

**Judiciary Committee
North Dakota Racing Commission
March 22, 2016**

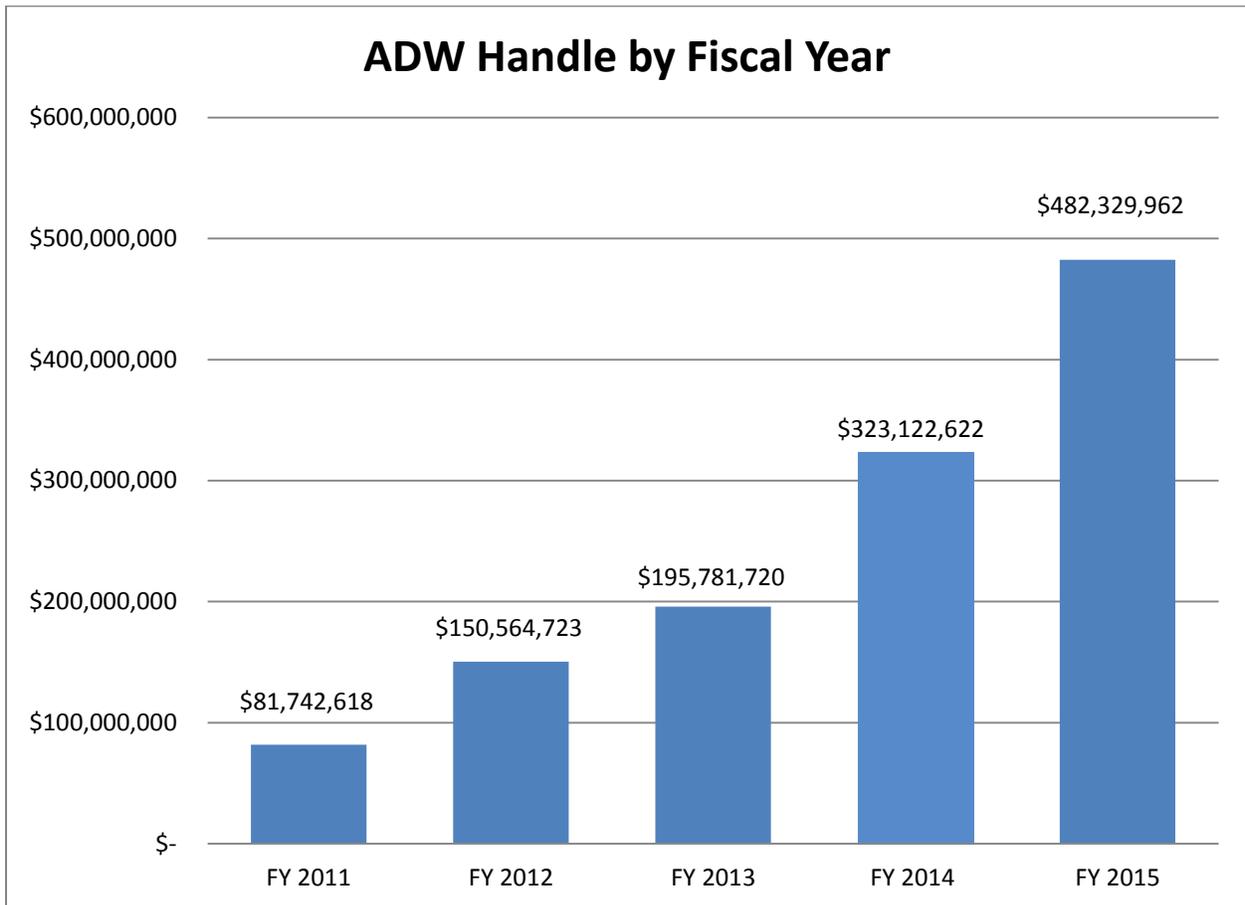
Testimony of Gunner laCour, Director, before the Judiciary Committee on the North Dakota Racing Commission's Biennial Report.

Thank you for the opportunity to appear before you to present the Racing Commission's Biennial Report. While I have no doubt that many here are aware of the recent difficulties related to the North Dakota Horse Park in Fargo, I believe this forum presents a perfect opportunity to disseminate information about the situation and ultimately some positive reports on the matter. Though I know many of you are keenly interested in this issue, there have also been a number of other positive developments during the last biennium that I would like to present to you today which were likely overshadowed by the aforementioned track issues.

