328.02	\$28,348.40	\$109,986.58	\$46,904.18	\$58,115.51	\$3,983,379.14
BREEDERS' FUND	\$770,328.02	\$28,348.40	\$109,986.58	\$46,904.18	\$58,115.51	\$3,983,379.14
PROMOTION FUND	\$631,885.21	\$20,020.97	\$96,892.71	\$46,904.18	\$56,115.51	\$3,086,102.35
TOTAL SPECIAL FUNDS	\$2,172,541.25	\$76,713.77	\$316,825.87	\$140,712.54	\$168,346.53	\$11,062,860.63
BREAKAGE	\$607,612.10	\$27,047.76	\$88,664.45	\$72,568.17	\$50,158.21	\$3,263,016.59
TOTAL STATE TAX SPECIAL FUNDS AND BREAKAGE	\$6,480,456.80	\$223,928.40	\$665,744.88	\$258,019.50	\$402,821.37	\$32,640,514.19

## EXHIBIT

tabbies

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

	2006	2007	2008
TOTAL HANDLE	\$75,048,894	\$38,577,151	\$46,163,861
TAXABLE HANDLE	\$71,582,059	\$37,795,837	\$46,028,132
ND STATE TAX	\$44,738.79	\$184,318.83	\$216,928.14
<u>SPECIAL FUNDS</u>			
PURSE FUND	\$48,904.18	\$58,115.51	\$59,970.61
BREEDERS' FUND	\$48,904.18	\$58,115.51	\$59,970.61
PROMOTION FUND	\$48,904.18	\$58,115.51	\$59,970.61
TOTAL SPECIAL FUNDS	\$140,712.54	\$168,346.53	\$179,911.83
BREAKAGE	\$72,588.17	\$50,158.21	\$115,330.90
TOTAL STATE TAX SPECIAL FUNDS AND BREAKAGE	\$258,019.50	\$402,821.37	\$512,170.87



THOMPSON'S FINANCIAL SERVICES  
410 East Thayer Ave  
Bismarck, ND 58501  
Phone: 701-220-6023

2006

CHIPPEWA DOWNS  
BELCOURT ND

ND HORSE PARK  
FARGO ND

TOTAL HANDLE

W-P-S WAGERING

\$ 26,909

\$ 238,577

EXOTIC WAGERING

39,687

224,524

TOTAL HANDLE

\$ 66,687

\$ 463,101

STATE TAXES

W-P-S

\$ 149.11

EXOTIC

140.33

TOTAL STATE

\$ 289.44

SPECIAL FUNDS

BREEDERS' FUND

\$ 41.62

\$ 289.44

PURSE FUND

41.62

289.44

PROMOTION FUND

41.62

289.44

BREAKAGE

158.97

1,639.80

TOTAL SPECIAL FUNDS \$

283.83

\$ 2,508.12

2007

TOTAL HANDLE

W-P-S WAGERING	\$ 20,717	\$ 256,164
EXOTIC WAGERING	28,066	248,223

TOTAL HANDLE	\$ 48,783	\$ 504,387
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STATE TAXES

W-P-S		\$ 5,123.28
EXTOIC		6,205.58

TOTAL STATE		\$ 11,328.86
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SPECIAL FUNDS

BREEDERS' FUND	\$ 30.49	\$ 2,521.94
PURSE FUND	30.49	2,521.94
PROMOTION	30.49	2,521.94
BREAKAGE	109.63	5,469.62

TOTAL SPECIAL FUNDS	\$ 201.10	\$ 13,035.44
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2008

TOTAL HANDLE

W-P-S WAGERING	\$ 14,429	\$ 227,575
EXOTIC WAGERING	25,955	222,197

TOTAL HANDLE	\$ 40,384	\$ 449,772
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STATE TAXES

W-P-S		\$ 4,551.50
EXOTIC		5,554.93

TOTAL STATE		\$ 10,106.43
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SPECIAL FUNDS

BREEDERS' FUND	\$ 201.92	\$ 2,248.86
PRUSE FUND	201.92	2,248.86
PROMOTION	201.92	2,248.86
BREAKAGE	229.66	4,739.22

TOTAL SPECIAL FUNDS	\$ 835.42	\$ 11,485.80
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**Actual Handle and Taxes – June 1, 2007 – November 30, 2008**Actual figures provided by Thompson's Financial Service  
Current Law

<u>Handle</u>	Account Wagering	OTB Sites	Totals
Totals	\$ 44,314,528	\$ 5,280,784	\$ 49,595,312
<u>Taxable</u>			
Totals		\$ 4,185,035	\$ 4,185,035
<u>State Taxes – General Fund</u>			
Totals	\$ 211,804	\$ 98,383	\$ 310,186
Purse Fund	\$ 62,485	\$ 26,404	\$ 88,889
Breeders' Fund	62,485	26,404	88,889
Promotion Fund	62,485	26,404	88,889
Breakage			122,889

