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SENATE BILL NO. 2024
with House Amendments

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2024

Introduced by

Appropriations Committee

(At the request of the Governor)

A BILL for an Act to provide an appropriation for defraying the expenses of the racing commission; 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.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from other income, to the racing commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2009, and ending June 30, 2011, as follows:

	Base Level	Adjustments or Enhancements	Appropriation
Racing commission	$407,290	($82,290)	$325,000
Less estimated income	286,698	(256,698)	30,000
Total general fund	$120,592	$174,408	$295,000
Full-time equivalent positions	2.00	0.00	2.00

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:
   ~~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 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, 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 ~~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, 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 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.~~ 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.