When the Racing Commission is mentioned, many may think primarily of Account Deposit Wagering (commonly known as "ADW"), an on-line method of wagering on horse racing licensed and regulated by the state of North Dakota. Despite the fact that regulation of this wagering is a significant function of the Racing Commission, it is not our primary purpose. Rather, it is a means to support the horsemen of North Dakota, which will become clear throughout the following discussion of the Commission's current operations. However, because wagering is a significant issue to so many, I want to begin by presenting the key aspects of the Commission's regulatory efforts.

Over the last biennium, the Racing Commission regulated a current total of twelve (12) licensed ADW companies as well as four (4) totalizator companies and six

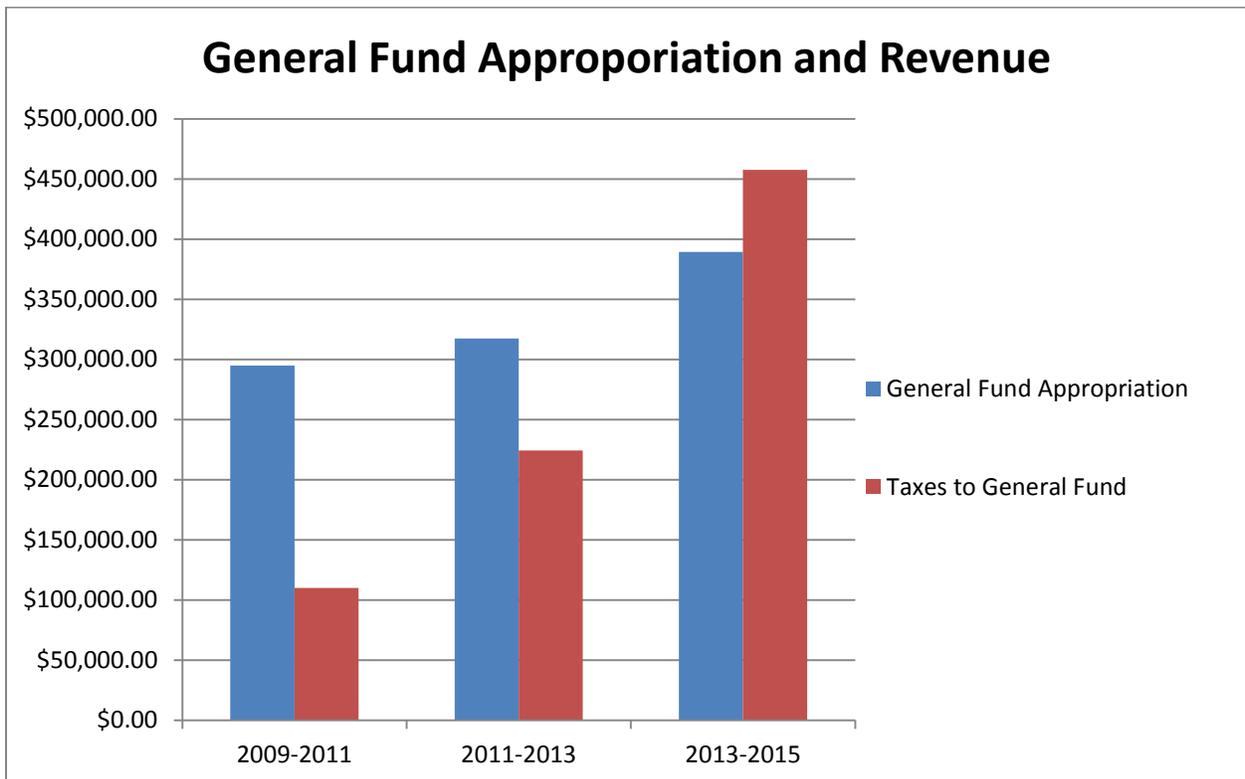
(6) site operators (charities). Through a series of specific efforts by the Commission, there have been significant increases in wagering year over year, all but less than 1% being generated outside the state of North Dakota. The graph below represents wagering through the state in the past five fiscal years.



In the current fiscal year our ADWs have produced over \$405 million in wagering as of this January and are currently on track to reach a projected \$600 million in this fiscal year alone.

As the result of these increases the Commission is now fully self-funding. The Commission returned \$457,561 to the General Fund in the 2013-2015 biennium or \$68,317 over its general fund appropriation for the biennium. As the wagering during the

last biennium was significantly lower than what the Commission has seen in the first quarter of this biennium, assuming wagering activities remain at current or increased levels, the Commission anticipates making even more significant contributions to the General Fund in excess of its appropriation. The following graph represents the Commission's General Fund appropriations against its contributions for the last three biennia.