**Estimated Handle and Taxes – December 1, 2008 – June 30, 2009**Estimated figures provided by Thompson's Financial Service  
Current Law

<u>Handle</u>	Account Wagering	OTB Sites	Totals
Totals	\$ 22,157,264	\$ 2,655,391	\$ 24,822,655
<u>Taxable</u>			
Totals		\$ 2,092,517	\$ 2,092,517
<u>State Taxes – General Fund</u>			
Totals	\$ 13,848	\$ 49,190	\$ 63,038
Purse Fund	\$ 13,848	\$ 13,327	\$ 27,175
Breeders' Fund	13,848	13,327	27,175
Promotion Fund	13,848	13,327	27,175
Breakage			61,445

Actual &amp; Estimated 07-09 Biennium:

Purse Fund	\$116,064
Breeders' Fund	116,064
Promotion Fund & Breakage	300,398



**Blaseg, Randy L.**

**From:** Heather Benson [heather@hrnd.org]  
**Sent:** Monday, March 02, 2009 11:27 AM  
**To:** Blaseg, Randy L.; 'H. Patrick Weir Sr.'  
**Subject:** RC Requested Profit/Loss breakdowns  
**Attachments:** 030209 RCRequest.pdf

Mr. Blaseg,

Attached please find the requested profit/loss breakdowns for the North Dakota Horse Park for the years 2006, 2007 and 2008 to be presented to the House Appropriations Committee. Please let me know if I may be of further assistance. Thank you.

**Heather Benson**

General Manager  
North Dakota Horse Park/Horse Race North Dakota  
PO Box 1917  
Fargo, ND 58107  
Ph: 701-232-3832  
Email: [heather@hrnd.org](mailto:heather@hrnd.org)  
Website: [www.hrnd.org](http://www.hrnd.org)



**North Dakota Horse Park**  
Profit/Loss Summary 2006, 2007 and 2008

**2006:**

**Revenue:**

On Track Income	
<i>(income derived from on-track wagering, tickets, concessions, etc):</i>	\$387,302.00
Simulcast Income	
<i>(direct income derived from walk-up OTB wagers and ADW wagering):</i>	\$162,496.00
Racing Commission Purse Fund Grant	\$370,000.00
Racing Commission Breed Fund Grant	\$150,000.00
<u>Racing Commission Promotion Fund Grant</u>	<u>\$350,000.00</u>
Total:	\$1,419,798.00

**Expenses:**

Purses Paid to Horsemen	\$610,638.00
Personnel Expenses	\$300,432.00
Operating Expenses	\$423,151.00
<u>Racing Commission Regulatory Fees</u>	<u>\$17,494.00</u>
Total:	\$1,351,715.00

**Net Profit: +\$68,083.00**



**North Dakota Horse Park**  
Profit/Loss Summary 2006, 2007 and 2008

**2007:**

**Revenue:**

On Track Income	
<i>(income derived from on-track wagering, tickets, concessions, etc):</i>	\$378,237.00
Simulcast Income	
<i>(direct income derived from walk-up OTB wagers and ADW wagering):</i>	\$141,165.00
Racing Commission Purse Fund Grant	\$411,000.00
Racing Commission Breed Fund Grant	\$300,000.00
Racing Commission Promotion Fund Grant	\$350,000.00
Total:	\$1,584,506.00

**Expenses:**

Purses Paid to Horsemen	\$777,133.00
Personnel Expenses	\$378,808.00
Operating Expenses	\$455,937.00
Racing Commission Regulatory Fees	\$43,289.00
Total:	\$1,655,167.00

**Net Profit: -\$70,661.00**



**North Dakota Horse Park**  
Profit/Loss Summary 2006, 2007 and 2008

**2008:**

**Revenue:**

On Track Income	
<i>(income derived from on-track wagering, tickets, concessions, etc):</i>	\$390,051.00
Simulcast Income	
<i>(direct income derived from walk-up OTB wagers and ADW wagering):</i>	\$109,696.00
Racing Commission Purse Fund Grant	\$361,750.00
Racing Commission Promotion Fund Grant	\$289,000.00
Total:	\$1,150,500.00

**Expenses:**

Purses Paid to Horsemen	\$430,904.00
Personnel Expenses	\$300,357.00
Operating Expenses	\$406,778.00
Racing Commission Regulatory Fees	\$38,389.00
Total:	\$1,176,431.00

**Net Profit: -\$25,931.00**

Revenue generated over Biennium @ a rate of  $\frac{1}{4}$  of 1% on an average of 5 million per month

General Fund	\$ 75,000
Purse Fund	75,000
Breed Fund	75,000
Promotion Fund	75,000
Breakage	396,000
	-----



Total amount available for racing purposes \$ 621,000

The following is a projection made by the service providers offering account wagering.  
Those service providers are;

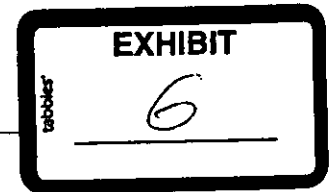
Lien Games  
Premier Turf Club  
Silks

Revenue generated over a Biennium @ a rate of  $\frac{1}{4}$  of 1 % on an average of 9,650,000 per month

General Fund	\$ 144,750
Purse Fund	144,750
Breed Fund	144,750
Promotion Fund	144,750
Breakage	764,280
	-----

Total amount available for racing purposes \$1,198,530

The contract Horse Race North Dakota currently has with Premier Turf Club would result in the charity receiving over the course of the Biennium \$ 579,000



**Blaseg, Randy L.**

**From:** Michael Cichy [mcichy@msn.com]  
**Sent:** Thursday, January 15, 2009 9:43 PM  
**To:** Blaseg, Randy L.

PTC has paid the NDHP \$79,790 through December 31, 2008.

# Horse Race North Dakota Site Commissions

Date	Clubhouse	BAM	Total ADW	OTB	Total Comm
July-07	1,672.35	-	1,672.35	6,309.05	7,981.40
August-07	521.48	-	521.48	7,283.44	7,804.92
September-07	-	-	-	4,032.71	4,032.71
October-07	-	-	-	4,644.50	4,644.50
November-07	-	-	-	1,904.29	1,904.29
December-07	-	-	-	4,221.70	4,221.70
January-08	-	-	-	3,369.59	3,369.59
February-08	-	-	-	4,092.38	4,092.38
March-08	1,589.82	-	1,589.82	288.66	1,878.48
April-08	2,704.21	-	2,704.21	237.82	2,942.03
May-08	1,886.69	-	1,886.69	4,863.05	6,749.74
June-08	1,608.85	-	1,608.85	8,752.76	10,361.61
July-08	1,476.11	-	1,476.11	293.43	1,769.54
August-08	2,712.21	1,630.49	4,342.70	328.42	4,671.12
September-08	2,506.12	942.06	3,448.18	105.19	3,553.37
October-08	2,542.02	820.45	3,362.47	248.61	3,611.08
November-08	2,177.50	564.55	2,742.05	163.61	2,905.66
December-08	867.97	374.64	1,242.61	103.01	1,345.62
Total	22,265.33	4,332.19	26,597.52	51,242.22	77,839.74

# OTB Site Commissions

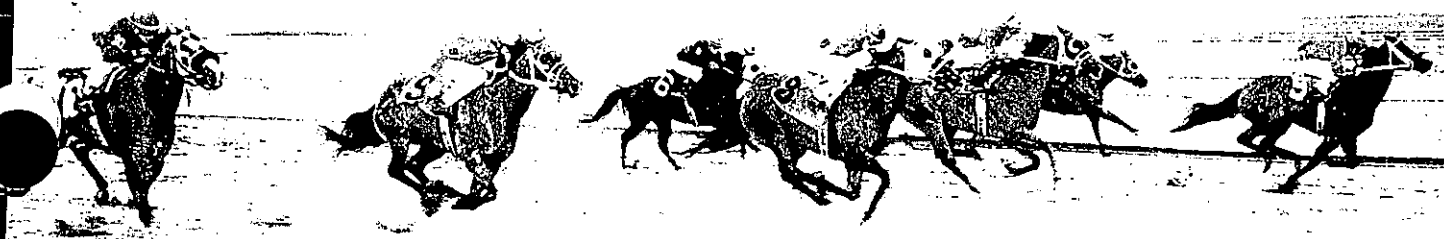
Date	SkyDancer	North Dakota Assoc For Disabled-Chips	Development Homes, Inc-Rumors	Williston Convention & Visitors Bureau-El Rancho
July-07	1,348.66	1,661.54	1,357.36	(452.97)
August-07	1,836.19	1,250.91	1,976.21	(442.02)
September-07	2,506.89	1,154.32	1,271.53	115.11
October-07	3,089.89	2,162.31	2,476.53	212.68
November-07	2,432.24	2,150.78	116.78	46.37
December-07	2,958.04	1,508.88	965.23	(258.58)
January-08	2,373.08	2,297.58	2,100.57	(312.12)
February-08	3,088.25	2,227.00	459.50	(322.12)
March-08	147.47	1,232.68	811.03	(131.16)
April-08	3,252.42	248.16	1,574.94	-
May-08	2,605.96	595.24	1,481.01	(1,000.00)
June-08	4,072.40	1,831.18	3,272.57	-
July-08	1,190.02	1,456.91	635.64	-
August-08	1,636.34	1,317.01	1,655.01	-
September-08	326.00	(17.47)	273.74	-
October-08	1,482.05	317.11	(333.40)	-
November-08	1,820.81	1,337.75	96.67	-
December-08	(1,420.32)	842.15	(542.87)	-
Total	34,726.39	23,574.04	19,648.05	(2,544.81)





# **Six Years and Counting...**

*Where do we go from here?*



# NDHP-A Perspective

## North Dakota Horse Park

The North Dakota Horse Park is a 113 acre facility located on northwest edge of Fargo featuring a 6.5 furlong racetrack, stabling for up to 400 horses, grandstand seating for 1500, indoor and outdoor riding arena, 1.5 mile riding trail and a combined training jumping course.