The Commission prides itself on access to all levels of government and the mutually beneficial relationship we enjoy with our ADWs. However, the primary reason for the significant increase in ADW activity is the strict regulatory standards we impose. The legitimacy of our regulatory system is the foundation on which each ADW has decided to become licensed in North Dakota. These efforts have given North Dakota an international reputation for excellence that has supported many jurisdictions' decisions

to engage in business with our ADWs. I have been told by representatives from these jurisdictions on multiple occasions that regulation by North Dakota had either been specifically requested or played a significant role in their decision making. This includes some of the largest international wagering jurisdictions such as France, Sweden, and Hong Kong. Make no mistake, North Dakota has now become an important player in international wagering markets.

To support this success, the Commission continues to implement those efforts that ensure our ADWs are held to a high standard of regulatory compliance and transparency in all aspects of their operations. By way of example, the following represent some of the Commission's current processes and procedures which require our ADWs to meet or exceed industry standards.

- The Commission has put in place a memorandum of agreement with the Thoroughbred Racing Protective Bureau (TRPB) under which the TRPB conducts a background check on prospective ADWs and their principals prior to taking any action on an application. No license will be issued to an ADW whose business practices do not meet the highest industry standards.
- After receiving Commission approval, ADW applications are reviewed and approved by the North Dakota Attorney General to ensure full compliance with state and federal law.
- ADW employees are required to submit to an FBI national background check through the North Dakota Bureau of Criminal Investigation before they may begin their employment.

- The Commission has contracted with the preeminent pari-mutuel auditing company CHRIMS, Inc. to provide independent monthly auditing of all ADW activity. Every CHRIMS report is reconciled with those provided by the ADWs. Without exception, it is the responsibility of each ADW to provide us with accurate reporting and to fully comply with Commission inquiries into any discrepancy.
- The Commission is currently working toward adopting the Racing Commissioners International Model Rules in an effort to ensure that North Dakota follows current industry standards in all aspects of racing.

The Commission understands that the integrity of pari-mutuel wagering within the state is the responsibility of both we as regulators and of the industry as a whole. To that end, it is imperative that any ADW company licensed in North Dakota be absolutely transparent as to the identity of those placing wagers and the methods employed in such wagering. It is the goal of the Commission to continue to implement these rigorous standards while continuously updating and reviewing its operations to ensure the highest level of regulation.

As stated previously, despite the great deal of the time and focus the Commission expends regulating ADWs, the true purpose of the Commission is not the proliferation of gambling, but rather the welfare of the North Dakota horsemen and their families. In fact, the statutory tax structure of the Commission requires that all income resulting from ADW operations directly or indirectly returns to the horsemen. The Commission taxes .0025 of the total ADW handle. That tax is in turn split equally into

four funds; the General Fund which offsets Commission funding for the following years, the Promotion Fund which is directed to supporting race meets in the state, the Purse Fund which provides the vast majority of purse funding for our races, and the Breed Fund which promotes the breeding of horses in North Dakota through performance awards. Additionally, all breakage (remaining pennies from pari-mutuel payoffs rounded out to a nickel or dime) from the ADWs retained by the Commission is put directly into the Promotion Fund. As is evident from this tax structure, the Commission is by necessity an organization which must assess every action it takes in terms of the preservation and improvement of live horse racing in this state.

In addition to payments to the general fund, over the last two biennia the Commission made the following direct contributions to the state's equine industry:

	2011-13	2013-15
Promotion:	\$532,000	\$805,000
Purse:	\$400,500	\$503,500
Breeders:	\$218,000	\$232,000
Total:	\$1,150,500	\$1,540,500

While this money has been provided in support of many different efforts, the fact is that it all directly inures to the benefit of the horsemen and the broader equine industry of North Dakota. What is more difficult to quantify is the secondary effect of this funding. Specifically, the benefits to the local community of temporary and permanent employment created by a strong equine industry can be quite large, particularly in places such as Belcourt with a higher than average unemployment rate. Additionally, a significant portion of this funding makes its way to the larger state economy as each horseman engages with numerous individuals and businesses throughout the remainder of the year to support their equine operations.

To further ensure the continued benefits to the equine industry and state economy, the Commission is currently investing a significant amount of effort in supporting the long term viability of our two tracks. At Chippewa Downs the Commission supported the installation of a new rail designed by the nation's premier rail designer. Along with this, a complete regrading and resurfacing of the track was completed. These efforts ensure that the Chippewa track will be safe for both jockeys and horses for years to come. These are the type of important infrastructure improvements that the additional revenue created by increased wagering will support at both tracks in the coming years.

Of course, many are concerned about the status of racing at the ND Horse Park in Fargo. As you are likely aware, racing was cancelled in Fargo for 2015 due to uncertainty regarding the future of the track. Unlike the entity that operates racing at the track (Horse Race ND), the entity who owns the track parcel had been unable to pay their TIF debt or property tax payments totaling approximately \$140,000 per year (total TIF debt of approx. \$1.2 million). Horse Race ND was unable to take on the entirety of this additional financial obligation at that time. Therefore, without significant financial change it was likely that the track would be foreclosed in 2017.

Prior to the decision on the race dates, the Commission took a number of steps to support resolution of the debt including funding the development of a financial plan by a track finance expert and the creation of an Advisory Committee of prominent Fargo community members including Chairman Senator Tony Grindberg, Congressman Rick Berg, Fargo Mayor Bruce Furness, Judge Pat Weir, and Fargo City Commissioner John Cosgriff. Following the information and recommendations developed by the Committee,

the Commission and Horse Race ND met with representatives of the City of Fargo in an unsuccessful attempt to negotiate a potential reduction in the total TIF debt. The Commission and Horse Race ND also put forward legislation (HB 1090) that would have directed tax dollars collected by the Commission to TIF debt payment. This legislation was also unsuccessful.

Despite revocation of the race dates, the Commission and Horse Race ND have been working tirelessly to develop a business plan to save the track. As recommended by the Advisory Committee, Horse Race ND has taken over full control of the Horse Park in an effort to streamline operations and present a unified front in dealings with business partners and the City. Through these efforts, Horse Race ND has also identified a new business partner, further developed its revenue generation, and worked to reengage with the City through a business plan key to solving the debt problem.

At this time Horse Race ND has formally entered into the foregoing business plan with their new partner Lien Games Racing, LLC. TIF and property taxes on the Horse Park are now being paid as they come due. These partners have already begun moving forward with joint efforts to develop further revenue that will support the long term payment of liabilities and the growth of the Horse Park.

Having presented a long-term business plan to the Commission, Horse Race ND has been awarded six days of racing (three weekends) in 2016, all of which were fully funded at the February Commission meeting. The Commission is excited to see the Horse Park on track to host racing for many years to come and hopes members of the legislature will join us at the track to welcome back this important part of North Dakota's heritage to the Fargo region.

Chippewa Downs will be running June 11/12, 18/19, 25/26, and July 2/3 with the North Dakota Horse Park following on July 16/17, 23/24, and 30/31.

Before ending I would like to note a couple of additional accomplishments from the biennium that, while not as significant as the reopening of the ND Horse Park, are important to the Commission's ongoing operations. With the support of the horsemen, the Commission successfully proposed and implemented the Racing Commissioners International Model Medication Rules. This clear set of directives has allowed the horsemen to understand and comply with the rules on a consistent basis. As a result of this rules update, North Dakota is at the forefront of the racing medication reform movement.

The Commission has also continued several initiatives with Lutheran Social Services (LSS) Gambler's Choice program. This program helps contact and treat problem gamblers in the state. While a minimal number of individuals in the program present pari-mutuel wagering as their primary addiction, the Commission understands that the availability of pari-mutuel wagering may provide an outlet for these addictions. The Commission is therefore committed to supporting this outreach program and provided direct financial support to LSS in the amount of \$22,000 over the last two years. The Commission periodically discusses the needs of the Gambler's Choice program and works with LSS to meet these needs throughout the year.

As with previous years, the Commission intends to have an LSS booth at this year's meets to distribute materials as well as providing signs with information on problem gambling. Additionally, the last administrative rules change presented by the

Commission incorporated language developed in concert with LSS which would require our ADWs and tracks to provide easily accessible information on problem gambling. While most of our ADWs and tracks do this already, a uniform mandate will hopefully make such efforts more effective. The Commission intends to continue these programs as a crucial part of supporting the broader North Dakota community.

I hope that you found this to be a helpful discussion of the current status of the North Dakota Racing Commission. In the event there are any questions with regard to the foregoing, please do not hesitate to contact me.

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