**Established in 2003 as a consortium of 3 entities:**

- North Dakota Horse Park Foundation 501(c)3 non-profit
- Horse Race North Dakota 501(c)4 non-profit
- North Dakota State University Equine Sciences

The North Dakota Horse Park, dedicated to the mission of "developing and promoting live horse racing and all horse racing activities" was created in 2003 by funds generated by special taxes placed in simulcast wagering in the state of North Dakota. The Horse Park has established itself as a center of high quality racing in the Upper Midwest and as a feature facility for many horse shows and other equine events.

Since 2003, the North Dakota Horse Park has marked the following hallmark achievements:

- Hosted 6 seasons of live horse racing featuring nearly 1000 races and 6000 horses with over 250,000 fans passing through our gates!
- Successfully raised funds to construct the 52 stall Don Hart Barn in 2005 and the 6400 square foot Cover-All Pavilion in 2008!
- Increased gate sales, concession sales and pari-mutuel sales by positive increments each year of operation since 2003!
- Outreached to the greater horse community of the Upper Midwest by teaming with AEER to construct a Cross Country Jumping course on Horse Park grounds—now host to several horse shows per year!
- Created the region's first "Retired Racehorse Placement and Incentive Program" to assure future careers for ex-racehorses in North Dakota.



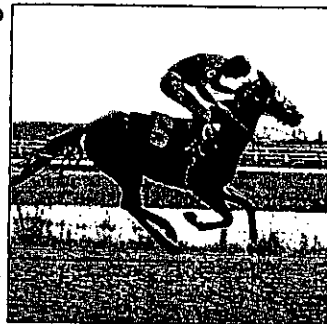
# 2008-A Year in Review

The first five weeks of 2008, featuring a mixed meet of Thoroughbred and Quarter Horse racing, saw 16 race days with 129 races and over \$375,000 in purses. Average handle per day was \$25,993, an increase of nearly 12% over 2007. Additionally, the amount wagered per race was up nearly 8% at \$3,224 compared to only \$2,998 in 2007.

**Leading Jockey:** Jake Olesiak

**Leading Trainer:** Bob Johnson

**Leading Owner:** Tom Maher



The final three days of racing in 2008 were devoted to local harness racing interests. The three days of racing saw 24 races go to the post with nearly \$40,000 in purses available. Handle for the harness racing was up dramatically from just \$6,445 wagered per day in 2007 to \$10,892 in 2008.

Supporting revenue at the Horse Park saw some of the most dramatic improvements. Daily gate receipts and attendance rose over 32% from 2007 and daily concession sales jumped a whopping 109% over 2007 numbers. In all, the North Dakota Horse Park saw a 46% jump in daily receipts over 2007 while operating with 7 fewer days of racing.

## 2008 Daily Revenue by the Numbers:

Daily Handle Average (TB and QH):	\$25,993 (up 12%)
Daily Handle Average (Harness):	\$10,892 (up 40%)
Daily Mutuel Deposit	\$5,879 (up 23%)
Daily Gate Receipts	\$2,432 (up 32%)
Daily Programs and Gift Shop	\$1,373 (up 29%)
Daily Concessions	\$5,278 (up 109%)
Daily Total Receipts	\$14,964 (up 46%)

## Year to Year Income Comparison:

Year	2006	2007	2008
Days of Racing	22 days	26 days	19 days
Ticket Sales	44,936.00	47,558.00	46,221.00
Beverage Sales	64,428.00	59,415.00	85,447.00
Gift Shop/Programs	26,042.00	27,668.00	26,104.00
Concessions-Other	5,227.00	6,000.00	14,852.00
Mutuel Deposit	102,689.00	124,267.00	111,701.00
Year-End Total	\$243,322.00	\$264,908.00	\$284,325.00

**Total revenue was up 7.3% in 2008 while running with 7 fewer days of racing!**

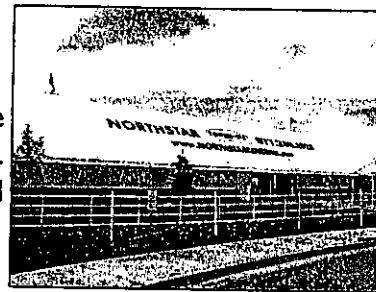


# 2008-A Year in Review

## New in 2008:

### Cover-All Pavilion

Going from conception to construction in just 90 days, the new 6400 square foot Cover-All Pavilion took the place of the seasonally rented tents in 2008. Housing the Horse Park's betting, concessions and gift shop, the Cover-All Pavilion brought the Horse Park to the next level of fan experience!



### Track Mascot: Barracuda Boy

Barracuda Boy, a retired graded stakes-winning Thoroughbred gelding arrived at the Horse Park courtesy of his breeder/owners, Adena Springs Farm. Greeting visitors at the Horse Park's front gate, he was a hit from day one! He was also the face of the "Barracuda Buddies" children's program each Saturday afternoon!

### Family Day Sundays

Each Sunday in 2008 the Horse Park played host to a Sunday Brunch Buffet followed by day-long children's games and events such as the Silver Scramble and Stick Pony Races. The Horse Park also brought in Games

Galore as a provider of play equipment and bouncy castles.



### Summer Art Residency Program

Each weekend leading up to Labor Day, the Horse Park installed a resident artist to showcase his or hers work in the Cover-All Pavilion. Each artist was also commissioned with creating a portrait of track mascot, Barracuda Boy, that was sold at a silent auction on the last weekend of racing to benefit the Retired Racehorse Placement program.

### Saturday Night Concerts

The Horse Park played host to local music-heads each Saturday with a concert immediately following the last race of the day. Bands included Boomtown, Carmen the Cactus and Serious Sam. Horsemen, fans and staff enjoyed the Fargo summer evenings while listening to great music each weekend!

### Other New Additions in 2008:

- Reservable Gazebos—sold out 10 of 19 race days!
- Candy and ice cream sales by HRND in Cover-All Pavilion—averaged over \$1200.00 each weekend!
- Season Passes—very popular with our "hard-core" fans!
- Gift Shop in Cover-All Pavilion—new location=bigger profits!
- Sponsors—many new sponsorship offerings resulted in a 1500% increase in sponsorship sales!



# 2009-What's in store?

## **Race Dates:**

*Approved by Racing Commission on December 9, 2008*

### **Thoroughbred/Quarter Horse Race Meet:**

**Dates:** July 24 through September 7 (16 days-7 weekends)

Friday and Saturday only except Labor Day Sunday and Monday

### **Post Times:**

Friday: 5:00pm

Saturday: 4:30pm

Labor Day Sunday/Monday: 1:00pm

### **Harness Racing Meet:**

**Dates:** TBA (3 days-1 weekend)

Possible dates include Memorial Day weekend, June 12-14 or July 11-13.

## **Race Funding:**

*Full request approved by Racing Commission on December 9, 2008*

Promotion Fund Disbursement: \$225,000

Purse Fund Disbursement: \$350,000

Total 2009 Budget for HRND: \$1,148,300

## **New Programs for 2008:**

- Expanded food concessions sales in Cover-All Pavilion (burgers, brats, etc). Potential yearly net income: \$70,000
- Petting zoo area for children (to be located in Barracuda Bay area at front of Horse Park)
- Full wagering menu in 2009—to include Pick 6, Pick 4, Superfectas, etc.
- Live split timing messaging during races courtesy of new videographer, Gene Wilson and Associates!
- Racetrack tours each Saturday afternoon!
- Morning workouts coffee and doughnuts for the general public!
- Expanded better education series to begin during Triple Crown races!
- Expanded sponsorship offerings—PA openings, digital signage, etc.
- Cable One public access race replay show each week!

## **What else do you want to see in 2009?**



# The Future of NDHP

## Next 3-12 months:

1. Completion of the Cover-All Building (cement, drywall, kitchen area).  
**Gains:**a. Food concessions during live race meet (net revenue \$70,000+).  
b. Creates a year-round multi-use of venue that could host snowmobile racing, horse shows, craft shows, rentable convention space, etc.  
c. Enhancement of race day atmosphere for patrons of the Horse Park.
2. Completion of a permanent reserved seating area on east side of grandstand.  
**Gains:**a. Enhancement of popular gazebo reserved seating from 2008—cleaner, safer and less labor intensive (up to \$4500/year in net revenue).  
b. Ability to use space outside of racing season—horse shows, picnics, outdoor events.
3. Purchase of 8 x 64 foot Tote Board Digital Sign System from Daktronics.  
**Gains:**a. Expanded on-track wagering format to include Pick 6, Pick 4 and Superfecta for mats.  
b. Ability to export signal to OTB sites, ADW sites and local tracks.  
c. Reduced employee costs and improved customer service with faster "ticket in/ ticket out" procedures, self-bettors and less technological breakdowns.  
c. Ability to broadcast messages on digital board—informational and sponsorship advertising
4. Opening of new off track betting site at Dempsey's Pub in downtown Fargo.  
**Gains:**a. Ability to expand Horse Park's year-round racing fan base to large 21-35 year old demographic in downtown Fargo.  
b. Ability to expand bettor education year-round by hosting seminars, contests and parties centered around major National racing events.
5. Pursuit of grant monies for Ex-Racehorse Incentive Programs and Show Grounds Improvements  
**Gains:**a. Enhance existing Racehorse Retirement program by providing incentive to purchase and show local ex-racehorses  
b. Maintain and create suitable grounds (stables and arenas) for hosting major barrel racing and English riding events that coincide with the Incentive program.  
c. First step in fund-raising and construction of large indoor year-round Equine Events Center
6. Exploration of construction of year-round alternative gaming (bingo, blackjack, etc) facility on track.  
**Gains:**a. Ability to have all current available North Dakota games of chance in one facility as well as off track betting and live racing.  
b. Ability to hold 2x yearly Poker tournaments during live race meet.  
c. Year-round source of income and public exposure.



# The Future of NDHP

## Next 12-36 months-On Track Income Generators:

### Increase On-Track Handle:

Currently less than \$20 per person per day.      National Average: \$87 per person per day.

On-Track Handle per Capita: \$22.00 x 30,000 total bettors	\$132,000 Net to Track
On-Track Handle per Capita: \$28.00 x 40,000 total bettors	\$224,000 Net to Track
On-Track Handle per Capita: \$35.00 x 40,000 total bettors	\$280,000 Net to Track
On-Track Handle per Capita: \$87.00 x 40,000 total bettors	\$696,000 Net to Track

### Increase On-Track Concession and Gate Sales:

Year 1: Gate Sales (\$3 admission x 30,000 paid admissions)	\$90,000 net
Concessions-Beverage (\$3.00/head x 50,000 fans)	\$75,000 net
Concessions-Food (\$3.00/head x 50,000 fans)	\$75,000 net
Gift Shop/Program Sales	\$20,000 net
<b>Total:</b>	<b>\$260,000 to track operations</b>

Year 2: Gate Sales (\$3 admission x 40,000 paid admissions)	\$120,000 net
Concessions-Beverage (\$3.00/head x 60,000 fans)	\$90,000 net
Concessions-Food (\$3.00/head x 60,000 fans)	\$90,000 net
Gift Shop/Program Sales	\$25,000 net
<b>Total:</b>	<b>\$325,000 to track operations</b>

### Increase Sponsorships and Advertising Revenue:

Stakes Race Sponsorships (16 races x \$5000 each)	\$80,000 Total
	\$40,000 for purses
	\$40,000 for operating costs
General Race Sponsorship (112 races x \$1000 each)	\$112,000 Total
	\$56,000 for purses
	\$56,000 for operating cost
Print Advertising Revenue	\$20,000 Total
Signage Sales Revenue	\$30,000 Total
	<b>\$242,000</b>



# The Future of NDHP

## Next 12-36 months-Off Track Income Generators:

### Increase ADW Handle:

Premier Turf Club	\$50,000,000 Annual Wagering	\$187,500 Total
	\$125,000 to HRND Directly	
	\$31,250 to Purse Fund	
	\$31,250 to Promotion Fund	

Lien Games Racing	\$50,000,000 Annual Wagering	\$187,500 Total
	\$125,000 to HRND Directly	
	\$31,250 to Purse Fund	
	\$31,250 to Promotion Fund	

Silks Corporation	\$30,000,000 Annual Wagering	\$337,500 Total
	\$75,000 to HRND Directly	
	\$225,000 to HRND for Purses	
	\$18,750 to Purse Fund	
	\$18,750 to Promotion Fund	

### Create Alternative Gaming Revenue:

Ability on-track to house Bingo/Blackjack/PullTabs/Sports Pools/Calcuttas/Wheels  
typical net profit of 15-20% of adjusted gross income\*\*

### Top 5 North Dakota Charitable Gaming Sites Average:

\$672,000	Adjusted Gross Income per Quarter
\$2,688,000	Adjusted Gross Income per Year

Net Profit Per Quarter:	\$134,400
Net Profit Per Year:	\$537,600

### Consolidate and Increase Off Track Betting Revenue:

\*\*North Dakota is one of the only states that requires a 3rd Party Service Provider for walk-up off track betting held in conjunction to a track that hosts live racing. If the North Dakota Horse Park were to operate as the off track betting service provider for the state of North Dakota, the income increase would be:

Fargo OTB (owned and operated solely by NDHP):	\$1,500,000 min. annual handle:	\$127,500
Other ND OTB sites (provided for by NDHP at 4% rate):	\$4,000,000 min. annual handle:	\$160,000
If all ND OTB were owned and operated by NDHP:	\$5,500,000 min annual handle:	\$440,000





# The Future of NDHP

## Total Potential Impact of New Revenue Generation in next 12-36 months:

Total Potential Operating Dollars by 2011: \$2,274,600

Average Operating Costs of Racetrack for 19 days of racing:

Personnel-Contract and Regular: \$300,000

Rent/Lease Expense for Equipment and Buildings: \$90,000

Insurance-Jockey and Property: \$80,000

Utilities: \$20,000

Operating Costs: \$220,000

(includes advertising, concession purchases, property maintenance, depreciation, etc)

NDRC Regulatory Costs: \$40,000

Approximate Total: \$750,000

Total Available for Purses and Facility Improvement: \$1,525,400

19 days of racing = 128 races = \$11,910.00 potential average purse per race!

## So how do we get there?

**R**eformulate our image and plans to pursue funding from multiple sources!

**A**ct together to maximize efficiency and achieve common goals!

**C**reate new revenue sources as well as new fans and new sponsors!

**E**nhance the quality of live racing and equine activities at the Horse Park!



Representatives Rick Berg, Eliot Glassheim, and Keith Kempenich  
March 5, 2009 2:00 p.m.  
Testimony of Randy Blaseg, Director of Racing, ND Racing Commission

### Looking to the Future

The Racing Commission requested that each of the race tracks submit a report on how they could become independent of the commission for the operating cost of their race meets. The commission has certain high priority issues those being the health and safety of both licensees and the equine athletes as well as proper regulation of the events.

The intent of this request was to develop a plan that the commission could stay with to continually assist in funding live racing. Part of this long range outlook was to reduce the cost of simulcasting to the charities located throughout North Dakota. The racing commission has no control over the cost of the simulcast signals and these costs have steadily increased over the last few years. A change in the tax structure and a less expensive method of providing the signals will help.

In reviewing other states methods of keeping racing solvent it is obvious that both Outdoor Recreation in Belcourt and Horse Race North Dakota in Fargo will need to develop supplementary sources of income to continue racing at the current level. The Racing Commission ask for and considered the information presented to them by the service providers on how to retain high volume players and has introduced a tax bill which should give stability to the wagering platform in North Dakota. This tax bill HB 1551 should create an increase in the Promotion Fund that would give the commission flexibility to award additional purse supplements and also allow for avenues to assist charities to create more revenue for racing.

The Racing Commission allocates funding to assist and promote racing in North Dakota and adopts rules for the governing of all aspects of the industry.

# ND Racing Commission

Note: Only Grant Expenses are shown.

Revenue and other Expenses for this time period are not shown.

<u>Fund</u>	<u>2009 Grant</u>	<u>2009 Grant</u>	<u>Estimated</u>
<u>Balances as of</u>	<u>Dollars granted at</u>	<u>Dollars granted at</u>	<u>Balance in Funds</u>
<u>12/1/2009</u>	<u>12/09/08 Meeting</u>	<u>2/19/2009 Meeting</u>	<u>as of 02/28/09</u>
Breeders' Fund			
\$769,265	0	0	\$676,089
Purse Fund			
533,744			100,227
ORDA - Belcourt	68,250	20,000	
HRND - Fargo	350,000	0	
Promotion Fund			
347,766		0	129,595
ORDA - Belcourt	31,000		
HRND - Fargo	225,000		

Note  
Fund Balances  
will be reconciled  
after OMB reports  
come out 03/10/09.

LUD: 03-05-09

**RACING COMMISSION**  
**Budget and Expenditure Report**

	2005-07 Expend.	2007-09 Budget	Expend. thru 1/31/2009	To 6/30/09 Anticip. Expend	2007-09 Balance Remaining	2009-11 Exec. Recom.
<b>Racing Commission</b>						
Salaries & Temp	165,229	201,972	159,336	41,060	1,576	218,089
Fringe Benefits	50,515	66,523	51,611	13,660	1,252	76,961
Travel	24,911	28,031	22,723	5,308	0	28,031
Supply/Materials-Professional	163	870	70	50	750	870
Miscellaneous Supplies	259	620	131	69	420	620
Office Supplies	4,843	4,682	4,101	581	0	4,682
Postage	1,294	1,190	270	100	820	1,190
Printing	672	2,000	413	800	787	2,000
IT Equipment Under \$5,000	1,454	2,200	0	2,200	0	2,200
Office Equip/Furn Under \$5,000	5,383	7,500	3,724	1,200	2,576	7,500
Insurance	244	700	547	0	153	700
Lease/Rent-Equip-Bldg.	8,455	18,700	16,696	4,300	-2,296	18,700
Repairs	226	920	387	200	333	920
IT Data Processing	3,721	5,045	4,546	1,200	-701	5,045
IT Communications-Telephone	3,627	4,800	3,253	1,747	-200	4,800
Dues & Prof Development	10,055	16,624	13,635	500	2,489	17,100
Operating Fees & Service	6,866	26,146	17,218	5,850	3,078	26,146
Professional Services	25,550	18,767	19,029	2,800	-3,062	18,767
Grants	5,771	0	0	0	0	
Sec. Adjustment						8,255
<b>Total Operating</b>	<b>319,238</b>	<b>407,290</b>	<b>317,690</b>	<b>81,625</b>	<b>7,975</b>	<b>442,576</b>
 General Fund	 117,477	 120,592	 77,890	 42,702	 0	 412,576
Special Fund	201,761	286,698	239,800	38,923	7,975	30,000
<b>Total Funds</b>	<b>319,238</b>	<b>407,290</b>	<b>317,690</b>	<b>81,625</b>	<b>7,975</b>	<b>442,576</b>

*Given by  
Randy Blaseq  
to House  
approvs 2-27-09*

**ND Racing Commission**

**Mission Statement**

The mission of the North Dakota Racing Commission is to effectively and efficiently carry out the duties as outlined in the North Dakota Century Code.

The North Dakota Racing Commission is the regulatory body in charge of regulating live and simulcast racing in North Dakota and administers three special funds for the benefit of the horse racing industry in North Dakota.

Given to House  
approx 2-27-09  
by Randy Blaszyk

**Blaseg, Randy L.**

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**From:** Heather Benson [heather@hrnd.org]  
**Sent:** Wednesday, January 21, 2009 11:54 AM  
**To:** Holmberg, Ray E.; Bowman, Bill L.; Grindberg, Tony S.; Christmann, Randel D.; Kilzer, Ralph L.; Krauter, Aaron J.; Krebsbach, Karen K.; Mathern, Tim; Lindaas, Elroy N.; Robinson, Larry J.; Seymour, Tom J.; Wardner, Rich P.; Warner, John M.; Fischer, Tom L.  
**Cc:** Blaseg, Randy L.; pweir@vogellaw.com; winstons@medora.com; tlsecrest@ndgateway.com; dpladson@maringlaw.com  
**Subject:** Senate Bill 2024  
**Importance:** High

To Members of the Senate of Appropriations Committee:

At this time I would like to publicly state the North Dakota Horse Park's support of Senate Bill 2024 regarding the Racing Commission's request for General Fund appropriation dollars for the day to day operation of the North Dakota Racing Commission office. As part of a plan to preserve the long-term viability of live racing in North Dakota, we at the North Dakota Horse Park feel that it is essential that the Racing Commission's biennial office budget more closely resemble that of other state regulatory agencies by having their appropriation come directly from the General Fund rather than special funds. As we move into 2009, the entire great racing community of North Dakota is banding together to preserve the Breed, Promotion and Purse funds so that we may protect the sport of live horse racing and further grow the \$22 million yearly economic impact that it has on the state. The enactment of Senate Bill 2024 is a very important part of that process and we would hope that the Senate Appropriations Committee will vote accordingly so that we may protect and promote the sport of live horse racing and its over 100 year tradition in the state of North Dakota.

If there are any questions that I may answer from the perspective of the North Dakota Horse Park, I would encourage your office to call me at 701-232-3832 or email me at [heather@hrnd.org](mailto:heather@hrnd.org). Thank you!

**Heather Benson**

General Manager  
North Dakota Horse Park/Horse Race North Dakota  
PO Box 1917  
Fargo, ND 58107  
Ph: 701-232-3832  
Email: [heather@hrnd.org](mailto:heather@hrnd.org)  
Website: [www.hrnd.org](http://www.hrnd.org)

**Kempenich, Keith A.**

**From:** Deis, Sandy K.  
**Sent:** Tuesday, April 21, 2009 12:37 PM  
**To:** Grindberg, Tony S.; Meyer, Shirley J.; Berg, Rick A.; Fischer, Tom L.; Kempenich, Keith A.; Seymour, Tom J.  
**Cc:** Larson, Brady A.  
**Subject:** RE: Racing Tax Collections by Fund

①  
Cm  
Cm  
2024  
4/24/09  
pm

Please note that the following represents only "tax" collections on racing.

**ND Racing Commission  
Revenues from Racing Tax**

<b>Biennium</b>	<b>General Fund</b>	<b>Breeders Fund</b>	<b>Purse Fund</b>	<b>Promotion Fund</b>
2003-05	\$ 1,800,728	\$ 295,991	\$ 295,991	\$ 538,068
2005-07	\$ 247,835	\$ 120,398	\$ 120,398	\$ 275,906
2007-09 (March 31, 2009)	\$ 350,600	\$ 102,744	\$ 102,746	\$ 212,425
2009-11 Estimates	\$ 115,000	\$ 241,000	\$ 325,000	\$ 200,000

Call or e-mail if you have  
questions.

Sandy Deis, OMB  
328-2148

**From:** Grindberg, Tony S.  
**Sent:** Tuesday, April 21, 2009 12:33 PM  
**To:** Meyer, Shirley J.; Deis, Sandy K.; Berg, Rick A.; Fischer, Tom L.; Kempenich, Keith A.; Seymour, Tom J.  
**Cc:** Larson, Brady A.  
**Subject:** RE: Racing Commission-General Fund Revenue

Is a break out possible with the tax collections?

**Tony Grindberg**  
State Senator  
4755 Douglas Drive  
Fargo, ND 58104

Home: 232-4691  
Office: 499-3601